

Introduction

Medical law is a body of law regulating relations between patients and medical doctors and/or medical institutions providing healthcare services, the rights and obligations of the parties to the relation, as well as the rules and conditions in which the doctors and the institutions operate. It also covers regulations governing authorisations and the exchange of medical products, devices and services. Medical law, therefore, encompasses a large scope of legal provisions related to interventions and the protection of dignity, autonomy, life and human health.

Dramatic changes during the last 70 years have marked deeply the evolution and nature of the basic principles and regulations of medical law. The main feature of this evolution is certainly directly related to the concept of human dignity, and to the new approach to the issue of the autonomy of the patient, his status and his rights with regard to doctors, other medical staff members and medical institutions as a whole. The enormous progress of modern medicine raises a lot of entirely new problems and dilemmas concerning such issues as the just distribution of limited and expensive medical services, the required quality of health protection, the potential conflict between the individual and a general interest in the context of medical experimentations, the challenges related to the responsibility toward the new generation in connection with new genetic therapy etc. All these changes concerning medical services require a new methodological approach based on the interdisciplinary concept permitting analyses from various legal perspectives including the most important principles and values provided by the constitutional provisions and regulations of international treaties. This new methodological approach, ensuring a large and exhaustive analysis of medical relations, has made medical law into what it is today, a separate discipline. The interdisciplinary approach is not denied by the fact that a large part of medical law regulations belong to the broadly understood private law. On the one hand, medical law attaches special importance to a patient's informed and voluntary participation in a medical treatment, making the patient autonomous and formally equal in reality, while on the other hand, it takes heed of special circumstances such as the structural weakness of the large population of patients, or which may appear on the part of a medical institution.

Besides, the basic model of a medical law relation was also historically inextricably bound to the manner in which medical laws regulated the relations between doctors and the sick – recipients of healthcare services. Historically, the relations were given the form of a civil law relation, for it was this kind of legal relation that best suited the purpose of social ties between a medical doctor and patient.

The intention of the authors of this book was to present not only a theoretical, abstract and global perspective of selected medical problems and institutions from a local, European perspective, but also to provide comprehensive analyses of the structural elements of medical law relying on a well-founded theory of legal relations and its elements. Following this assumption, medical law is analysed from the perspective of sources of medical law, sources of medical relations (consent, acts-in-law, advanced directives), parties to the relations, the content of the relations (the rights and duties of patients and medical institutions), and the essential concepts of a healthcare service. The healthcare service forms an essential object of the medical relation. An analysis

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of the healthcare service must look at the question as to whether the activity of an institution is medical or a separate business service.

The novelty and usefulness of the presented methodological approach can be noticed when the whole structure and content of the relation is examined. For example, a comprehensive analysis of the patients' or doctors' rights or duties requires that this element be read against the background of all other related elements of the relation.

Relying on this approach, the authors presented typical medical problems such as medical experiments and assisted procreation, transplantations, as well as focusing on the autonomous acts of patients, such as consent or advanced directives, examining the scope of the legal effectiveness and stability of relations in the case of an extraordinary change of circumstances.

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