

English – written abstract for dissertation: „Analysis of ethical and legal aspects in the work of neurosurgeon”

ABSTRACT

It should be stated that law and ethics ought to be closely related, complementing each other on many levels of social life. This rule also applies to the functioning of the health care system. Observing the currently binding legal regulations and ethical principles by healthcare professionals appears to be necessary in a democratic state. It affects every citizen because each of us at some point in our lives comes into contact with the generally understood healthcare system.

The dissertation is focused on the analysis of ethical and legal aspects in the work of neurosurgeon. Due to the fact that neurosurgeons concern, like all physicians regardless of their specialization, general legal regulations binding all physicians, they will be referred to in this paper but with particular emphasis on the specificity of work, position and duties of neurosurgeons. It should be taken into consideration that to this day there is a noticeable lack of a comprehensive discussion of the issues covered by this dissertation both in doctrine, as well as in judicature.

The first chapter is entitled: „Communication models in the doctor-patient relationship”. Undoubtedly, the specificity of doctor-patient relationship constitutes the essential part of neurosurgeon work. The following chapter will analyze the legal aspects of medical experiment in neurosurgical practice. The subject of medical experiment is of high significance in the surgical field of medicine that is also neurosurgery because it is known as the area undergoing constant development, susceptible to the use of new therapeutic techniques and methods of performing operations. Chapter III concerns the analysis of mental diseases treatment with neurosurgical methods. Certainly, it is worth discussing because of being highly innovative issue, increasingly often considered in terms of the future.

In the second part of the dissertation, it is discussed the issue typical to neurosurgical practice, namely the procedure of confirming brain death in the context of cell, tissue and organ donation. Chapter VI entitled: „Ethics of head transplantation” constitutes the specific vision of the future. The following chapter concerns the legal aspects of generally understood right to death in dignity that remains crucial in relation to neurosurgical patients requiring frequently palliative care. Chapter VII includes the discussion regarding the neurosurgeons cooperation with companies producing tools, instruments and implants used during surgery. The last but not least chapter of the dissertation will analyse the issue related to the civil and criminal liability of neurosurgeons. The above-mentioned question is significant both for practising neurosurgeon being exposed to the potential liability and patient who was for instance misdiagnosed, administered the wrong drugs or underwent inadequate therapy.

The aim of the thesis is a comprehensive, multi-faceted discussion of the specificity of the neurosurgeons work. The author will take into account both the national legal regulations, as well as the international regulations binding Poland as a member of the European Union and the Council of Europe. The dissertation will also analyse issues related to ethics, morality, and social awareness.

The dissertation includes the following research theses:

1. There is a strong relation between the quality of legislation relating to the practice of neurosurgeons binding in Poland and the level of protection of human health provided.
2. It is not possible to strictly enforce the adherence to the norms of medical law by neurosurgeons. The comprehensive analysis taking into account deontological norms is necessary.
3. The further progress in widely understood medicine, including the surgical field of neurosurgery, depends on the necessary changes in Polish legislation.

The author uses the dogmatic and legal method, the application of which will allow to determine the meaning of Polish legal regulations, jurisprudence and commentaries in the field of neurosurgical practice. In the dissertation, the author also applies the formal-dogmatic (linguistic-logical) method. Moreover, the used historical and legal method will enable to take into account the time factor in the content of legal regulations.

The contribution to science is expressed in the development of the first comprehensive analysis of the problem. Furthermore, the author will also raise, in *the de lege ferenda*

conclusions, a proposal for certain changes in the applicable legal provisions that potentially would contribute to the functioning improvement of the broadly understood health care.

Thanks to the research methods used, the analysis of the applicable legal regulations and comparing their content with common medical practice, it became possible to positively verify the above-mentioned research theses. This dissertation takes into account the legal status as of May 31, 2021.