

Abstract

This paper distinguishes between two scenarios for the expert-client encounter. In the cure scenario, the client does not know whether a loss can be recovered. In the prevention scenario, the client faces a threat but does not know whether this threat is real enough to justify preventive action. The client wants to induce the expert both to give an accurate diagnosis and to put appropriate effort into cure or prevention. It is shown that in the cure scenario, a contingent fee solves both these incentive problems. In the prevention scenario, however, putting up with low effort makes it easier to get an accurate diagnosis, and the use of contingent fees should be limited. These results are interpreted as providing a rationale for observed exceptions to legal and ethical restrictions on the use of contingent fees. Indeed, such exceptions are often granted for cases that fit the cure scenario.