Детелина Смилкова

ОСНОВНИ НАСОКИ НА ЗДРАВНОТО ЗАКОНОДАТЕЛСТВО

ГОДИШНИК НА ВУАРР

ТОМ IX

Д-р Детелина Смилкова *натрупва по-голямата част от опита си в областта на образованието, здравеопазването, управлението на проекти, развитието на хората и бизнеса. От 2019 г., д-р Смилкова е главен оперативен директор на МБАЛ, а от началото на 2022 г. и Председател на Българската асоциация за развитие на хора (БАУХ), който пост вече заема в периода 2015 – 2019 г. От 2019 г. до момента, д-р Смилкова е и Президент на Human Potential Cluster (Клъстер за развитие на човешкия потенциал).*

В кариерата си споделя над десет годишен опит като Вицепрезидент на Висшето училище по застраховане и финанси, както и Съветник на министъра на икономиката и енергетиката (2005 – 2009 г.). Магистърската степен по Промишлена енергетика способства както за времето като съветник в МИЕ, така и за поста Председател на борда на директорите на Kapman Green Energy Fond – Join Venture (2007 – 2019 г.).

Защитената докторска степен в областта на управлението и администрацията, подчертава още повече бъдещият интерес за работа и споделяне на знания и опит не само в здравеопазването и образователната сфера, но и в други сектори, които изискват иновации и бизнес развитие, ръководене на хора, лидерство и компетенции за управление на все по-динамичните процеси днес. Комуникацията и партньорските отношения с множество чуждестранни партньори и институции в развитието на кариерата на д-р Смилкова, предоставят и възможността за използване на

техния богат опит като добри практики, методи и подходи, възможни за адаптация и към българската бизнес среда.

Образование, здравеопазване и човешки потенциал са секторите, в които най-често се наблюдава личния принос с идеи и конкретни действия от страна на д-р Детелина Смилкова. Често д-р Смилкова се качва и на международни сцени, участва в множество конференции и презентации, за да говори по тези въпроси, да споделя знания, опит и най-добри практики.

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BASIC GUIDELINES IN HEALTH LEGISLATION

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Abstract: Health legislation is a set of legal norms regulating relationships in society on health issues and the organization of the health care system and one of the elements of the health policy toolkit for managing health care processes. From the point of view of the subject and the method of legal regulation, medical or health law is a set of legal norms that, with the authoritarian method, regulate health relations related to the management, control and financing of health care and the status of state authorities and providers of medical services, and with the method of equality regulates relations related to voluntary health insurance, health insurance and contracts for the provision of medical services.

Keywords: health system, health law, health legislation.

Normative acts are the main source of law. Such are the Constitution, codes, laws and by-laws. Normative acts regulating public relations related to health care are the legal framework of medical or health law. It is an independent branch of law. It has a dual nature. Its main part belongs to public law, and the rest - to the branches of private law.

The subject of legal regulation of medical or health law are public relations that arise, develop and are extinguished in the field of health care. They are mostly related to the management and financing of health care as an

important component of state administration. They are also related to the financing of health care, which requires the investment of huge amounts of money.

The relations related to the exercise of the medical profession are also subject to regulation of the norms of medical or health law and contain rules of conduct concerning the exercise of the medical profession by doctors or dentists and other medical specialists.

The subject of legal regulation of medical law also includes relations related to the exercise of patients' rights. The majority of relations related to health care are classified under public law. Such are the relations related to the management of health care and the implementation of control over it as part of the administrative activity of the state. Such are the relations related to the status of the state bodies implementing management and control in the field of health care, and also to the status of the various medical and health facilities. Cases related to the financing of health care also fall into the sphere of public law. All these relations are regulated by public law norms, since on one side of them there is necessarily a state or municipal authority, the bearer of power.

At the same time, in the field of health care, there are relationships between equals. They are mostly related to contracts for health services and medical assistance and contracts for supplementary health insurance. The dual nature of medical or health law is mostly related to its method and legal regulation.

Health relations related to the management and control of health care, with the status of the bodies performing management and control, with the financing of health care, with the status of the entities providing medical services are regulated by the authoritarian method. On one side of them is necessarily a public body, which, by virtue of the law, has power and with it, if necessary, can force enforcement of its decisions.

Relations related to the provision of medical services to patients, voluntary health insurance and health insurance are governed by the method of equality. They are between equals. The rights and obligations between them are regulated in contracts concluded for the purpose.

From the point of view of the subject and the method of legal regulation, medical or health law is a set of legal norms that, with the authoritarian method, regulate health relations related to the management, control and financing of health care and the status of state authorities and providers of medical services, and with the method of equality regulates relations related to voluntary health insurance, health insurance and contracts for the provision of medical services.

The main source of medical or health law is the Constitution. A number of legal norms of the Constitution guarantee the rights of Bulgarian citizens related to the protection of their health, the right to health insurance, the right to affordable medical assistance and medical care.

Art. 52, Paragraph 1 of the Constitution regulates the right of Bulgarian citizens to health insurance, affordable medical care and free use of medical care. Article 47, paragraph 2 of the Constitution provides special protection for the woman mother.

In Art. 55 of the Constitution, the right of Bulgarian citizens to a safe and favorable environment is guaranteed.

Art. 29, paragraph 2 of the Constitution stipulates that no one can be subjected to medical, scientific or other experiments without his voluntary written consent.

In Art. 52, paragraph 4 of the Constitution stipulates that no one can be forcibly subjected to treatment or sanitary measures, except in the cases provided for by law.

Pursuant to Art. 48, Paragraph 5 of the Constitution, employees have the right to healthy and safe working conditions.

Other sources of medical or health law are the Medical Establishments Act, the Health Act, the Health Insurance Act, the Association of Doctors and Dentists Act, the Blood, Blood Donation and Transfusion Act, the Medicinal Products in Human Medicine Act, The Tissue, Organ and Cell Transplantation Act.

Sources are also a number of by-laws, including decrees of the Council of Ministers, for example Decree No. 97 on the adoption of the Ordinance on the conditions, rules and order for regulating and registering the prices of medicinal products.

Sources are also the numerous rules and regulations for the implementation of the listed laws and their individual parts.

Sources are the two National Framework Agreements, which are concluded annually between the National Health Insurance Fund and the Bulgarian Medical Union, respectively the Bulgarian Dental Union.

Sources are also international treaties in the field of health care. Pursuant to Article 5, Paragraph 4 of the Constitution, after their ratification by law by the National Assembly, promulgation of the law in the State Gazette and its entry into force, they become part of domestic law. Such are the Universal Declaration of Human Rights by the United Nations, the International Charter of Human Rights and Human Dignity in relation to the application of the achievements of biology and medicine, the European Convention for the Protection of Rights and Fundamental Freedoms.

A basic requirement for the issuance of normative acts is related to the fact that public relations in the same field must be regulated by one, and not by several, normative acts of the same degree. Therefore, when they are already regulated by an issued normative act, an amendment or addition to the same is made, and a new or separate normative act of the same degree is not issued.

The effect of the issued normative acts begins after their publication. They enter into force three days after their promulgation, unless a different period is specified therein.

Another requirement for the issuance of normative acts is that they correspond to the Constitution and other normative acts of a higher degree. If there is any conflict, the law has decreed that the judicial authorities shall apply the higher act;

The health relations regulated by the norms of medical or health law are called health relations. The main subject in health legal relations is the state. Through its specialized bodies, it is the bearer of the state function of health care.

Subjects of health legal relations are also medical and health institutions, individuals, users of medical assistance and health services, as well as other legal entities. According to their content and participants in health legal relations, they are public and private. Legal relations related to the management, control and financing of health care and the status of state bodies and medical service providers are public. The legal relations related to concluded contracts, with voluntary health insurance and, health insurance and for the provision of medical services are private.

In world science, and in our country too, there is a lack of a unified definition of a subject and a system of medical law. The disputes concern several aspects: can it be an independent branch of law; which concept is more correct: medical or health law; what systematization is more correct and can it be systematized at all. Regarding the first question, according to the established structure of the branches of law in Bulgaria, there is no separate such branch. This is because Bulgaria still uses the traditional, classical structure of branches of law. At the same time, there are more and more new legal relationships that cannot be classified as traditional branches of law in our country, such as transport, media, space, ecclesiastical, etc. Around the world, in Europe, in America, in Israel there is an independent branch called "medical (or health) law". In Bulgaria, it is not an independent branch, however, the legal relations that are subject to study are specific, distinguishable, both in terms of volume and specificity, which necessitated the independent discipline as a subject of study in law. Regarding the name -

medical or health law - there are two opinions. One is that health law and law has a wider scope than medical law because it examines the legal norms that govern the relationship between public authorities, between public authorities and private legal entities (e.g. patient, medical professional), while the narrower view is that medical law covers those legal relationships that are created in the process of providing medical care between patients, medical professionals and third parties. These are the two opinions both in our country and around the world. It has always been argued, but recently priority has already taken the fact that the name has no essential meaning, but the subject necessarily covers all legal relations related to the protection of the health of individuals. These are private, public, and international private entities, and this is because the performance of this activity is regulated and controlled by the state. It is part of the public security in it, so there is no way to divide the doctor-patient relationship without considering the relationship PHC-patient, PHC-medical facility, etc. Therefore, the subject of medical law covers all legal norms that regulate public relations arising in the field of health care between the state and public bodies, medical specialists, patients and third parties.

System - the system that has become established in Bulgarian legal science is the following: General part and special part. The general part covers those legal relations that are related to the established traditional branches of law, namely constitutional, administrative, civil, criminal law.

The special part covers legal relations that cannot be included in their entirety to a traditional legal branch. For example, the issues of euthanasia, the empty regime of transplants and organ donation, artificial human reproduction, gender reassignment issues, scientific research, etc.

Sources - the legal norms contained in the relevant normative acts that regulate public relations, the subject of medical law are:

✓ The Constitution - as a basic law, it contains several important principles in law and they are: prohibition of forced treatment, except in exceptional cases, when the law provides for it; ban on subjecting citizens to scientific, medical experiments, unless they have given their express consent; control of the state over the activity of medical facilities, medical equipment, medicines; right to health insurance (Art. 52 of the CRC).

✓ The laws - the main laws in health care are the health law, the law on health insurance, the law on medical institutions, the law on medicines and human medicine, the law on professional organizations of doctors and doctors of dental medicine.

✓ By-laws - in the field of health care there are an extremely large number of such as the logic of this quantity is that they further develop the

law in detail and since health care is extremely detailed as a regulation, from there follows the need for a detailed by-law basis. In Bulgaria, there are many by-laws: only in transplantation, there are 16 regulations: 4 for donation from living persons, 4 for donation from deceased persons, 4 for the organization of import, export, etc., there are also those regarding the provision of medical assistance, there are also for emergency medical assistance (4), and 4 for urgent medical assistance.

✓ Other types of sources – ethical codes and the national framework agreement.

Codes of ethics are acts of professional organizations of doctors and dentists, which are accepted by them and published in the "State Gazette", so-called. Code of Professional Ethics and Code of Dentists (or, as it is currently, dental practitioners). Codes are sources of a specific nature, because they contain ethical norms of behavior, but also ethical rules, which, published in the "State Gazette", become non-state sources of law. The national framework contract is provided for in the Health Care Act as an act that is concluded by the professional organizations of doctors and dentists on the one hand from the NHK (National Health Fund) on the other, and from patient representatives. This act is annual and determines what type of treatment and at what prices will be paid by the NHK to the providers of medical care. As against this medical assistance, the patient does not pay the doctor, but is obliged to pay health insurance contributions. The National Framework Agreement was first introduced in 2000 and for several years there was controversy as to whether it was a bond or another type of act. In 2003, the Supreme Court ruled that it is a by-law, regardless of the name "contract". The legal regulation of the organization, management and operation of medical institutions for hospital care is contained in chapter six of the Law on Medical Institutions. According to the Health Care Act, medical facilities are one of the providers of medical care. Medical care is the benefit owed to the patient. Performance is what the debtor owes the creditor in the legal relationship between them.

Medical facilities are an essential element of the national health care system. A central place among them is occupied by medical facilities for hospital care. The legal regulation of the organization, management and operation of medical institutions for hospital care is contained in chapter six of the Law on Medical Institutions. According to the Health Care Act, medical facilities are one of the providers of medical care. Medical care is the benefit owed to the patient. Performance is what the debtor owes the creditor in the legal relationship between them.

As a type of service, medical assistance is a combination of providing personal human qualities to medical specialists (for example, diagnosis of the disease, the patient's treatment process itself, etc.) and services in kind (medicines, prostheses, aids, etc.). By its very nature, medical care is also a system of diagnostic, treatment, rehabilitation and preventive activities carried out by medical specialists. Art. 19, para. 1 of the Law on Medical Facilities provides a legal definition of the essence and subject of activity of medical institutions.

According to this provision, an inpatient care facility is a facility where doctors, with the help of other specialists and support staff, perform all or some of the following activities:

- ✓ diagnosis and treatment of diseases when the treatment goal cannot be achieved in the conditions of outpatient care;
- ✓ maternity care;
- ✓ rehabilitation;
- ✓ diagnostics and consultations requested by a doctor or dentist from other medical institutions;
- ✓ transplantation of organs, tissues and cells;
- ✓ collection, storage, supply of blood and blood components, transfusion supervision;
- ✓ dispensary;
- ✓ clinical trials of medicinal products and medical devices according to the legislation in force in the country;
- ✓ educational and scientific activity

According to Bulgarian legislation, mandatory treatment is permissible if the person's condition poses a real danger to his or someone else's health and if there is no other way to achieve an effect. This legislative position derives directly from the Convention on Human Rights and Fundamental Freedoms according to which the lawful imprisonment of a person in order to prevent the spread of infectious diseases, as well as mentally ill persons, alcoholics, drug addicts or vagrants, in cases specified by law, is permissible.

A mental illness is a condition in which a person's attitude to the surrounding reality and to himself has changed. The mentally ill lives in his own mirage world. The symptoms of mental illnesses are very different from the manifestations of other diseases of the body.

Mental disorders are disorders of higher nervous activity, which are clinically demonstrated as incorrect perception and orientation in the surrounding environment, incorrect reflection of this environment in mental

activity, disorders in intellect and memory, pathological changes in feelings, will, attention.

Mandatory treatment is carried out in accordance with the current Health Act under the following conditions:

✓ *First*, it is necessary that the persons suffer from certain diseases. The law already defines the type of illness. It concerns two categories of persons:

- *One category* is mentally ill persons with established serious impairment of mental functions (psychosis or severe personality disorder) or with pronounced permanent mental impairment as a result of mental illness.
- The other category is persons with moderate, severe or profound mental retardation or vascular and senile dementia.

Regarding to this, it is a mandatory condition that the persons suffer from a mental illness. For example, a personality disorder that strongly disrupts the adaptation of the individual in society and gives conflicting, aggressively demanding behavior is not a mental illness, but a pronounced characterological feature or the medical criterion is not present.

Secondly, it is necessary that these persons, precisely because of their illness, can commit a crime that poses a danger to their loved ones, to those around them, to society or seriously endangers their health. Therefore, according to Art. 155 of the Health Law, not all mentally ill persons who do not understand the nature and significance of what they have done and cannot direct their actions are subject to compulsory treatment, but only those of them who pose a danger to their relatives, to those around them, to society or seriously endanger their health.

In this sense, it is possible, for example, for a person to have a conflicting nature, but this does not mean that he is a danger to both his own health and those around him. Only the lack of criticality, as well as the lack of adequacy to the happening events, do not lead to the categorical conclusion that the prerequisites for ordering mandatory inpatient treatment for him are actually present. Or it is permissible for a person to suffer from a mental illness, but this does not mean that he endangers his own health or the health of others. In relation to determining the quality "dangerous to loved ones, to others and to oneself", the provisions of part IX of the medical standard "Psychiatry" are relevant, which help to assess the risk and danger of a person with a mental illness. According to them, disease-related behavior endangering the patient or others is defined as risky behavior.

A patient is considered a danger to himself when there is a risk of suicide or self-harm, he is unable to meet his vital needs without supervision and assistance, and he may cause significant property damage to himself. And

a patient who endangers or damages the person, the rights of citizens, property, the legal order established by the Constitution in the Republic of Bulgaria or other interests protected by law is considered dangerous to others. The mentioned two criteria are the so-called in practice a medical and social criterion. They must be available cumulatively.

Mandatory accommodation and treatment of persons is decided by a decision of the district court at the person's current address or by the district court at the location of the medical facility. The persons who can request such treatment are the prosecutor and the head of the medical institution. An essential point in this proceeding is that the person whose accommodation is requested be interrogated in person and, if necessary, forcibly brought. When the health condition of the person does not allow him to appear in the court session, the court is obliged to get an immediate impression of his condition.

Compulsory treatment is carried out in inpatient psychiatric care facilities and mental health centers, in psychiatric departments or clinics of multi-specialty hospitals and in medical facilities for specialized psychiatric outpatient care.

The court sends copies of the request for compulsory accommodation and treatment to the person whose accommodation will be considered. The person can object and provide evidence within 7 days. The court examines the case in an open session with the participation of the person within 14 days from the receipt of the request.

When there is a permision by the district judge in accordance with Art. 154, paragraph 2, the court examines the case immediately, as in this case paragraph 1 does not apply. The transcripts are served at the court session, and the head of the medical facility ensures the appearance of the person.

The participation of a psychiatrist, a defense attorney and a prosecutor is mandatory. When the state of health of the person does not allow him to appear at the court session, as well as in the event of a declared state of emergency, martial law, disaster, epidemic, emergency epidemic situation or other circumstances, the person whose accommodation is requested, as well as the expert appointed to give expert opinion, may also participate in the case via video conference, with their identity certified by the director of the hospital or by a person authorized by him.

The court appoints a forensic psychiatric examination when he finds that any of the circumstances under Art. 155 and after hearing a psychiatrist about the probable presence of a mental disorder of the person.

According to the norm of Article 3 of the Ordinance on forensic psychiatric examination for compulsory accommodation and treatment of persons with mental disorders has the main task of giving a conclusion on the

need for compulsory accommodation for treatment. The court determines the form of conducting the examination - outpatient or inpatient. He also determines the medical institution and the expert to conduct the expertise, as well as the period for its performance, which cannot be longer than 14 days, and schedules the next hearing in the case, which is held no later than 48 hours after completion of the examination.

If the time limit set for carrying out the expertise turns out to be insufficient, the court may, exceptionally, in an open session, extend it once, but by no more than 10 days. In this case, the court adjourns the scheduled hearing for the same period.

If the court finds that the circumstances for this are not present, or if it is not established after hearing a psychiatrist that the person has a mental disorder, it terminates the case.

During the examination, no treatment is given, except in emergency situations or after the express informed consent of the person.

Therefore, pending the appointment of a representative and the conclusion of the proceedings, it is capable of granting consent. Simultaneously with the expertise, the expert provides an opinion on the person's ability to express informed consent for treatment, offers treatment for the specific disease and recommends medical facilities where it can be carried out.

The district court rules in an open session. The person's failure to appear without valid reasons is not an obstacle to the consideration of the case.

After listening to the person regarding the conclusion of the forensic psychiatric examination, the court pronounces on the case with a decision based on the collected evidence.

With the decision, the court rules on the need for mandatory accommodation, determines the medical facility, as well as the presence or absence of the person's ability to express informed consent. The court determines the term of accommodation and treatment, as well as the form of treatment - outpatient or inpatient.

When it accepts the person's lack of capacity, the court orders mandatory treatment and appoints a person from the patient's relatives to express informed consent for the treatment. In the event of a conflict of interest or in the absence of relatives, the court appoints a representative of the municipal health service or a person designated by the mayor of the municipality at the headquarters of the medical facility, to express informed consent for the person's treatment.

The decision of the court can be appealed by the interested persons within 7 days from its ruling. The district court renders a decision within 7 days, which is not subject to appeal.

The appeal of the decision on compulsory accommodation and treatment suspends its execution, unless the first or appellate instance decides otherwise. Mandatory treatment is terminated upon the expiry of the period for which it was decreed, or by a decision of the district court at the location of the treatment facility.

Every three months, on the basis of the forensic psychiatric expertise presented by the medical institution, the district court at the location of the institution ex officio pronounces a decision to terminate the compulsory accommodation and treatment or to continue the compulsory accommodation and treatment according to Art. 158, 159, 160 and 161 of Health Law.

If the prerequisites for compulsory accommodation and treatment are no longer met before the specified period has expired, compulsory accommodation and treatment may be terminated by the court at the request of the person, the prosecutor or the head of the medical institution.

The decision on mandatory accommodation and treatment, which has entered into force, as well as the court's decision to appoint a forensic psychiatric examination, are implemented by the relevant medical institutions, if necessary, with the assistance of the authorities of the Ministry of Internal Affairs.

Mandatory accommodation and treatment is regulated in the Health Act and the by-law Ordinance No. 16 of 13.05.2005 on forensic psychiatric examinations for compulsory accommodation and treatment of persons with mental disorders.

Compulsory accommodation and treatment under the Health Act has a preventive purpose - it is decreed before the person has committed a crime.

The mentally ill, who have committed socially dangerous acts, are not punished and condemned, but at the discretion of the court and based on a forensic psychiatric examination, coercive medical measures are applied to them. The treatment, termination and amendment of the decreed coercive medical measure is carried out by the court when this is required by a change in the patient's condition or by the needs of his treatment.

The issue of the application of forced treatment was discussed as early as 1961, when the member states of the United Nations reached an agreement on the adoption of a Single Convention on Narcotic Drugs.

Compulsory medical measures refer only to the cases expressly listed in Art. 89 of Penal Code. i.e. when the person has committed a socially dangerous act in a state of insanity or has fallen into such a state before the

sentencing or while serving the sentence. They are not applicable in proceedings for placement in compulsory treatment under the order of Art. 155 of the Health Act.

These measures are allowed in relation to a person who has committed a socially dangerous act in a state of insanity or has fallen into such a state before passing the sentence or while serving the sentence.

They are the following:

✓ transfer to the relatives, if they take responsibility for his treatment under the supervision of a psycho-neurological dispensary;

✓ forced treatment in an ordinary psycho-neurological institution;

✓ forced treatment in a special psychiatric hospital or in a special department in a regular psycho-neurological institution.

In all cases, after the expiration of a six-month period from placement in the medical facility, the court rules on the termination, continuation or replacement of compulsory treatment. It should be noted that for the termination or change of the prescribed medical measure under Art. 89 of the Penal Code it is not required that the committed socially dangerous act is lightly punishable and that the person admitted to compulsory treatment has fully recovered. It is sufficient that such a change in his state of health has occurred, which no longer makes him dangerous to society or his relatives, and when the termination or modification of compulsory treatment measures is required by the needs of his treatment. When the crime is committed by a person who suffers from alcoholism or other drug addiction, the court can, in addition to the punishment, order compulsory treatment. In relation to the grounds for applying coercive measures of a medical nature. The Supreme Court has repeatedly had the opportunity to rule that such do not apply to persons suffering from illnesses that do not preclude sanity.

The provisions provided for in Art. 89 of the Penal Code, coercive medical measures are applied to persons who committed a socially dangerous act in a state of insanity or fell into such a state before the sentencing or while serving the sentence, and the type of these measures for each specific case is determined according to the requirements of Art. 90 of the Penal. For the adoption of any of the measures under Art. 89 of the Penal, it is necessary that these prerequisites exist. This is because if the perpetrator was not in a state of insanity when committing the act and subsequently, he is a criminally responsible person according to Art. 31, paragraph 1 of the Penal, therefore there is no basis for the application of Art. 90 of the Penal - this text applies to criminally irresponsible persons.

When the perpetrator was not in a state of insanity, suffering from psychopathy or a disorder of health that does not exclude sanity, he shall be

treated and given appropriate medical care while serving his sentence. In particular, when this punishment is "imprisonment", this medical care is provided by the prison administration in compliance with the terms and conditions of Ordinance No. 1 - 203/82.

Differences in mandatory accommodation and treatment under the Health Act and compulsory medical measures under the Criminal Code.

Therefore, in view of the above, the following more significant differences between the two legal institutes can be highlighted:

✓ First, coercive medical measures are regulated in the Criminal Code, and the procedure for its implementation - in the Criminal Procedure Code. Compulsory accommodation and treatment is regulated in the Health Act and the by-law Ordinance No. 16 of 13.05.2005 on forensic psychiatric examinations for compulsory accommodation and treatment of persons with mental disorders. In both proceedings, Instruction No. 1 for the activity of health authorities in the case of involuntary placement of persons in psychiatric hospitals is applied;

✓ Second, compulsory medical measures under the Criminal Code are imposed in relation to a person who has already committed a crime, but has carried out this socially dangerous act in a state of insanity or has fallen into this state before the sentence is passed or while serving the sentence. Conversely, mandatory accommodation and treatment under the Health Act has a preventive purpose – it is decreed before the person has committed a crime.

✓ Thirdly, compulsory medical measures under the Penal Code are temporary in nature, namely – after six months have passed since the placement in the medical facility, the court decides on the termination, continuation or replacement of the compulsory treatment.

✓ Fourth, mandatory treatment under the Health Act applies to persons with mental disorders defined in Art. 146, para. 1, items 1 and 2 of the Health Act whether or not the mental disorder precludes sanity. Conversely, coercive medical measures under the Criminal Code apply only to persons with mental disorders whose condition precludes sanity.

✓ Fifth, the two types of measures are implemented in a different order.

Legislation is established in a certain legal form and moral, ethical and deontological norms imposed in society, which are generally accepted and must be respected by everyone in the interest of society.

Health legislation is a set of legal norms regulating relationships in society on health issues and the organization of the health care system and

one of the elements of the health policy toolkit for managing health care processes.

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