

# Doctors' Right to Withhold Medical Care

## Abstract

Very little attention is being paid to the rights doctors have to refuse to provide medical care, notwithstanding how important this area of interest is. It is not the aim of this thesis to provide a superficial description of fundamental grounds for withholding treatment. Its primary purpose is to present an analysis of the issues that are of most concern. To this end, the key concepts closely examined are conscientious objection and religious beliefs, as these constitute the subject of frequent interpretative, judicial and ethical disputes. A chapter in this thesis is also dedicated to refusal to provide healthcare based on a risk to the life or body of the health professional. All of the other reasons for not providing medical care or for ending it are briefly discussed within the context of the so-called contractual obligation of healthcare providers.

Conscientious objection and religious beliefs are most often viewed from the perspective of public law. Nevertheless, in this thesis the two concepts are presented mainly in the light of private and civil law. A short philosophical and ethical analysis of the two concepts is followed by an extensive legal analysis. The theoretical part of the thesis concentrates on related statutory regulation and the case-law of Czech, foreign and international courts.

Research carried out through an interview survey makes up the practical part of the thesis. The practical part verifies the practical functioning of the legislation at issue and doctors' awareness about conscientious objection and religious beliefs. Responses show not only a perception of how legislation now stands, but also considerations *de lege ferenda*, specifically recommendations that through doctors' eyes could, in the future, contribute to improving the functioning of both conscientious objection and religious beliefs on the one hand, and the doctor-patient relationship in general on the other hand.

A closing comparison of the legislation of the Czech Republic and the legislation of the Kingdom of Sweden provides a different perspective on the issues examined. The positive effects as well as the adverse ones of the two opposing legislative systems are assessed.

**Key words:** Doctors' Right to Withhold Medical Care, Conscientious Objection, Health Law