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# **The Development of the Duty to Obtain Informed Consent in Taiwan's Medical Jurisprudence —A Commentary on Supreme Court Cases**

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## Abstract

The purpose of this article, which is divided into four parts, is to analyze the recent evolution of obligation of information in medical jurisprudence practice. Following an introduction relative to medical conscience, ethics and law, Part II explores the “contract law” phenomena of obligation of medical information. In one hand, study revealed that, in case of violation of obligation of information, it would be to a patient's advantage to invoke cause of action of Informed Consent in Taiwan's contract law, rather than to mention that in Taiwan's tort law, in order to support his right. In the other hand, it's important to clarify that medical performance with a patient's consent can't exempt the duty of good administrator both for medical care institutions and their medical personnel.

Part III argued for a socialization of obligation of information in medical rela-

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tionship through the acknowledgement of a patient's reasonable attendance. In fact, the notion of a patient's reasonable attendance would serve not only as a criterion by which a medical negligence is judged, but also as a standard used for assessing a causation reasoning between a non disclosure of necessary information and a damage of the patient's bodily right. Finally, Part IV concludes by offering several propositions related to the recent evolution of obligation of information in Taiwan's medical jurisprudence.

**Keywords:** Obligation of Information, Informed Consent, Medical Negligence, Accessory Obligation, Reasonable Attendance, Causation