

Abstract

The subject of this rigorous thesis is an analysis of a mutual relationship between criminal law and medicine with a focus on an application of criminal responsibility of physicians and other medical staff in a current Czech legal system. The aim of the thesis is to introduce various issues of criminalization of health care professionals from broader perspective, first and foremost in connection with harm caused to patients due to medical malpractice, as well as to outline the possibilities of its future development and to present solutions to specific legal problems. The thesis consists of three chapters further divided into two levels of sub-chapters, along with a brief introduction and a conclusion. After a short excursion related to historical views and development of legal incursions into the field of medicine (chapter 2) follow two main chapters that are to be considered a core of the thesis and which resemble to a certain extent typical structuring of traditional European penal codes. The third chapter labeled “Criminal liability in provision of health care – general part” deals with foundations of criminal liability and its application in the healthcare context, presents various legal approaches to medical care and describes certain legal institutes that are usually not considered to be a part of criminal law, i.e. particularly the manner of how the standard of care is reviewed or the informed consent, which is the most significant legal requirement of any kind of breach of human physical or mental integrity. Consequently the author briefly mentions a possibility to prosecute medical care providers as legal entities in context of current state of legislation while highlighting the issues of simultaneous application of several forms of liability considering a “ne bis in idem” principle. The fourth chapter or more specifically its sub-chapters examines elements of the most common criminal offences in the discussed area - for the most part offences related to cases of harm or manslaughter caused by medical malpractice and an offence of failing to provide aid, which are then presented using a concrete case law. At the very end of the thesis there is a brief conclusion in which the author summarizes his attitude towards the discussed topic.