

Thesis Title : Medical Public Service Liability in Consumer Protection Case

Student's Name : Mr. Surat Siribhornadulsilp

Degree Sought : Master of Laws (Public Law)

Academic Year : 2014

Advisory Committee :

1. Assoc. Prof. Pornchai Soonthornpan	Chairperson
2. Asst. Prof. Poom Molsilpa	Member
3. Dr. Suntaree Buchitchon	Member

## ABSTRACT

Nowadays, medical public service practitioners are assumed to be the business operators who demand monetary consideration for their services, and fall under the provisions of the Consumer Case Procedure Act, B.E. 2551 (2008) to which they are one of the party in the case. The Consumer Protection Law is intended to prevent unfair business operations or competition by ensuring that the proceeding of their cases are conducted conveniently, rapidly, economically, with the possibility to obtaining punitive damages. The context of Consumer Protection Law is therefore conducive to dispute resolution by means of litigation. Medical public services are provided not on commercial basis but as a public service. By the nature of medical public services, in particular emergency medical services, are related directly to lives of persons. The application of the Consumer Case Procedure to cases involving medical public services is therefore inappropriate. For legal context conducive to dispute resolution by means of litigation, when applied to medical public services, shall give rise to undue pressure to medical public service practitioners which in turn leads to negative impacts, i.e. preventive treatments which expose medical services recipients to higher risk of harm or damage, decision of medical practitioners to leave the system, and unnecessary increased cost of the system. These problems should all be resolved.

From the comparative study to the United States law, and review of literatures, four findings are found: (1) exemption of the entire medical profession from Consumer Case Procedure, (2) exemption of only public healthcare service from Consumer Case Procedure, (3) exemption of only some Sections of the Consumer Case Procedure Act, B.E. 2551 (2008) from application to medical public services, e.g. Section 42 on punitive damages, and (4) limiting the scope of application of the Consumer Case Procedure to medical public services which are provided on commercial basis only.

The proposals adopted by this research is exemption of medical public services which are provided not on a for-profit basis from the Consumer Case Procedure, and/or enactment of a new law, specific law in relation to medical public service liability.

