10. Summary

The informed consent of a patient is a fundamental principle of medical law and ethics. Nowadays it is natural that before treatment, the patient must give his consent. This concept of the patient's rights and the principles of their autonomy and self-determination was established during the second half of the 20 th century.

During the first half of 20 th century, the relationship between doctor and patient was based on paternalistic grounds. This meant that the doctor was an authority who knew what was best for the patient. The patient was just the object of care; he trusted his doctor and did everything exactly as the doctor said. Doctors were authorities not only in the field of medical care but also in many other areas of the patient's life. There were no lawsuits or complaints against the doctors because of the treatment they provided.

After WWII the situation changed when the international conventions of human rights were created. Patients started to decide if they wanted to be treated or not; they started to demand more information about their healthcare, and about the treatments they were receiving. They were no longer just the objects of care, but they now wanted to know what was going to be done with their bodies and to decide whether they wanted the treatment - they wanted to become partners in their own healthcare.

However, in the Czech Republic this evolution was delayed by 40 years due to the political situation. But in 2001 the Convention of the Council of Europe on Human Rights and Biomedicine was ratified. This outlined a minimum standard for the patient's rights, and the fundamental principle that every single intervention in the field of healthcare may be carried out only after the person concerned has given free and informed consent to it. To be informed, the consent requires that appropriate information is given to the patient before treatment. This consists of information about the nature and purpose of the treatment, its consequences, and the risks and alternatives. A patient has the right to refuse healthcare even though it may result in his death.

The purpose of my thesis is to study the introduction of informed consent in the Czech Republic, its conditions and its legal framework. After a brief general discussion

in chapters 1 and 2, a history of the relationship between doctor and patient is described in chapter 3. Chapter 4 provides the sources of Law which are concerned with informed consent and related issues, including the Constitution of the Czech Republic, international conventions (in particular the Convention on Human Rights and Biomedicine) and the national statutes.

Chapter 5 is composed of two main subchapters. The first section explains what information must be given to the patient before he gives his consent, who gives this information, and when it is given. The second section focuses on the conditions and elements of the consent which can affect its validity and effectiveness. This includes the capacity of the patient to give or withdraw consent, and the comprehensible manifestation of their free and earnest will.

The patient's right to refuse care (one of the most controversial topics in relation to informed consent) and the living will are discussed in chapter 6. Chapter 7 focuses on the exceptions to the basic rule that every treatment must be carried out only with free and informed consent. This chapter is about the situations in which healthcare is indispensable for the patient's life and there is no chance to obtain consent from him (for example: if he is unconscious and, without intervention, his life is in danger). The last chapter is about the liability of health care providers in case of breach of their duty to obtain the informed consent of a patient, and civil, criminal and disciplinary possible cosequences are expalined.