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Book Review

Provision of medical services. Regulation and case law [Furnizarea de servicii medicale. Reglementare și jurisprudență] (by: Laura-Valeria Malinetescu, Bucharest: C.H. Beck Publishing, 2023)

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Abstract: *The volume under discussion deals with the social health insurance system, using an easy-to-understand image. The evolution of the concepts of „health”, „public health”, „right to health” and „right to health” is dealt with here. References are made to the provision of health care services under the social health insurance systems in Germany and France. Also, the concept of "the interest of the insured" is explained and some aspects of comparative law, the framework contract and the methodological rules for the application of contracts for the provision of medical services, medicines and medical devices, etc. are described.*

Key words: Provision of medical services; regulation; case law; the interest of the insured; aspects of comparative law.

Analyzing this work, we find that it represents real support for professionals in the healthcare field, intended for understanding and delving into all aspects related to the domain of providing medical



services. Furthermore, the discussed work (Provision of medical services. Regulation and case law [Furnizarea de servicii medicale. Reglementare și jurisprudență] (by: Laura-Valeria Malinetescu, Bucharest: C.H. Beck Publishing, 2023, ISBN:978-606-18-1239-4, pages: 332) [1] contains extensive observations from the perspective of comparative law that aid in understanding specific institutions within the field. It also helps in grasping the differences between various social health insurance systems in multiple states and the rationale behind these differences, suggesting the necessity of a critical analysis of their advantages and disadvantages. Additionally, it proposes a detailed exposition of essential concepts and tools, such as health law or the framework contract, contextualized within a comprehensive framework through their disciplinary analysis [2-4]. Thus, the work initiates notions from diverse fields— administrative law, civil law, etc. Regarding the content of the work, it includes significant

aspects outlined below. *Chapter I* „The Evolution of Concepts Underpinning the Legal Organization of Providing Medical Services, Medicines, and Medical Devices” includes: Section

1. Introductory Aspects; Section 2. The Evolution of Concepts of 'Health' and 'Public Health' in International and European Legislation; Evolution of the „Health” Concept. Definition and Paradigm; Evolution of the „Public Health” Concept; Responsibilities of the European Union in the Health Domain; Section 3. The Evolution of the „Right to Health” Concept and its Interaction with Various Legal Institutions; Evolution of the Right to Health in International Legislation; Evolution of the Right to Health in European Legislation; Regulation of the „Right to Health” in Various European Legislations; Regulation of the „Right to Health” in Romanian Legislation; Section 4. The Legal Nature of the Right to Health. Comparative Law Aspects; The Legal Nature of the Right to Health in French Legislation; The Legal Nature of the Right to Health in Romanian Legislation; Relevant Jurisprudence of the Constitutional Court and the High Court of Cassation and Justice Regarding the Right to Health; Constitutional Court Jurisprudence; High Court of Cassation and Justice Jurisprudence; Section 5. Health as a Discipline of Legal Study: Health Law and Medical Law in the American Legal System; Health Law and Medical Law in the French Legal System; The Scope of Health Law Studies in the Romanian Legal System; The Limits of Health Law Studies in the Romanian Legal System and Conclusions.

Chapter II „The Social and Economic Context of Developing the Legal Institution of Providing Medical Services, Medicines, and Medical Devices, and its Integration into the Social Health Insurance System” includes: Section 1. General Aspects; Section 2. European Healthcare Systems; Concept; Determining Conditions for a „Suitable” Health System; Provision of Medical Services; Integration of Healthcare Provision into the Health System; Types of European Healthcare Systems, followed by a Conclusions section.

Chapter III „The Provision of Medical Services, Medicines, and Medical Devices within the Social Health Insurance System in Romania” also encompasses several crucial parts such as: Section 1. General Considerations; Section 2. Evolution of Romanian Legislation. Comparative Approach; Section 3. Evolution of the Principles of the Social Health Insurance System. Comparative Analysis; Section 4. „Institutions” Involved in Providing Medical Services, Medicines, and Medical Devices; Preliminary Considerations; Fundamental Notions of the Institutional Organization of Providing Medical Services, Medicines, and Medical Devices; Ministry of Health; National Health Insurance House; Health Insurance Companies; Providers of Medical Services, Medicines, and Medical Devices; General Eligibility Conditions for Entering into Contractual Relationships with Health Insurance Companies; Evaluation and Accreditation of Providers of Medical Services, Medicines, and Medical Devices; Civil Liability Insurance for Providers of Medical Services, Medicines, and Medical Devices; Incompatibilities and Conflicts of Interest; Section 5. Understanding the Notion of „Insured Interest”; Determining the Legal Nature of the „Insured Interest” Notion. This section also involves a comparative approach, referring to Case Study - Germany, European Case Law, followed by Proposals for Law Amendments; Section 6. Medical Services, Medicines, and Medical Devices Covered by Supply Contracts; Section 7: Framework Contract Regulating the Conditions for Providing Medical Care, Medicines, and Medical Devices within the Social Health Insurance System; General Considerations; Legal Regime of the Framework Contract Regulating the Conditions for Providing Medical Care, Medicines, and Medical Devices within the Social Health Insurance System; Legal Nature and Characteristics of the Framework Contract Regulating the Conditions for Providing Medical Care, Medicines, and Medical Devices within the Social Health Insurance System; Constitutional Court Jurisprudence on Regulating the Framework Contract; Section 8. Provision of Medical Services, Medicines, and Medical Devices. Notion, Legal Nature, and Legal Characteristics; Section 9. Beneficiaries of the Provision of Medical Services, Medicines, and Medical Devices. Finally, Chapter III concludes with Section 10 - Conclusions.

Chapter IV „Provision of Health Care Services within the Social Health Insurance Systems in Germany and France” addresses issues such as: Comparative Law Aspects; Section 1. Introductory Aspects and Preliminary Observations; Section 2. Organization of Providing Health Care Services

in the German Social Health Insurance System; Legal Framework; Principles of the Statutory Health Insurance System; Financing of Health Care Services; Organization of Institutions Involved in Providing Health Care Services in the Statutory Health Insurance System; Organization of the „Contractual System” Ensuring Access to Health Care Services; Legal Nature of Contracts Ensuring the Provision of Health Care Services; Arbitration, an Administrative Law Institution Resolving Conflicts within the German Statutory Health Insurance System; Section 3. Provision of Health Care Services in the Mandatory Health Insurance System in France; Legal Framework; Organization and Principles of the Mandatory Health Insurance System in France; Beneficiaries of Health Care Services; Users of Health Care Services; Information for Users of Health Care Services; Financing of the Mandatory Health Insurance System; Organization of Key Institutions Ensuring the Provision of Health Care Services within the Mandatory Health Insurance System; Organization of the „Conventional System” Ensuring Access to Health Care Services; General Aspects; Organization of the Conventional Health Insurance System; Specifics of the Conventional System; Jurisdiction to Resolve Disputes in Matters of Social Health Insurance in France; Resolving Disputes in Health Insurance Matters; Principal Jurisdiction over „Acts” Governing the Mandatory Health Insurance System; Jurisdiction to Resolve Individual Disputes within the Health Insurance System; Provision of Medical Services; Scope of Control of Acts within the Health Insurance System. It then proceeds to „Specifics Regarding the Activity of Healthcare Professionals” and *Conclusions*.

Chapter V „Contracts for the Provision of Medical Services, Medicines, and Medical Devices” delves into issues such as: Contracts for the Provision of Medical Services, Medicines, and Medical Devices; Regulation of the supply contract in the Civil Code; Notion of contracts for the provision of medical services, medicines, and medical devices; Legal regime, legal nature, and characteristics of contracts for the provision of medical services, medicines, and medical devices; Similarities and differences between contracts for the provision of medical services, medicines, and medical devices and the supply contract regulated by the Civil Code; Relevant jurisprudence arising from the legal nature of contracts for the provision of medical services, medicines, and medical devices; General aspects regarding contract conclusion; Section 3. Mechanism of forming contracts for the provision of medical services, medicines, and medical devices; Negotiation; Offer and acceptance of the offer; Section 4. Special provisions regarding the liability of providers of medical services, medicines, and medical devices. Incidence of provisions of Law no. 72/2013; General considerations; Restrictions on invoice issuance/receipt deadlines; Section 5. Incidence of provisions of Law no. 193/2000.

This Section (Section 6), within *Chapter V*, constitutes the conclusion of the work, addressing the particularities of contracts for the provision of medical services, medicines, and medical devices, aspects concerning the assignment of claims and the mortgage on claims resulting from contracts for the provision of medical services and medicines, also paying attention to the assignment of claims resulting from contracts for the provision of medical services and medicines. We consider issues related to the mortgage on claims resulting from contracts for the provision of medical services and medicines equally important, considerations regarding debt assignments and mortgages on claims resulting from contracts for the provision of medical services and medicines, as well as the transfer of a contract for the provision of medical services to another legal entity with the same activity. Additionally, this section includes *Conclusions* (Section 8).

Essentially, this work comprehensively explains the social health insurance system and conducts an extensive comparative law analysis of healthcare provision within the social health insurance systems of Germany and France, encompassing regulatory notions and abundant case law. It also dedicates a significant portion to contracts for the provision of medical services, medicines, and medical devices, particularly analyzing their special legal nature at the intersection of civil and administrative law.

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