

Criminal law aspects of the first aid (summary)

Ondrej Horak

The purpose of this thesis is to clarify and to analyze the criminal law aspects of the first aid in relation to the healthcare professionals. A duty to provide first aid is stricter for the healthcare professionals and unlike laymen they cannot withdraw from this obligation even in life or health threatening situations. At the same time, they face the highest rate of accusations of having committed the crime of breach of the duty to provide the first aid. This work aims to support a discussion on this crime and to contribute to raise the legal awareness within the healthcare professionals. Last, but not least, the goal of this thesis is to point out particular complicated questions related to this topic and to outline possible solutions to improve the legal regulation.

The thesis is composed of five chapters. Chapter One provides a summary of the general legal framework of the first aid including both national and international rules. A part of the summary is also concerned with delegated regulation and outlook for the impact of the medical reform.

Chapter Two defines three fundamental terms which can be found very often in relation to this topic and which are the key terms to understand this issues. These are the terms: “necessary aid, the healthcare professional and *lex artis*”.

Chapter Three presents the types of liability which can be relevant in connection with providing health care including the first aid. The criminal liability is described in the following chapter and therefore it is omitted in this chapter.

Chapter Four is dealing with the conditions and particular issues of the criminal liability which is a current topic in the health care nowadays even though it is supposed to work as an „ultima ratio“. The matter of fact is a complicated part because of the need to prove the procedure in accordance with the “*lex artis*” and the causal nexus. The matter of illegality takes the largest part of this chapter. Healthcare professionals face difficult dilemmas between their obligations to provide a health care and the patient’s right to express his own will in relation to the institutes of informed consent, informed refusal and previous wishes.

Chapter Five concludes the thesis with concentration on the most complicated issues and while highlighting the German regulation, it drafts possibilities of legal amendments which could raise the legal awareness as well as the protection of the healthcare professionals in connection to providing the first aid. Chapter Five deals with the particularities of the crime of breach of the duty to provide first aid mostly in the context of various types of connected obligations. Personality of the subject- a layman, a healthcare professional on duty or off duty- has a fundamental impact on consequences and the type of the punishment. Another key question connected to this topic is the question of the amount and totality of the risk that the healthcare professionals have to stand. This thesis does not provide with an unambiguous stance or solution, however, it presents various perspectives and support a dialog within the legal professional as well as the in relation to the health care professionals.