# 淺談虛報醫療費用與刑事詐欺罪\*

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關鍵字:虛報醫療費用、詐欺罪、密醫罪、門前藥局、未親自診察病人。

**Keywords**: Fraudulence of expense of National Health Insurance, Fraud crime, Unlicensed doctor, Front-door pharmacy, Consulting the patients indirectly.

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### 摘 要

全民健康保險實施後,醫病關係由單純的雙方關係(醫師、病人)轉變成三方關係(醫師、病人、與健保局),醫師(醫療機構)在診察病人後,僅向病人收取少部分的醫療費用,多數的醫療費用係向健保局申報,因此衍生不少虛報醫療費用相關的案件。過去較少論及虛報醫療費用是否與刑法詐欺罪有關,直到 2006 年 11 月健保局發布「全民健康保險法第 72 條規定違法案件函送偵辦注意事項」,列舉說明「具體違法證據」的案件類型將移送司法機關偵辦,始引起注意。換藥品與多蓋健保卡等,直接與詐欺罪有關,然而「密醫罪」、「門前藥局」、與「未親自診察病人申報醫療費用」等,是否與詐欺罪有關,則顯得複雜,且少有學說及實務見解。故本文擬以改編的醫療糾紛案例,探討虛報健保醫療費用的新與類型,如「密醫罪」、「門前藥局」、以及「未親自診察病人申報醫療費用」等,是否構成刑事的詐欺罪。

## Exploring the Relationship Between the Fraudulence of Expense of National Health Insurance and the Fraud in Criminal Law

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#### **Abstract**

After the implementation of national health insurance (NHI), the doctor – patient relationship became three-way relationship (doctor, patient, and Central National Health Insurance Bureau, NHI Bureau). The NHI Bureau afforded most medical expenses when the doctors diagnosed and treated the patients. Therefore, many fraudulence of expenses of NHI happened in recent ten years. In November, 2006, the NHI Bureau transferred the issues of fraudulence of expense of NHI to judicial institution.

Therefore, the purpose of this article is to discuss the relationships between the fraud criminal liability, unlicensed doctor, front-door pharmacy, and consulting the patient indirectly.

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