

Criminal aspects of advanced directives and Do Not Resuscitate orders

Abstract

The aim of this thesis was to analyse current legal regulation of advanced directives and Do Not Resuscitate orders, particularly of their criminal aspects. These legal concepts are relatively new in the Czech law, therefore there are still many questions about them and Czech law unfortunately does not offer definite answers.

In the first chapters I focused on general criminal aspects of provision of health services. I analysed conditions of criminal liability in connection with health services, with emphasis on the principle of subsidiarity of criminal prosecution. In this part I also addressed the issue of mercy killing, by another name euthanasia and its differentiation from other types of end-of-life decision making. In the second chapter, I approached the matter of criminal liability of providers of health care services, as legal persons, which became after the last amendments in this area significant also for health care.

The following chapters were dedicated to advanced directives. At first, I analysed this legal concept in the matter of civil law, which is essential for its comprehensive interpretation. I tried to identify the main ambiguities of the legal regulation, whether regarding new regulation of substitute decision making and declaration in anticipation of incapacity or regarding the obscure interpretation of the term active causing of death.

In the next chapters I focused on types of advanced directives, particularly on Do Not Resuscitate orders and withdrawal of a life supporting machine and other end-of-life decisions. I compared Czech legal regulation with regulation of foreign countries. Very important information source was jurisprudence, especially for Anglo-American law. I approached also legal regulation of continental states, particularly Germany and France. These countries have been dealing with the issue of end-of-life decision making and advanced directives for a longer time and they are in many aspects ahead of us. Therefore, I find it very useful to study foreign law for these matters, since it can serve as a good inspiration for improvement of our own.