

Legal Protection of Patients' Right to Privacy

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Abstract: *With the advent of the era of the rise of individual rights, countries around the world have accelerated the pace of legislation to protect citizens' right to privacy. However, due to historical and practical reasons, some people in China, especially the patients receiving hospital examination and treatment, have not been given due protection. Does the patient have the right to privacy? The answer is yes, but it is a special right of privacy. It is precisely because the subtle relationship between doctors and patients in different situations is a special civil legal relationship, so the protection of patients' privacy also presents its particularity. The author believes that this particularity is reflected in three situations, namely, in the doctor-patient relationship, in clinical teaching and in the "later" relationship. So, how should we protect this special right? This paper argues that, first of all, we should provide legal protection. Affirm that the right of privacy is an independent personal right, add the concept of the right of privacy in the Civil Code, and formulate specific medical regulations and operating systems. Secondly, improve the practical operation technology. Thirdly, the whole society should establish the concept of protecting patients' privacy.*

Keywords: *Privacy, Patients' right to privacy, Particularity, Protection*

1. Introduction

With the continuous improvement of people's quality of life and legal awareness, the protection of privacy has become more and more important. However, an interesting phenomenon is that when people go to the hospital for treatment, few people will refuse doctors to inspect their private fields or learn about the past medical history involving privacy because they enjoy the right to privacy. Another phenomenon is that it happens from time to time in the society that when patients go to see doctors, they use them as "experimental objects" for teaching. In front of numerous interns, doctors explain the symptoms of patients' private parts. Or, just after the patient came back from the hospital, his colleagues and neighbors knew that he was suffering from venereal disease or mental and psychological disorders, which damaged the image of the patient. The boss wanted to dismiss him, which greatly damaged his spirit and material well-being. As a result, the patients' voice of "Doctor, give me a piece of shame cloth" was growing. Do the above situations violate the patient's right to privacy? From the perspective of law, the right of privacy of patients is different from the right of privacy in general civil legal relations. Therefore, to answer the above questions, we must first clarify what is the right to privacy and whether patients have the right to privacy.

2. Definition of the right to privacy

It has been more than 100 years since two American jurists Warren and Brandeis put forward the concept of privacy in Harvard Law Review in 1890. During this period, scholars published a large number of papers and monographs on privacy, discussed and studied the concept of privacy, and put forward different views. However, as is generally believed by western scholars, although many scholars have proposed the concept of privacy, there is no satisfactory definition so far. In order to see through and fully understand the concept of privacy, this article lists several representative definitions in order to find out their consensus.

When Warren and Brandeis put forward the privacy theory, they pointed out that "the principle of protecting personal works and other intellectual or emotional products is privacy". From the present perspective, this concept is incomplete and imprecise.

Another American jurist, William Hegel, believed that the right to privacy could be defined as a natural right that everyone should not disclose his private affairs to the public without his consent. Embezzlement or illegal use of another's appearance without consent, and disclosure of other people's

private affairs unrelated to the public will certainly insult others' feelings or cause mental pain, shame or shame. American tort law does not make a clear definition of the right of privacy, but classifies violations of the right of privacy into specific forms. For example, John Fleming summarized it into three categories: intrusion, embezzlement and disclosure of private affairs.

Japanese scholar Xionger Maeda believes that the so-called right of privacy can be said to be the right to protect personal privacy. People, no matter who has a part of their private life that they do not want others to know. If these things are peeped or published publicly, many people will feel ashamed and unhappy if they know them. If the hoped "silent past" is exposed, it will constitute a violation of the right to privacy^[1].

Chinese mainland scholars have also made some progress in the study of privacy, and many scholars have put forward their own views on this. Here are some examples:

(1) The so-called right to privacy, also known as the right to privacy in private life, refers to the right of citizens to prohibit others from interfering with their private life secrets and personal life freedom^[2].

(2) The right to privacy refers to the right to keep the inner world, property status, social relations, sexual life, past and present secrets of other pure individuals who do not want to be known to the outside world, and to keep the living area free from intrusion by others^[3].

(3) The right to privacy, which is called the right to privacy or the right to privacy of personal life, refers to the right that citizens enjoy not to disclose the facts about their personal life that individuals do not want to disclose^[4].

(4) Privacy refers to a right of personality enjoyed by natural persons to control their personal information, private society and private fields that have nothing to do with the public interest^[5].

(5) The right to privacy is the right of natural persons and social organizations to control and protect their secret information. According to the number of topics, it can be divided into collective privacy and individual privacy^[6]. The right of privacy protects the personal interests of citizens, while business secrets protect the economic interests of enterprises. Therefore, the subject of privacy can only be a natural person.

①The object of the right of privacy is the privacy existing in the form of information, specifically including personal activities, personal information and personal fields. I don't quite agree with the way of enumerating the objects of privacy protection, because such a way has the most general situation that cannot be enumerated, and such privacy protection is incomplete. And once those objects that are not regulated by law due to individualization but are indeed protected by the right to privacy are handed over to the pure judge for discretion. I'm afraid the voice of a sophist will ring everywhere: "You are not me, how do you know how I feel?"

②The content of the right to privacy includes the right to privacy freedom, the right to control, the right to use and the right to relief. The right of privacy freedom refers to the right of citizens to enjoy a peaceful and peaceful life without illegal interference. For example, private activities are not subject to illegal tracking and surveillance. The right of privacy control refers to the right of citizens to control their own body secrets and personal facts. The right to use privacy means that citizens have the right to use their own privacy or allow others to use their own privacy. The right of privacy relief refers to the right of citizens to stop their privacy from being further infringed and restore the obligee to the state before it is infringed by requesting to stop the infringement, apologizing and compensating for losses when their privacy is illegally infringed^[7].

③ The scope of privacy protection is limited by the public interest. When the right of privacy conflicts with the public interest, it should be adjusted according to the requirements of the public interest.

According to the above comprehensive definition of privacy, we will analyze whether patients have the right to privacy. Patients, as a natural person with complete personality, should enjoy the right to privacy. From the perspective of the content of patient privacy protection, all the identity, health status, type and degree of illness, treatment process, and conditions confirmed by doctors when patients register for medical treatment (no matter whether such registration is oral, written, e-mail or other forms of registration) belong to the scope of personal medical privacy that should be protected, and also belong to the scope of patient privacy protection. Although the patient went to the hospital to see a doctor for a spoof, indicating that he was willing to accept the doctor's examination, the scope could

only be limited to the doctors related to diagnosis, including the attending doctor and several doctors consulted. It is inappropriate for other people to observe patients. People other than the attending doctor have no right to know the patient's condition, which is also an international standard. The Law of the People's Republic of China on Medical Practitioners, issued by the Standing Committee of the National People's Congress on June 28, 1999, also clearly stipulates that doctors should perform the obligations of caring, respecting patients and protecting patients' privacy in their professional activities, and stipulates that patients have the right to protect privacy: that is, patients have the right to require confidentiality of the psychological, physiological and other privacy that doctors say, and medical personnel should not disclose patients' privacy without patients' consent. At the same time, the law also stipulates that the responsible person will be investigated for legal responsibility according to law for violating the above obligations and divulging the privacy of patients, resulting in serious results. It can be seen that patients not only have privacy, but also have the right to privacy that should be protected by law. However, the protection of this right to privacy is special.

3. The particularity of patient privacy protection

The particularity of patient privacy protection is mainly because the relationship between doctors and patients is different from the general civil legal relationship. Therefore, we must first clarify the nature of the relationship between doctors and patients. From the perspective of legal nature, scholars have different views on this, which can be summarized into four types: (1) "medical contract theory". That is, there is a diagnosis and treatment contract relationship between the patient and the medical institution. The patient registration is an offer of the contract, and the medical institution sends a registration form as an acceptance, and the doctor-patient relationship is established. (2) "Tort theory". That is, although there is some agreement between the two, the relationship between doctors and patients and the corresponding obligations arising from the relationship do not entirely depend on the principle of contract, so the disputes arising therefrom apply the theory of tort. This is mainly the view of the Anglo American legal system. (3) "Medical consumption theory". That is, the patient's arrival at the hospital is an act of "receiving services", while the hospital is an act of "providing services", so they are a relationship between consumers and operators, and the Consumer Rights Protection Law applies. (4) "Public welfare theory". That is to say, the state should provide a large amount of subsidies for the welfare of China's medical and health system; Medical institutions are welfare and public welfare institutions, not operators in the general sense. Therefore, the doctor-patient relationship should be adjusted by some administrative laws.

The author believes that the medical responsibility involved in the relationship between patients and doctors is a typical case of concurrence of responsibilities. However, according to the current situation in China, in order to protect the rights of patients as vulnerable groups, the operation is more inclined to bring this relationship into the adjustment scope of the Consumer Protection Law. However, I think that although under the market economy, medical institutions cannot deny their profitability, they cannot be denied their public welfare. On the contrary, we hope that medical institutions are more public spirited. Healing the wounded and dying is not so much a legal obligation as a moral requirement for doctors. Simply equating the relationship between doctors and patients with the relationship between general operators and consumers actually vulgarizes this relationship, thus reducing the requirements for doctors. Therefore, we should formulate relevant legal systems to adjust the particularity of this relationship, so as to effectively protect the special privacy of patients^[8].

The right of privacy of patients is different from the general right of personality. It is precisely based on its particularity and the subtle relationship between doctors and patients at different stages. Therefore, its protection is not only reflected in the general doctor-patient relationship, but also reflected in clinical teaching and the "later" doctor-patient relationship.

3.1. The particularity of patient privacy protection in doctor-patient relationship

The constitution of the liability for infringement of the right of privacy must have the general elements of the constitution of the liability for infringement, namely, the four elements of illegal act, damage fact, causality and subjective fault. Scholars have various opinions on specific violations of the right to privacy. Yang Lixin summarized them into four aspects: spying, investigating personal information, and information; Interference and surveillance of private life; Intrusion and snooping into private domain; Publish others' privacy without authorization. However, in the doctor-patient relationship, the above behaviors of the medical staff to the patients do not necessarily constitute an

infringement of privacy, which requires specific analysis of specific issues. 1. The medical staff's investigation of personal information for the needs of diagnosis and treatment does not constitute an act of violating the patient's privacy. Personal information, also known as personal intelligence data and personal information, includes all personal information and data. Such as height, weight, medical records, physical defects, health conditions, etc. In diagnosis and treatment, medical personnel often need to use the patient's personal information, such as the previous disease to diagnose and treat the patient's current symptoms. In the diagnosis and treatment of some special diseases, such as sexually transmitted diseases, the medical staff also need to know about the patient's sexual life. 2. Medical personnel invade and peep into the private field due to the needs of diagnosis and treatment, which does not constitute an act of infringing the patient's privacy. The private sphere, also known as private space, refers to the private sphere of individuals. For example, the private parts of the body, namely the reproductive organs and sexual organs. The purpose of this is to effectively treat the disease, and the ultimate beneficiary is the patient. In addition, the medical treatment does not have the fault of infringement subjectively, it is just performing the duty of the special profession as a doctor. And the behavior that the medical personnel interfere and monitor the private activities of patients or disclose the privacy of patients without authorization is the same as the general civil subject, which constitutes the behavior of violating the privacy of others. It should be noted that the "doctor's order" behavior does not interfere with the patient's private activities. Intervention behavior must have the characteristics of compulsion, while medical advice behavior is just the advice and persuasion of the medical staff to the patient. The patient does not have the mandatory obligation to execute the medical advice, but it is beneficial for diagnosis and treatment to follow the medical advice, and vice versa. At the same time, we can see that in the doctor-patient relationship, the gap between the performance of medical responsibilities by the medical staff and the infringement of patients' privacy is very narrow, and the slight carelessness of the medical staff may constitute an infringement. The medical personnel can pay attention to the following two points: First, the medical personnel should ensure that their actions are completely for the purpose of diagnosis and treatment, so as to avoid the subjective fault that constitutes infringement. This can be done by strengthening professional ethics education. Second, objectively, medical personnel and medical institutions should ensure that patients' privacy is protected to the maximum extent from the facilities. For example, screen sail and other facilities are used to isolate from the boundary during gynecological diagnosis and treatment. This can also create a safe inner environment for patients, which is conducive to the effect of diagnosis and treatment^[9].

In addition, the fact that medical personnel can intervene more in patients' privacy than general civil subjects without infringement is based on the following basis: patients exercise privacy control. In terms of content, the right to privacy includes four basic omnipotences: freedom, control, use and relief. Patients allow doctors to intervene in their privacy as a result of behavior control. In order to protect the right to life and health of patients, it is also a form for patients to realize their right to privacy to allow medical personnel to inspect their personal fields and personal information and exercise their right to privacy. Compared with other personal rights, especially the right of reputation, the biggest feature of privacy is introversion, that is, whether the obligee infringes depends entirely on his inner feelings, without the help of external evaluation. In this sense, the right to privacy is an absolute right. If patients voluntarily transfer part or all of their personal privacy in order to seek their own life and health, and this behavior does not make patients feel ashamed or their rights are violated, doctors who naturally accept the transfer cannot be considered as violations. At the same time, the defense of doctors is to perform their duties according to law. We can fully believe that doctors are more involved in patients' privacy because they have legitimate defense against patients' privacy. However, such exemption must be limited to a reasonable range and must meet the following conditions: (1) There must be legal authorization, that is, doctors must have legal professional qualifications; (2) The procedures and methods for performing duties must be legal, that is, the form and content of the doctor's intervention in the patient's privacy during diagnosis and treatment must be legal; (3) It is necessary to perform duty activities, that is, doctors' intervention in patients' privacy is entirely for the purpose of diagnosing and treating patients' diseases.

3.2. Protection of patients' privacy in clinical teaching

The commonweal of medical personnel and medical institutions is not only reflected in their moral obligations to save the dying and the wounded, but also has the teaching function similar to that of scientific research institutions. The second article of the Regulations on Hospital Work of China issued by the Ministry of Health stipulates that "hospitals must focus on medical work, ensure the completion of teaching and scientific research tasks, and constantly improve teaching quality and scientific research level on the basis of improving medical quality." Article 17 stipulates: "On the basis of

ensuring medical quality and completing medical tasks, hospitals should actively undertake the clinical teaching and graduation practice of students from medical colleges and universities such as senior high schools, as well as the continuing training of in-service personnel." It can be seen that the completion of teaching tasks is also a duty and legal obligation of medical institutions.

When medical institutions fulfill this obligation, it is easy to conflict with the maintenance of patients' privacy, such as the situation that patients are used as experimental objects in clinical teaching. Theoretically, medical institutions and medical practitioners are in different legal positions in different legal relationships. The relationship between doctors and patients is a civil legal relationship. The legal status of doctors and patients is equal, and they appear as legal subjects in this legal relationship. However, the completion of teaching tasks by medical institutions and medical personnel constitutes an administrative legal relationship. The main body of the legal relationship is the medical side, the administrative department of the medical side and the personnel receiving training, not including patients. On the contrary, patients are often reduced to the means to complete administrative tasks in this legal relationship. In this sense, the status of patients is similar to that of medical teaching instruments.

The right of privacy is a specific right of person, and the right of person is the basic right that the civil law gives to the civil subject. This inherent civil right, which is closely related to the personal status of the civil subject and is related to the independent personality and identity of the civil subject, and another basic civil right, namely property rights, entrusted to the civil subject by the civil law, constitute the two pillars of the civil law and become the two basic civil rights enjoyed by the civil subject. The important role of personal rights in modern society is to reflect the social value and self value of human beings, protect the freedom, dignity and security of human beings, make people truly human beings, become the masters of society, ensure the self-improvement and development of civil subjects, and promote the continuous progress of society. The behavior that medical institutions and medical personnel regard patients as teaching means to complete administrative tasks is a serious violation of the value of "people" (social value and self value). Moreover, the medical profession has been regarded as sacred and noble since it came into being. This violation of patients' privacy is also a serious damage to the sanctity of medical practitioners. However, the characteristics of the medical industry determine that clinical practice is essential in the growth of a qualified doctor. How to coordinate the conflict between tort and medical training is very important. According to the current situation in China, medical institutions can be divided into individual, private, joint venture and public medical institutions according to the nature of ownership. Individual, private and joint venture medical institutions are more profitable and less public welfare, and these medical institutions generally do not have mandatory administrative obligations to accept interns. The "Regulations on the Administration of Medical Institutions" promulgated by the State Council only clarifies the "purpose of medical institutions to save the dying and heal the wounded, prevent and cure diseases, and serve the health of citizens", and does not mention teaching and scientific research tasks. Therefore, this kind of medical institution is only a general civil subject and should protect the privacy of patients to the greatest extent. If interns are present when they diagnose and treat patients in the privacy field, they must clearly inform the patients in advance and obtain their consent. Internship hospitals and affiliated hospitals of medical teaching and scientific research institutions shall clearly inform patients that they are internship hospitals or affiliated hospitals and are responsible for teaching and scientific research tasks. Patients should assist the hospital to complete their tasks when they see a doctor, and patients' privacy may be involved in the process of diagnosis and treatment. Patients have the right to choose whether to go to the hospital for medical treatment, and they have the right to know and the right to privacy while having the obligation to assist.

3.3. Protection of patients' privacy in "later stage"

After the patient leaves the hospital, his personal medical data should be effectively controlled, which is another important content of the right to privacy. However, in reality, we often hear such examples: a pregnant woman has just returned home from the delivery room and received a large number of phone calls and emails to promote milk powder and health products. She is very upset and nervous. When someone just came back from the hospital, his colleagues and neighbors knew that he was suffering from venereal disease or mental and psychological disorders, which damaged the image of the patient. The boss wanted to dismiss him, which greatly damaged his spirit and material well-being. Later, it was learned that the hospital or the doctor provided the patient's information to the marketer to inform others of the patient's situation. The appearance of this phenomenon has seriously affected the reputation and image of hospitals and doctors, and has caused great mental damage and

material loss to patients. A person's health and illness can be said to be a more secret part of privacy, because a person is always unwilling to be considered unhealthy by others^[10]. It is his trust in doctors and hospitals that he informs doctors of the unspeakable illness. It is the responsibility of doctors and hospitals to keep patients' personal medical privacy, which is first and foremost a matter of professional ethics.

Doctors and hospitals have the obligation and responsibility to take necessary and sufficient measures to keep these secrets and prevent disclosure because they know or master the patient's personal medical privacy due to their professional relationship. If they disclose these information negligently without taking protective measures, the mental and material losses to patients may constitute an infringement of the patient's medical privacy. On the information materials applicable to personal medical privacy, no matter who they are provided to (patient units, insurance companies, and even government agencies), no matter what their purposes (industrial and commercial use or research, paid or unpaid), they constitute an infringement of the patient's right to medical privacy, except for statutory authorization or patient permission.

4. Legal Consideration on Perfecting the Protection of Patients' Right to Privacy

Patients should know their rights. Hospitals should strengthen their service awareness and improve their service quality. At the same time, they should be guaranteed by law. Only in this way can patients' privacy be more effectively protected. The protection of patients' privacy is a systematic project.

First of all, we should provide protection by law.

To effectively protect the privacy of patients and prevent them from unnecessary material loss and spiritual damage, it is far from enough to rely on the improvement of doctors' profession and medical technology alone. It must be up to the laws protected by national institutions to achieve "there are laws to abide by, and violations must be prosecuted". Using legal means to protect citizens' right to privacy has become a common practice in various countries. The Clinton administration in the United States issued a decree last year specifically protecting the privacy of private medical records.

However, our country has not clearly stipulated this in substantive law, but only in Article 14 of the Opinions on Several Issues Concerning the Implementation of the General Principles of the Civil Law of the People's Republic of China issued by the Supreme People's Court in 1988, "Publicizing the privacy of others in written or oral form... Those who damage the reputation of others and cause certain impact shall be deemed as violations of citizens' right of reputation." Article 7 of the 1993 Answers to Several Questions on Hearing the Right of Reputation requires that, "If the reputation of others is damaged due to publishing privacy materials of others or publicizing privacy of others in written or oral form without the consent of others, it shall be treated as infringement of reputation of others." The court also did not define privacy and privacy, and could not directly consider that the defendant infringed the plaintiff's privacy. Because, I think whether the judge can create the protection of privacy in the judgment is not only a question of legal interpretation, but also a question of judicial authority. Therefore, judicial practice can only cite the judicial interpretation of the Supreme People's Court to protect the right of privacy by protecting the right of reputation, which has many problems. The content of patients' right of privacy does not necessarily have to be defamatory, but citizens do not want to disclose it. However, the relevant departments or others, in violation of patients' own wishes, make these facts known to others and the society in public or not. The actual "right of privacy" has been damaged, but there is no good way to protect it, because the law is not perfect. It is a backward performance to protect the right of privacy only by judicial interpretation of infringement of reputation.

Therefore, it should be clear in legislation that the right to privacy is an independent personal right. As the most effective law to adjust the relationship between citizens' personal rights and obligations, the civil law should make clear provisions on the right to privacy. It should not only stipulate how to organize or individuals to have the obligation not to infringe on the privacy of others, but also stipulate the legal responsibility that should be borne when violating this obligation.

In addition, medical treatment should be specially formulated for the special relationship between doctors and patients. Only in this way can patients' privacy be more effectively protected.

Secondly, in operation practice, it is necessary to check and fill the gaps, build a great wall of steel, and do not give any potential threats an opportunity.

First, the diagnosis and treatment technology should be improved. At present, many hospitals do a

poor job in the treatment environment. For example, the injection room in the hospital is not covered. When the doctor checks the patient, the curtain is only pulled symbolically, which makes the patient feel embarrassed. Some doctors, regardless of the presence of other patients, ask patients loudly, making them blush and hard to answer some sensitive questions. What's more, some hospitals, for the purpose of profit, in order to expand their influence, in order to obtain the consent of patients, take pictures of the patients before and after diagnosis and treatment, and post them in the places with the largest number of people in the hospital, making these patients as ashamed as if they were undressed in public. It is gratifying to note that certain attempts have been made in some parts of China in this regard. It is reported that the Beijing Obstetrics and Gynecology Hospital has opened a "single delivery room" to provide a private space for pregnant women and their families; In the observation room of the newly built emergency center of Chaoyang Hospital, each clinical room is separated from the outside with hanging curtains, which changes the old tradition of "saving lives is important, and privacy is not necessary" in the emergency room.

Second, the patient data should be properly kept. As a vulnerable group, patients can require the privacy of diagnosis and treatment during their medical treatment. However, due to the development of the situation, patients' personal information is often not only sealed in the safe in a people-oriented form, but also stored in the computer in the form of text files, even scattered in the network. The virtual network world is not only full of birds and flowers, but also contains many dark holes. Therefore, reasonable and legal technology should be used for the application and disposal of patient data. Without the consent of the patient, patient data should not be provided to any individual or organization.

Third, at the level of judicial operation, such as the identification of the infringement of patients' privacy, the identification of the infringement of patients' privacy damage, the issue of infringement concurrence, the legal liability of the infringement of patients' privacy and other issues.

(1) Identification of the act of violating the patient's right to privacy. The fact that infringement of the right to privacy must be committed. Due to the influence of civil legislation and judicial interpretation, at present, the law circle and judicial practice in China mostly exclude the acts of violating the right of privacy, namely, the acts of divulging, disclosing, exposing, disseminating and publicizing privacy, and exclude the acts of obtaining privacy but not making it public, such as simple illegal theft, investigation, collection, and peeking at patient medical records. In my opinion, the right to privacy plays an important role in the life of citizens. It is closely related to the self-evaluation of citizens' personality, psychological comfort, and spiritual satisfaction. The act of only obtaining privacy but not making it public will also cause spiritual pain and discomfort, psychological shame and humiliation to others. Therefore, the act of obtaining but not disclosing privacy is also an infringement.

(2) Identification of infringement of patients' privacy. The result of damage can be examined subjectively and objectively. Subjective aspect: whether the infringement causes the victim's mental uneasiness and shame; The objective aspect is to see whether it causes adverse social impact. In my opinion, the right to privacy is a kind of exclusive autonomy of one's own information. The identification of the damage result of infringement should adhere to the subjective standard, that is, whether the infringement causes the victim to be mentally disturbed and ashamed.

(3) As for the issue of concurrence of infringement, the protection of rights by law is multi-level and multifaceted. The occurrence of a certain infringement may lead to the infringement of two or more rights at the same time. Therefore, concurrence of infringement is a common natural phenomenon. The right of privacy is not an isolated personal right, it is closely related to other personal rights. Infringement of patients' right to privacy will also result in infringement of citizens' personal dignity, reputation and other rights under certain circumstances. For example, "Zhang Ping v. a hospital in Shihezi City, Xinjiang, which allowed interns to take part in lower body examinations for mental damage compensation" is an example. How to treat infringement competition? In my opinion, in this case, it should be recognized that there are two claims at the same time (that is, the right of privacy and the right of another person, which I think are the right of reputation and the right of privacy in this case), and the victim has the right to choose. After choosing one claim, the other claim will naturally disappear.

(4) Legal liability for infringement of patients' privacy. The actor who infringes upon the right of privacy of citizens and causes damage to citizens must bear corresponding legal liabilities, including criminal liability and civil liability for administrative liability. The three types of liability can be applied separately or combined.

5. Conclusions

Finally, the whole society should establish the concept of protecting patients' privacy.

Establishing the concept of legal protection is not only a claim to protect patients' own rights, but also a universal concept that all citizens should establish. The protection of patients' right to privacy is not only a matter of legal concern, but also an important topic in medical sociology. The development of medicine has also gradually abandoned the concept that patients are completely passive in the relationship with doctors, and paid more attention to the protection of patients' personal rights, especially privacy. In his book *The Role of Behavioral Science in Medicine*, Professor Brownstein introduced the "traditional model" and "humanitarian model" of doctor-patient relationship. The traditional model refers to the doctor-patient relationship in which the doctor is the authority and makes decisions, while the patient obeys orders and executes decisions. The traditional model should and is turning to the "humanitarian model". This model follows some basic viewpoints that the patient is more important than his disease, and the patient is a complete person. Pay attention to the psychological and social aspects of the patient; Everyone has the ability to determine themselves and be responsible for themselves. We should respect and give play to the initiative of patients' participation and treatment. The help to patients depends not only on technical facilities, but also on the sympathy, concern and responsible attitude of doctors. The concept of respecting patients as human beings in the medical field coincides with the concern for patients' privacy in the legal field, and with the continuous development of society, this concept has been paid more and more attention.

With the advent of the era of individual rights, the protection of privacy will also be strengthened in law. The maintenance of patients' right to privacy should be synchronized with the development of social civilization.

Now is the time when the Chinese people's consciousness of rights is constantly awakening. From the lawsuit of a few cents to Wang Hai's crackdown on fraud, from demanding due process to emphasizing the right to know, it reflects the enhancement of the general public's consciousness and the enrichment of Falouis. This article also wants to give you an inspiration: only when the concept of respecting individual privacy and the privacy of a patient as a human becomes the consensus of the whole society, can the era of individual rights flourish really come!

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