

The interpretation of doctors professional standards

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Abstract. "Professional standards" reflects the legal awareness of the medical technology and its improvement. It requires that the doctors should master the new medical knowledge besides the traditional medical theory and skills, which means doctors must keep learning from medical books, literature, magazines and clinical trials to absorb new medical knowledge to improve the level of medical treatment.

Introduction

The medical higher levels, new medical knowledge refers to the medical profession leading is above the average level of medical technology. A party for the low level of medical treatment, the medical technology may be the concept of medical literature, magazines, they should master knowledge of new medical could keep up with the average level of medical, but the premise is the new knowledge only is widely used in clinical medicine, and prove to have the security situation, pan 'can establish its average technical level, and then become the judge standard of care physician behavior.

Text

On whether doctors violated its attention obligation to judge, the British tort law theory USES is not generally a "reasonable person" standard, but the doctor for specific areas of practice ", up to the average "practitioners of norms of behavior. A doctor if you follow a "bunch of responsible medical personnel" known as the kind of skills do not breach of duty of care. Physicians for the medical behavior should be the field a group of responsible physician." A group of responsible physician" does not mean that the vast majority of physicians, may also be have different views and practices of the minority, it is a virtual "reasonable man" in accordance with the law [1]. Physician behavior and a virtual "reasonable man" in the same situation "when to act", if it is decided that have a gap, the behavior of the person under standard of note, there are medical fault.

Japan take "the health level" as a standard of the notice obligation, it refers to the efficacy and safety of the medical behavior recognition under the premise of considering the nature of the medical organ, the areas of medical environment, and many other factors on the doctor whether to undertake the obligation to implement method of value judgment. The level of medical care here is not necessarily must be carried out with the average physician medical practice behavior. Our professor Yang lixin: "person engaged in medical practice should with a reasonable and prudent physicians with the same ability of technology and considering the health care industry and professional characteristics identified" average "care physicians should pay attention to the standard is reasonable." For the determination of the notice obligation standard, the world increasingly convergence, in an" average "competent physicians for the standard, at the same time, considering the influence of the objective factors to pay attention to the standard, only different in expression [2].

The author thinks that, as an expert doctors, should be consistent with the required qualifications of highly professional skills and abilities, in pay attention to the standards should be reached with secondary technical professionals with the average technical level, to avoid the confusion of pay attention to the standard terms, this standard can be called doctor "and" professional standards, and

analyzes on the connotation of the standard. Professional standards of professional standards is a physician for medical behavior in knowledge, technology, attitude and attention degree should reach a condition, its average to secondary professional technical personnel technical level for reference. The establishment of professional standards require the following three factors: one is the medical technology or medical methods are assessed, has been widely used in clinic, it can achieve the health effects have been confirmed. The second is the technical conditions of medical institutions and medical personnel and technical ability to be able to operate the medical technology, to determine the effect of medical treatment. There is the patient's own situation for the medical technology, no special physical influence medical effect. So, with secondary professional technical personnel to the average technical level of professional standards has objective certainty, reason has the following several aspects.

First of all, physicians is a professional and technical personnel, belong to a special professional group, has the corresponding title, title physician awareness level is roughly the same, same technical titles evaluation conditions can act as a judge physicians basic standards of cognitive ability. But the same does not mean no difference, in response to distinct situations, law can choose to have the same titles of secondary technical personnel as the main body of professional standards. "Medium" is between high and elementary level, because there are limits, of the technical level of the average secondary technical personnel as the boundary is more reasonable. Secondly, various medical institutions of our country, after the national unification, the strict evaluation, divided into "triple ten etc. For medical institutions must have certain conditions in order to achieve a certain level, so the same equivalent projects carried out in the diagnosis and treatment of medical institutions, medical facilities and personnel configuration, condition should be similar. As long as the hospital to carry out diagnosis and treatment projects, it shows that the project has carried out the diagnosis and treatment of the same conditions, the implementation of the therapeutic effect of diagnosis and treatment projects should be the same, unless the patient's special physical influence the treatment effect. So, in the establishment of professional standards, in order to practice the same diagnosis and treatment projects to achieve the therapeutic effect of the overall situation for medical level, physicians should reach the effect of the implementation of the same diagnosis and treatment projects on average technical level [3]. "Average" here means consistent and unified. So, doctors should have their own professional field of medium physicians have an average technical level, he is not the highest technology and experience in the field of one of the most abundant physicians have level, also is not a new access qualifications in the field of physicians have level, but without considering the patient under the condition of special physical fitness, to carry out the same technical level for the treatment of project should achieve the same effect.

Finally, the doctor's duty of care physicians itself has the knowledge, skills, and professionals, medical environment (medical equipment, the condition of patients, etc) for the rationality of the obligation. "Technical personnel technical level" is that of physician engaged in projects related to diagnosis and treatment of the standard of care should reach a cut-off point, to reach the level that the physician to perform the duty of care, may be not reached the level of the existence of breach of duty of care.

Professional standards require the average technical level of the prescriptions for specific health behaviors is the average technical level, cannot be determined prior to afterwards the average technical level of medical behavior. So, with an average technical level of secondary technical staff to ask with the physician, in the field of professional objective medical actions should be able to reach law to determine the effectiveness of health care [4]. And professional standards to consider patients' expectation interests directly, can help get the same quality of medical services, patients received medical treatment in patients with damage, the defendant can not on the grounds of low level hospitals with low technical level, advocated lose liability to pay compensation, make the patient medical damage compensation is not fair. As long as the diagnosis and treatment projects of the same, should be a medium to technical staff.

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understanding of medical methods. The doctor should not only master the traditional medical theory and skills, but also from medical books, literature, magazines, and clinical trials to absorb new medical knowledge, in the further medical research and experiment, improve the level of medical treatment. The medical higher levels, new medical knowledge refers to the medical profession leading is above the average level of medical technology. A party for the low level of medical treatment, the medical technology may be the concept of medical literature, magazines, they should master knowledge of new medical could keep up with the average level of medical, but the premise is the new knowledge only is widely used in clinical medicine, and prove to have the security situation, pan 'can establish its average technical level, and then become the judge standard of care physician behavior.

The author thinks that, "and" professional standards in the emphasis is the diligence obligation, if a new medical technology has been used effectively in the teaching hospital and tertiary hospital, low-level hospital physicians should be aware of the medical technology, even if you don't have the technology or the medical equipment cannot limit, you should at least inform the patients to perform that duty of care, because it increases the chances of patient rehabilitation or cure. Stay to low-level hospital physicians have mastered the medical technology, and is not restricted by medical equipment, under the condition of the medical behavior should reach the average technical level. Therefore, physicians should closely follow the engaged in the major developments in the field of professional, timely improve medical technology, improve the medical skills.

Risky and professional medical service, in the process of practicing doctors need to their own special skill and judgment to deal with some unpredictable uncertainties in advance. Medical skills involved medical discretion to use problems. Indeed, physicians have medical professional thinking, the judge has a legal professional thinking, for medical experts to medical technology make the judgment, law should not set their own standard to judge whether it is correct, but in the practice of physicians are recognised professional group to judge the behavior. In medical disputes, the judge requires expert testimony, medical technical appraisal and other information to assist medical rightly or wrongly, cases of judgements made by the physician medical technology, medical certificate and test report and other procedural materials to determine whether the to make the diagnosis method of logical, to regulate the procedural diagnosis and treatment of physician behavior [5].

Physician as an expert, has the experience and the ability, the foresight, cautious, courage, judgment, self-control, selflessness, etc., he should be reached the level of the medical profession generally. Although also will make mistakes, but doctors will draw experiences and lessons, won't make the same mistake again. Physicians should consider all may cause dangerous situation, for the sake of patients in the best interests of, the diligent study, careful, patient's health for their own health. Physicians have an obligation to make their own medical practice achieve normal effect, no damage caused by negligence or inactive patients. These qualities is the physician engaged in medical treatment activity should have values, is the requirement for medical quality.

Professional standard requires the attention of the degree is the nature of the medical risk and physician has the quality to decide, but calm, resolute quality because of the doctor's personal circumstances, such as the law can not be sure. Law can be determined according to the dangerous nature of the doctor can foresee the danger and take proper measures and whether the degree attention should be paid attention to. In general, the higher the severity and the possibility of danger, physicians should reach the higher level of attention; Risk the possibility of small or dangerous consequences slight, physicians to what extent they could notice should reach with secondary technical professionals can achieve the degree of attention, namely with secondary professional technical personnel can achieve the degree of attention, physicians should also reach, rather than as a physician title to distinguish attention degree of high and low level of high and low. In the measure of a person's attention degree is lower than that of "professional standards", should consider its surroundings at that time and master the information to determine its behavior is reasonable or not, and should not be mastered all

For high level of knowledge and experience, the technical level is higher than average with

professional technology, used in beyond the average technical level of medical treatment method, can be possible side effects of curative effect, risk, information inform the patient, on the basis of the consent of the patients or their families. Law to judge beyond the average technical level of medical behavior, consideration should be given to the patient's expectation interests, not to the average technical level of medical effect of evaluation. In experts to promote the higher their professional skills, or a clear commitment to provide higher skills in the contract, or the more general experts to high charge, all can be concluded that doctor gave the patient a high trust.

There is such a case, the plaintiff in the 23 years of age, by the defendant ophthalmologist eyes routine check, check the result that there is no problem. But after seven years of the plaintiff was diagnosed with glaucoma. After the check, the plaintiff had glaucoma have about ten years. The plaintiff argues that the defendant in the routine inspection, the 23-year-old did not test for glaucoma, negligence. The defendant argues that, on the basis of ophthalmic medical practice, glaucoma check only for patients over the age of 40. Because under the age of 40 patients, suffering from glaucoma occurrence probability less than one over twenty-five. The court of first instance verdict that glaucoma routine inspections on the defendant to the plaintiff, in medical practice, and the plaintiff cannot prove that the defendant violated the medical practice, the court of first instance judgment against defendant. After the appeal court that for patients under the age of 40, with the eye doctor corresponds to the specific requirements of the professional standards, but the hospital still obligated to tell the patient, the examination should belong to the obligations of ophthalmologists, to avoid damage in glaucoma patients with results. In terms of law, the physician is not carried out the inspection, have medical fault.

Summary

In general, abide by the rules of medical practice is also in accordance with professional standards, but the law of medical practice to judge, the judge must check whether a widely to comply with professional standards of place patients at risk of unnecessary, if lack of rationality, and the professional standards cannot be used as the basis of physicians pay attention to the standard. Pa therefore, professional standards in the medical damage compensation responsibility has certain limitations, the law also need to "formula" to complement the content of the "professional standards".

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