

# **Title of thesis: Actual problems of criminal liability in medical treatment in connection with advance directives**

## **Abstract**

The main aim of this thesis is to analyze the topic of advance directives, recent institute in Czech legislation, its problems and mainly criminal liability in medical treatment, which is not summarized complexly in Czech professional literature. This thesis is composed of seven chapters, which are divided into sections and subsections.

Chapter One is introductory and is dedicated to moral rights of a patient, which provide the basic starting points of this thesis. The chapter is subdivided into two parts. Part One describes evolution of rights of patients and part Two presents right to life, right to self-determination and finally right to protection of human dignity.

Chapter Two analyzes advance directives. This chapter is subdivided into five sections. The basic characteristic is processed with respect to legislation, particular types, issues and critical aspects of advance directives.

Chapter Three discusses the legal liability in healthcare. Chapter is divided into four sections; each is devoted to one of the civil, labor, administrative and disciplinary liability.

Chapter Three is related to the following chapter, which deals with criminal liability and represents, with respect to its theme, the biggest part of thesis. Chapter also includes a note about the principle of subsidiarity of criminal repression and ultima ratio. The remaining part of the chapter is a theoretical summary of the conditions of criminal liability.

The Fifth chapter is devoted to the issues of the advance directives from the perspective of the Civil Code. This chapter deals with the relationship of the Civil Code and the Law on health services and in other sections describes the statutory framework of supportive measures during the incapacity of an adult to act with legal effects. It also discusses the institute of surrogate consent in connection with the intervention to physical and mental integrity.

The Sixth chapter contains core of the whole thesis, for the reason that here I will use findings from all the previous chapters so I could focus to the consequences respecting, respectively disrespecting advance directives in terms of possible criminal or civil liability of a doctor.

The last chapter discusses the legislation of advance directives in England and Wales. After a brief historical development, the crucial part of the chapter is devoted to the analysis of the current statutory framework, i.e. Mental Capacity Act 2005, and with respect to the specifics of the common law also the case law.