

## **ABSTRACT**

### **LEGAL ASPECTS OF PROVIDING HEALTH CARE TO MINORS**

This thesis deals with the legal aspects of providing health care to minors in the Czech Republic and in Ireland, and compares the approach to regulation. Regulation of healthcare has undergone a significant change since the ratification of the Convention on Human Rights and Biomedicine. The traditional notion of the doctor-patient relationship as a paternalistic relationship has been abandoned and replaced by an equal relationship - partnership. This change culminated in the adoption of the Health Services Act as well as in other laws adopted in the framework of the reform of health care law. The adoption of the Civil Code could be seen as the final contribution in the discussion of the doctor-patient relationship. The Civil Code includes provisions regulating health care treaty, as a named type of a contract, leaving no doubt about the private-law nature of the doctor-patient relationship. The relationship between the Civil Code and the Act on the Provision of Health Services is complicated and requires the principle called *lex specialis derogat generali* to be applied. However, for the correct application of this principle it should be remembered that the Civil Code provisions are in some cases very detailed and that some provisions of the Civil Code can be considered the special regulation to the Act on the Provision of Health Services. However, in most cases, it will be the opposite with Civil Code being the general law. In the Czech Republic, there are quite a few laws and regulations concerning provision of healthcare (making it unclear which one is to be adhered to in specific cases). Therefore, the main aim of this work is to introduce the sources of health law in the Czech Republic and describe the individual legal aspects of the provision of health services. Part of the work is devoted to describing and analyzing the provision of medical care to minors in Ireland and subsequently comparing it with the Czech legislation. The work is mainly focused on the issue of an informed consent and the question of whether and when minors could give such consent by themselves. For cases where this is not possible, the thesis deals with the issue of representation of minors by legal guardians and with the cases where only one of the statutory representatives agrees to grant consent. The work also describes cases where health services can be provided without any consent. The final part of the thesis brings forward the description of legal regulation of medical care in Ireland and compares it with the Czech legislation. The comparison fully shows the differences between the Anglo-American law system and the continental law system. In some

aspects, the Irish regulation is incomplete and unclear; however, these flaws are being redressed by non-binding opinions and recommendations.