

## MALPRACTICE AND PROFESSIONAL LIABILITY OF MEDICAL PERSONNEL

SILVIU PIȚURU, SIMONA VLĂDĂREANU\*, SILVIU PĂUN, ANDREI NANU

*“Carol Davila” University of Medicine and Pharmacy, 37 Dionisie Lupu Street, Bucharest, Romania*

*\*corresponding author: simconst69@gmail.com*

*Manuscript received: September 2014*

### Abstract

The goal of this paper was to identify the legal framework defining the requirements and limits of the professional liability of medical personnel, when confronted with malpractice accusations, and the payment risk management mechanisms regarding indemnities granted to injured patients.

The professional liability of medical personnel has its recognizable causes both in the scientific/technical component of the medical and pharmaceutical practice as well as in the ethical component.

The main payment risk management mechanism regarding indemnities granted to injured patients following malpractice cases is the professional liability insurance for medical personnel (“malpractice insurance”). However, several mandatory requirements are necessary for this mechanism in order to achieve its legal role, as specified above.

The correct identification of the requirements and limitations regarding the legal liability of medical personnel and the prevention and management methods for this risk are a necessity in order to align medical and pharmaceutical practice to the applicable legal requirements and quality standards.

### Rezumat

Prezenta lucrare își propune identificarea cadrului legal care precizează condițiile și limitele atragerii răspunderii civile a personalului medical în contextul acuzațiilor de malpraxis și a mecanismelor de gestiune a riscului plății despăgubirilor acordate pacienților prejudiciați.

Atragerea răspunderii civile a personalului medical își recunoaște cauze atât în componenta științifică/tehnică a practicii medicale și farmaceutice, cât și în cea etică.

Principalul mecanism de gestionare a riscului plății despăgubirilor pacienților prejudiciați în urma unei situații de malpraxis o constituie asigurarea de răspundere civilă profesională a personalului medical („asigurarea de malpraxis”). Pentru a-și îndeplini însă rolul legal menționat anterior este necesar a fi îndeplinite mai multe condiții obligatorii.

Identificarea corectă a condițiilor și limitelor atragerii răspunderii juridice a personalului medical și a metodelor de prevenire și gestiune a acestui risc este o necesitate pentru alinierea practicii medicale și farmaceutice la cerințele legale și la standardele calitative aplicabile.

**Keywords:** malpractice, professional liability, medical personnel, insurance

### Introduction

The issue of medical malpractice is approached through various communication channels, at times far outreaching the sphere of preoccupations in the medical world, and becoming a theme of interest for our entire society. Most press articles [1], which is exactly the kind of information that reaches the general public, speak in an accusing voice about doctors, pharmacists and nurses, usually completely ignoring any presumption of innocence. Unhappy patients call out for the quality of the existing medical and pharmaceutical practice, in most cases without having the required knowledge for a correct evaluation of the actual situation, while lawyers and judges support or judge cases in a field with very limited jurisprudence in Romania.

### Research questions

- What are the requirements resulting in the professional liability of medical personnel (malpractice)?
- What are the limitations of the professional liability of medical personnel?
- How the payment risks for any due damages can be effectively managed?
- What are the limitations of professional liability insurance contracts, why is their efficiency trumped and how can they be improved?

### Research objectives

The main goal of this research was to identify the legal framework which defines the requirements and limitations applicable to the professional liability of medical personnel.

The secondary goal was to identify the vulnerabilities of the payment risk management mechanisms regarding indemnities granted in case of professional liability of medical personnel.

### Materials and Methods

In order to reach the objectives of this research, the following methods have been applied: the descriptive method, the observation method and the documents analysis method.

These allowed us to reach a very exact presentation of the legal framework applicable to medical and pharmaceutical practice in Romania, a thorough analysis of the case law regarding malpractice accusations during the last 5 years, as well as a comparative analysis of the various professional liability insurance contracts which are available for the medical personnel.

However, before any in-depth study, a thorough approach will require the legal definition of medical malpractice and the identification of causes resulting in the professional liability of medical personnel in malpractice cases.

Considering all of the above, it is also necessary to engage in a discussion regarding the legal regulations applicable to the medical and pharmaceutical profession.

### Results and Discussion

*Medical malpractice legal definition.* Medical personnel must be liable for their deeds, that is for their entire activity. There are several types of legal liability for the medical personnel: civil liability (contractual or delictual), criminal liability, administrative liability and disciplinary liability [2]. These types of liability represent different ways of incurring liability, therefore they are to be analysed and considered separately.

A very important stage is to identify the causes resulting in the professional liability of medical personnel, as defined by the law maker as the “medical doctor, dentist, pharmacist, nurse and midwife providing medical services” and to define the malpractice notion [3].

*Medical malpractice* must not be analysed through the lens of all the four possible ways to incur legal liability, discussed above, since the law states that malpractice, in the strict sense of the word, can only result in the doctor’s professional liability: “Malpractice is the professional misconduct which occurs while rendering a medical or pharmaceutical service, which results in injury to a patient, thus resulting in the civil liability of medical personnel and of the provider of medical, sanitary and pharmaceutical products and services” [4].

This principle of professional liability (civil liability), acting as the basis for the above legal standard defining malpractice, can be found in the Civil Code (both in the old and in the new Civil Code, which entered into force in 2011; the phrasing of this principle was different, but the contents were the same): “Any person has a duty to obey the rules of conduct imposed by the law or local habits and refrain from any action or inaction which might prejudice the legitimate rights and interests of other people. Any competent person who breaches this duty shall be held liable for all the incurred damages and must redress them fully” [5].

“The person who injures another through an illicit act done with fault must redress any such damage.” [6] Offensive professional liability is “a sanction specific to civil law, applicable for any act resulting in injuries or damage. Strictly speaking, it is a civil sanction, without acting as a punishment” [7].

In other words, in the case of medical malpractice, the goal of the law maker is not to punish the doctor or the pharmacist (limiting or denying their rights, social censure or obligation to mandatory services). Instead, it focuses on the rights of the injured patient of receiving redress, indemnification for the damage or injury caused through the medical act.

As a conclusion, malpractice as defined by the specific applicable legal standard – Law no. 95/2006, as subsequently amended and supplemented – excludes criminal, administrative and disciplinary liability and focuses strictly on professional liability, which consists in the patient’s rights to receiving indemnifications for their damages or injuries.

This does not mean medical personnel is exempt of any criminal, administrative or disciplinary liability – it only means that incurring any such liability is not considered malpractice, but a method for sanctioning a physician, pharmacist or nurse. However, we should not dismiss the sanction characteristic of criminal, administrative or disciplinary liability; the goal of any of these three types of liability is not to grant the patient any material satisfaction, but a mere moral satisfaction at most (consisting in the idea of “let justice be done”; do not confuse it with any moral damage granted to a patient based on the professional liability of medical personnel, counting as redress). Returning to the legal definition of malpractice, a *sine qua non* requirement of the malpractice accusation is the existence of misconduct in the medical or pharmaceutical behaviour, as well as the existence of a damage or injury incurred by a patient through such a medical or pharmaceutical misconduct. It is also necessary to be able to prove causality between the injury or damage incurred by the patient and the act performed by the defendant.

*The causes of malpractice claims*

Thus far, we have been able to establish that medical malpractice will result in the professional liability of medical personnel. But what are the *requirements* which result in this liability, what is the malpractice aetiology?

As stated before, one of the requirements of a malpractice accusation is the existence of misconduct in the medical practice (an “illicit act”, as defined by the law). The illicit act is generally defined as a breach of the rules of conduct imposed by the law or local habits. This means that medical malpractice can be analysed from two points of view: a legal approach (breach of the medical law) and a scientific approach (breach of the medical guidelines endorsed by any responsible body of opinion in the relevant specialty).

The two derive from the components of medical/pharmaceutical practice: science and ethics. It is clear that malpractice can appear at the level of both components.

Should this occur at the level of the scientific/technical component of medical practice, malpractice will be caused by an error in the scientific activity (for instance, in shaping out a diagnostic, in performing medical manoeuvres, in checking the type/time of administration, the ratio of associated concentrations, pharmaceutical solutions etc.). The law is very clear in this: “medical personnel is civilly liable for any damages incurred by error, also including negligent or imprudent behaviour, or insufficient medical knowledge in exercising one’s profession, through individual deeds during intervention, diagnostic or treatment procedures.” [8]

If misconduct occurs at the ethical level of medical practice, it will result in the failure to obey the ethical principles applicable to medical activities. The ethical courts (the disciplinary bodies) are to decide what a doctor or a pharmacist should do or should have done. But is this malpractice according to the civil law?

The medical ethics and the medical law have a complex partnership. The medical ethics states what medical personnel should do, the medical law say what they should do, *or else* [9].

Therefore, a failure to obey the medical ethics could also result in legal (civil) liability. And this is clearly stated in the Romanian law when defining the civil liability of medical personnel: “medical personnel will also be liable for any damages and injuries resulting from failure to comply with the regulations hereof regarding confidentiality, informed consent and the obligation to provide healthcare” [10].

As a synthesis of the above information, we can say that the law regarding medical malpractice has two

major applicable fields: the sphere of scientific activity (medical and pharmaceutical research and practice) and compliance with current bioethical principles.

From the analysis of the above legal texts, we can see that the law does not make any difference between the various situations (illicit acts) which may result in the medical personnel’s obligation to redress damages or injuries to patients, irrelevant of whether it stems from the scientific or the ethical component of medical practice. In other words, an illicit act of a medical doctor (one of the 4 elements of a tort,) could consist in grave errors during diagnostic, as well as in breaching legal regulations deriving from the ethics of the doctor/patient relationship (e.g. consent, confidentiality etc.). Of course, the seriousness of the breach outcomes could be different, but it is not relevant when defining the illicit conduct of the medical personnel. It becomes relevant only when assessing other elements of a tort (damages, causality and fault).

The novelty we have been trying to highlight in this paragraph refers to malpractice representing not just liability for an error to the scientific component of medical and pharmaceutical activities (as we have seen throughout our research, that is the perception of most representatives of the medical doctors and pharmacists based on the perception that only an injury due to a medical error could lead to civil liability because of the seriousness of the outcomes), but also resulting from failure to comply with legal regulations focusing on the ethical component of medical and pharmaceutical practice (informed consent, confidentiality, discrimination, overcome medical personnel competence etc.).

We can see how this operates in courts. In the case of *Csoma vs. Romania*[11], The European Court of Human Rights concluded that by not involving the applicant in the choice of medical treatment and by not informing her properly of the risks involved in the medical procedure, the applicant suffered an infringement of her right to private life and conclude that has been a violation of Article 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms (Right to respect for private and family life). Therefore, it considers that the applicant incurred non-pecuniary damage which cannot be compensated by the mere finding of a violation, so it awards the applicant EUR 6,000 in respect of non-pecuniary damage.

The Court notes that all the medical expert reports in the case concurred that the doctor had failed, prior to the procedure, to either obtain the applicant’s informed written consent or to perform the pre-operative checks required. The Court

attaches weight to the existence of prior consent in the context of a patient's right to respect for his or her physical integrity. Any disregard by the medical personnel of a patient's right to be duly informed can trigger the State's responsibility in the matter. Moreover, a medical doctor's/pharmacist's breach of the applicable legislation has an additional impact, this time not directly on the relationship between the medical doctor/pharmacist and the patient, but on the operation of the professional liability insurance contract signed by each medical doctor/pharmacist with a right of free practice ("malpractice insurance" is its usual name). These contracts include mentions inserted by insurance companies that no indemnity claim will be paid in case of breaching by the (insured) medical doctor/pharmacist of the legal regulations applicable to the profession. Thus, any indemnity due to a patient for any damages/injuries will not be covered by the insurance company which insures the medical doctor or pharmacist, if they breach a legal regulation when performing the respective medical or pharmaceutical activities.

#### *Individual vs. institutional liability*

As for the correct identification of the *limitations of legal liability*, we have specified from the first lines of this paper that there are several types of legal liability applicable to medical personnel (civil, criminal, disciplinary and administrative liability).

As regards malpractice, a discussion is necessary regarding the medical personnel professional liability limitations.

We have shown that medical personnel is liable from a civil and individual point of view for any damage or injury incurred by the patient as a result of the breach of duty of care, both in the scientific component of their activity (error, negligence, imprudence, insufficient medical knowledge), as well as in the ethical/legal component by breaching the legal regulations applicable to medical practice (regarding confidentiality informed consent, obligation of granting medical assistance, patient discrimination, doctor's limitation of their own specialization).

There are also situations when the medical institution, not the medical personnel is liable for. These situations might occur when the damage/injury is not due to the medical doctor's individual action/inaction, but to the conditions of the medical action.

These situations are very well defined by the legal framework, according to which the medical unit is responsible when the patient suffered injury/damage due to:

a) nosocomial infections, except when an external cause appeared which was not under the institution's control;

b) known malfunctions of abused medical machinery and appliances which were not repaired;

c) using sanitary materials, medical devices, drugs and sanitary substances after their expiry or validity date, as the case may be;

d) accepting medical equipment and devices, sanitary materials, drugs and sanitary substances from suppliers, without the insurance required by law, as well as subcontracting medical or non-medical services from providers without professional liability insurance in the medical field;

e) failure to observe the internal regulations of the sanitary unit" [12].

In such cases, liability belongs to the institution where the medical action was done. The same institution will be liable for insuring the working conditions for medical doctors and the conditions for granting medical assistance to patients.

#### *The medical malpractice insurance*

*Professional liability insurance* resulting from medical or pharmaceutical practice (or "malpractice insurance" – usual phrasing in the physician's/pharmacists' language) is the main payment to injured patients risk management tool.

If we analyse the situation of payments made during the past years by insurance companies, we can see that no big amounts have been paid to patients and that, while valid, the contracts of insured doctors and pharmacists failed to work [13]; the result is that malpractice insurance, though mandatory, failed to perform their role granted by law, namely to protect the pharmacist/medical doctor/nurse from the risk of paying large amounts granted by the court to damaged/injured patients and also to protect the patient entitled to receiving an indemnity from the risk that the medical personnel does not have the financial resources necessary to make the payment.

There is a generalized practice, tacitly accepted by the medical personnel, consisting in not reading insurance contracts, seeing them strictly as minor formalities. Thus, they only sign them when their contractual deadlines expire, with the only goal to be able to keep on practicing; it is known that the existence of a valid insurance policy is mandatory.

The technique used by pharmacists, nurses and medical doctors for choosing the insurance company and the type of insurance contract usually cuts down to identifying the cheapest policy. And such a conduct is understandable, considering that the future insured individuals start out on the premise that the respective contract will never bring any benefits, since it is only formal.

These are the reasons why, so far, insurance companies have had the opportunity – which they fully exploited – to include certain clauses in the contractual conditions proposed to the medical

personnel (clauses listed under chapter "Exclusions" in the malpractice insurance contracts) which drastically limit the possibilities of (full) payment to the patient of any due indemnities granted on the basis of professional liability incurred by the medical personnel, for damages/injuries resulting from medical or pharmaceutical practice.

Before analysing these clauses which can block insurance contracts, we wish to clarify two notions: "material damages" and "moral damages".

According to the principles of professional liability, any patient damaged/injured as a result of medical and/or pharmaceutical practice is entitled to ask and receive indemnity for their damages, quantified in amounts granted as pecuniary damage (patrimonial) and moral damages (non-patrimonial).

Material damage can be quantified exactly and can usually be proved through various documents (for instance, receipts for drugs necessary to recover one's health affected by the claimed faulty medical action, hospitalization invoices, payment slips for amounts claimed in order to cover any failed benefits, similar other documents).

Moral damages refer to the patient's damaged moral values, their mental suffering, their pain caused by the claimed faulty medical action.

The value of the moral damage a patient is entitled to claim is not subjected to any objective quantification method.

The value of the moral damage a patient can receive is assessed by courts on subjective criteria, since moral damage cannot be measured objectively. Under these circumstances, patients "story" regarding how the medical action caused them pain is the basis for deciding the amount granted as moral damage indemnity. "It is in the nature of non-pecuniary damage that it does not lend itself to precise calculation. If the existence of such damage is established, and if the Court considers that a monetary award is necessary, it will make an assessment on an equitable basis, having regard to the standards which emerge from its case-law" [14].

This is how things happen in the current judicial practice. For the future, a possible system of measuring the monetary representation of the patients' suffering would be using an instrument created by the World Health Organization, namely the International Classification of Functioning, Disability and Health [15]. Of course, such a solution requires legal support and otherwise cannot be put into practice. In the past years, most of the insurance companies stated in their contracts that they will pay only for the pecuniary damages. The moral damages were, therefore, excluded. Considering that, from the point of view of valour,

these damages represent the main component of indemnities granted by courts, the results were as described by the medical personnel, dissatisfied with the risk coverage provided by insurers: "insurance is futile".

Indeed, according to the existing contractual conditions on the insurance market for pharmacists, medical doctors and nurses in 2007, insurances seemed void of any benefits. But things have started changing and will keep on doing so.

Whenever an insurance company proposes a professional liability insurance contract, medical personnel are recommended to read the contents of the "Exclusions" chapter very carefully, in order to see if payments for the moral damages granted as indemnity to patients are included.

And if the answer is "no", several traps can be found.

The professional liability insurance contracts signed by medical personnel usually have two major components, in two different documents: the so-called "specific terms" (document specifying the details of the medical personnel insurance) and the so-called "general terms".

There are models of contracts not listing moral damages under "Exclusions" in the "specific terms", thus giving the impression that the contract covers any damages granted to patients as moral damages. However, that payment is excluded according to the "general insurance terms", the other part of the same contract. It is important that a medical doctor/pharmacist goes through both documents.

Many times pharmacists and medical doctors find themselves discouraged over the analysis of documents making up an insurance contract, the reserves of insurance companies in accepting their point of view, the entire bureaucratic approach.

However, things are not as complicated as they may seem at first sight.

As we have shown above, we have monitored the evolution of malpractice insurance contracts since 2007 until now.

In 2007, most contracts (possibly all) would exclude payment of moral damage amounts to the patient from their insurance terms.

Following discussions and negotiations carried in time, currently there are several companies offering medical personnel full or partial coverage of moral damage payments. This is a victory of the medical world, fought for and not found on a large scale. We must insist upon this, in order to encourage the physicians, nurses and pharmacists to request that the insurance companies also cover moral damage payment through the contracts they sign.

Therefore, a first conclusion is to negotiate malpractice insurance contracts, making sure to include the insurer's obligation to cover moral

damage. Doctors who request such a contract from the insurance company have a good chance of getting it. Those who do not even attempt to negotiate are sure to sign a disadvantageous contract.

At the same time, when pharmacists, for instance, sign a contract for a certain amount, they must make sure they understand how this amount can be used in case of need.

Let us suppose there is an insured amount of 10.000 Euro (of course this amount covers both material and moral damage, according to principles we have been discussed above). In our example, the insurance contract contains a clause according to which the 10.000 Euro will cover the insured period (usually one calendar year) and a single insured event (*per* insured event). In these conditions, let us suppose an unsatisfied patient will obtain from the pharmacist a total indemnity of to 5.000 Euro (material damage + moral damage). Consequently, the insurance company will pay 5.000 Euro to the injured patient.

But what happens if the respective pharmacist had a bad year and faces a second malpractice accusation?

No matter the amount that can be claimed and obtained by the second disgruntled patient, the insurer will not pay anything, because, according to the contractual terms in our example, it is clearly stipulated that it only applies for a single insured event, namely the event involving disgruntled first resulting in the payment of 5.000 Euro.

The above example was not selected by chance – many contracts will contain similar provisions.

One must check the contractual conditions and eliminate any clauses which result in a confirmed insured risk rendering the insurance void in the future, even if part of the insured amount remains available.

The possibility of having several insurance amounts is specified in Law 95/2006 regarding reform of the health system, namely in art. 660, stating that: “Should several valid insurance policies exist for the same insured person, the indemnity will be borne pro rata with the amount insured by each insurer. The insured has the obligation to inform the insurer about the existence of any such insurance policies with other insurers.”

In an interpretation of the legal text above, if the medical doctor/pharmacist has several malpractice insurance contracts valid at the same time, he will have the obligation to inform the respective companies about the existence of all contracts; however, it is important to notice the clause according to which the amount granted to the patient will be paid pro rata by all companies, in percentages calculated based on the amounts insured by each such company.

Thus, payment risks are shared between insurers, but the maximum amount they will pay is the largest insured amount, as resulting from each respective contract, instead of the amount resulting from an addition of all insured amounts according to all contracts.

Most professional liability insurance contracts for medical personnel we have analysed contain provisions according to which the insurance will cover indemnity payment risks, provided that both the insured event and claim take place during the insured period.

According to article 677 of Law 95/2006 regarding reform of the health system, as subsequently amended and supplemented, malpractice actions are prescribed within three years from their occurrence date.

What happens if the insured event (error) occurs during the insured period, while the malpractice accusation is lodged by the patient after this period but without exceeding the legal prescription deadline?

According to contracts which include provisions such as specified above, the insurer will not pay any indemnities to the patient because necessary contractual conditions are not met (the insurance will cover the indemnity payment risks provided that both the insured event and the claim occur during the insured period).

The correlation between the period covered by the insurance contract and period during which the damage and the claim occur is necessary for a contract in order to cover indemnity payment risks.

In other countries there are two insurance contract types, namely insurance/incident coverage or insurance/claim coverage:

a) “Incident coverage” means that the insurer will pay damages within the limits of the insured amount, if negligence occurred during the contract validity period, irrelevant of when the patient submit the claim (even outside the contract validity period).

b) “Claim coverage” means that the insurer will pay damages within the limits of the insured amount, if the claim was submitted by the patient within the contract validity period, irrelevant of when the action (negligence) resulting in the respective damage/injury took place.

According to the practice of insurance companies in Europe and the US, the second option is preferred because it allows a better financial risk assessment and management. Without covering the moral damages and the correlation between the period covered by the insurance contract and period during which the negligence and the occur, the malpractice insurance contracts don’t meet their role.

But there is hope for improvement in the future. Last year, the Ministry of Health launched for

public debate a proposal to amend the actual medical law (law 95/2006). According to this law draft, a malpractice insurance contract must include the following terms:

- covering the moral damages,
- covering the amount claimed through an indemnity claim during the validity period of the insurance contract and related to illicit acts that took place up to 3 years before the claim.

### Conclusions

Professional liability of medical personnel may be rooted in both the scientific/technical side and in the ethical side of medical and pharmaceutical practice. Any breach of good medical/pharmaceutical practices or legal regulations resulting from the relationship between the medical personnel and the patient can be sanctioned through professional liability (malpractice).

The main payment risk management mechanism for indemnities due to the injured patients following malpractice situations is the professional liability insurance of medical personnel (“malpractice insurance”). In order to achieve the above mentioned role, two conditions are necessary: compliance by the (insured) medical personnel with the legal regulations applicable to their profession and the careful negotiation of contractual terms.

Most medical doctors practicing in Romania consider malpractice to be a “real and actual” danger, but their ability to react is low. Recent studies[16] have identified the possible vulnerabilities of medical practice when facing malpractice claims.

This is also caused by the fact that in the past years no university or post-university medical education program has covered the field of preventing, avoiding and limiting medical malpractice.

It is imperative to correctly identify the professional liability terms and limitations, as well as methods to prevent and manage this risk.

### Acknowledgements

“The hereby paper has been financially supported through the project “Excellence Programme in Multidisciplinary Doctoral and Postdoctoral Research in Chronic Diseases”, contract no. POSDRU/159/1.5/S/133377, beneficiary “Gr. T. Popa” University of Medicine and Pharmacy of MM, cofunded by the European Social Fund

through the Sectoral Operational Programme – Human Resources Development 2007-2013.”

### References

1. Lupaşcu N., Bulgaru-Iliescu D., Rotaru T.Ş., Malpractice in the Romanian media: a descriptive study. *Revista Română de Bioetică*, 2014; 12(4): 118.
2. Stan C., Medical Malpractice, Ed. Etna, Bucharest, 2009: 24.
3. Crişan O., Iacob S., Patients’ rights in pharmacy legislation. *Farmacia*, 2014; 62(3): 444-450.
4. Law 95/2006 regarding health reforms, as subsequently amended and supplemented, art. 642, paragraph 1, letter b).
5. The New Civil Code, republished 2011. Law 287/2009 regarding the Civil Code, Chapter IV – Civil Liability. Offensive Liability, Art. 1.349 of the Civil Code.
6. The New Civil Code, republished 2011. Law 287/2009 regarding the Civil Code, Section 3 – Liability for one’s own deeds. Liability Terms Art. 1.357 – Civil Code. The New Civil Code, republished 2011. Law 287/2009 regarding the Civil Code.
7. Stătescu C., Bîrsan C., Civil Law – General Theory of Obligations, ed. All, Bucharest, 1995: 114
8. Law 95/2006 regarding health reforms, as subsequently amended and supplemented, art. 642, paragraph 2.
9. Foster C., Medical Law – A Very Short Introduction, Oxford University Press, Gosport, Hampshire, UK, 2013: 7.
10. Law 95/2006 regarding health reforms, as subsequently amended and supplemented, art. 642, paragraph 3.
11. [http://hudoc.echr.coe.int/sites/fra/pages/search.aspx?i=001-115862#{"itemid":\["001-115862"\]}](http://hudoc.echr.coe.int/sites/fra/pages/search.aspx?i=001-115862#{).
12. Law 95/2006 regarding health reforms, as subsequently amended and supplemented, art. 644.
13. Court of Law Iasi, Civil sentence no 2891,: “the court notes that in the insurance terms it was stated that the moral damages were not covered by the insurance”.
14. [http://www.echr.coe.int/Documents/PD\\_satisfactio\\_n\\_claims\\_ENG.pdf](http://www.echr.coe.int/Documents/PD_satisfactio_n_claims_ENG.pdf).
15. Nanu A., Georgescu D., Bulgaru D., Berteau M., Rădulescu C., Using the International Classification of Functioning in Assessing Moral Damage. *Romanian Journal of Legal Medicine*, 2012, XX(1): 77-82.
16. Nanu A., Georgescu D., Voicu V., Ioan B., Place and Relevance of Legal Provisions in the Background of Medical Practice in Romania. *Revista Română de Bioetică*, 2011; 9(4): 90-110.