

**M U N I**  
**M E D**

# **Competence**

What it takes to practice medical profession

# What is a medical profession

Regulated activities related to treatment of a patient

- Administrative regulation for the sake of patient's protection
- Does not relate only to the physicians but almost any profession connected with medicine

# Three requirements to practice medical profession

## Health capacity

- Both physical and mental

## Professional competence

- Education and Experience

## Moral integrity (no criminal history)

- Two levels of protection
  - Medical board or council (Ethical integrity)
  - State enforcement (Criminal liability)

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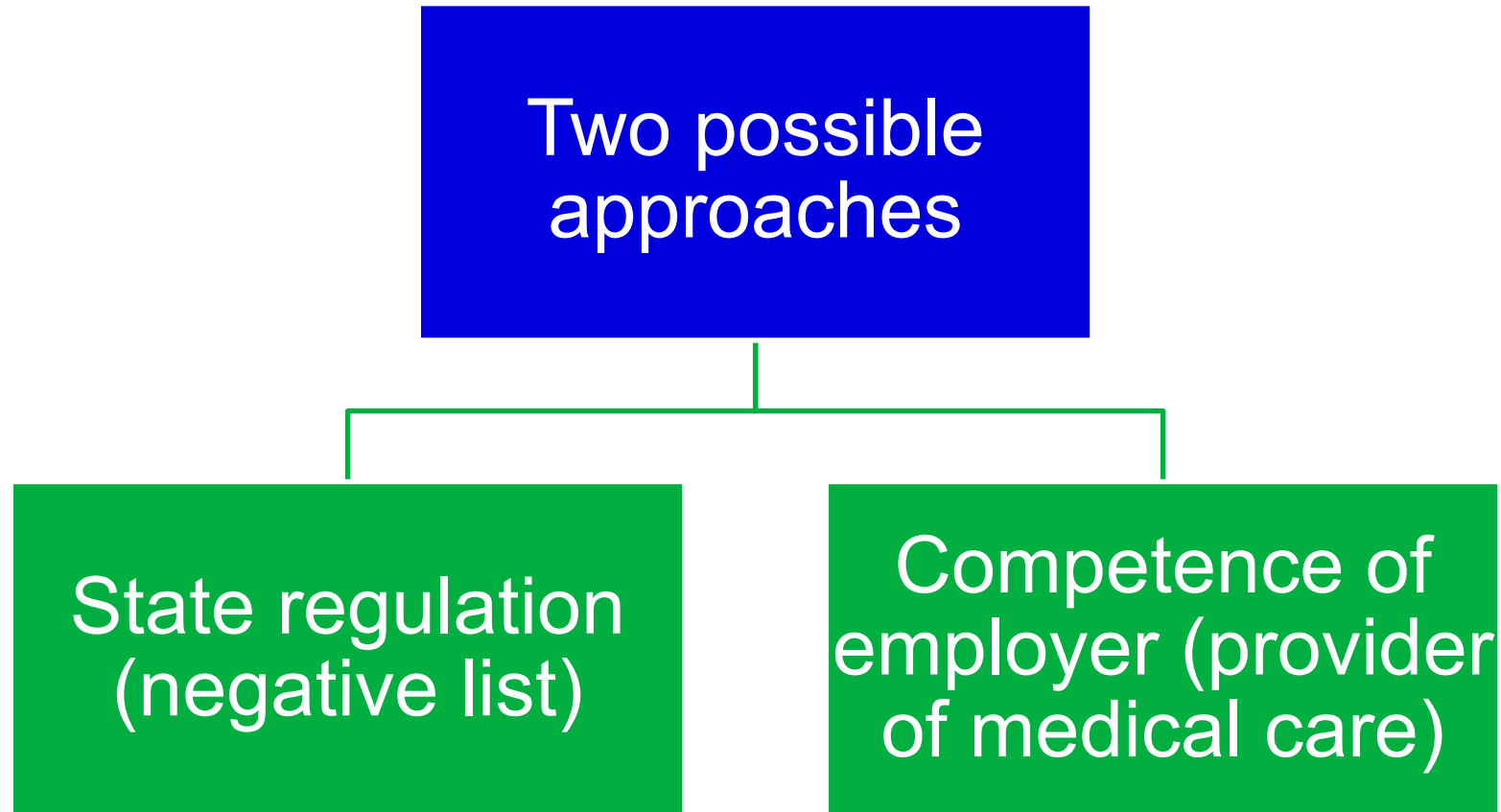
**Health capacity**

# Health capacity

Health capacity requirements are mainly in place to protect a healthcare professional

- Incapacity to work at night
- Temporarily incapacities
- Pregnancy
- Weight-lifting limits
- Lack of vaccination

# Health capacity for the sake of patient



Restrictions on health workers with HIV lifted as 'outdated' ban ends | Society | The Guardian - Google Chrome

US: Nene... x Inet MU: In... x 23 Google Ca... x 23 Google Ca... x Program... x Hestia Fed... x Restriction... x

← → ↻ <https://www.theguardian.com/society/2013/aug/15/hiv-restrictions-health-workers-lifted> ☆ 🔔 📧 📄 🗑️

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# theguardian

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**NHS**

## Restrictions on health workers with HIV lifted as 'outdated' ban ends

HIV positive staff can carry out surgery and dentistry as chief medical officer says attitudes need to change

**Sarah Boseley**, health editor  
Thursday 15 August 2013 00.15 BST

[f](#) [t](#) [e](#) [...](#) [951](#) [299](#)

🕒 This article is 3 years old



Neue Empfehlungen: HIV-positiv – und trotzdem Chirurg - Gesundheit - FAZ - Google Chrome

www.faz.net/aktuell/gesellschaft/gesundheit/neue-empfehlungen-hiv-positiv-und-

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Bundesliga-Tippspiel 2016/2017

Frankfurter Allgemeine Gesellschaft

Mittwoch, 23. November 2016 VIDEO THEMEN BLOGS ARCHIV

POLITIK WIRTSCHAFT FINANZEN FEUILLETON SPORT **GESELLSCHAFT** STIL TECHNIK & MOTOR WISSEN REISE BERUF & CHANCE RHEIN-MAIN

Home > Gesellschaft > Gesundheit > Neue Empfehlungen: HIV-positiv – und trotzdem Chirurg BEST AGER - FÜR SENIOREN UND ANG...

## Neue Empfehlungen

# HIV-positiv – und trotzdem Chirurg

Neue Empfehlungen im Gesundheitswesen berücksichtigen die Wirkkraft moderner Aids-Medikamente: Infiziertes medizinisches Personal darf nun alle Tätigkeiten, auch größere chirurgische Eingriffe, ausführen.

15.08.2012, von PETER-PHILIPP SCHMITT

Merken Drucken

Empfehlen (7) Permalink

Lesermeinungen (7)

f Teilen Twittern Teilen E-mailen

Veröffentlicht: 15.08.2012, 16:45 Uhr



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Die Aids-Hilfe begrüßte den Vorstoß, wies aber zugleich darauf hin, dass nicht HIV, sondern die allgemein

### Bilder des Tages



### Geschichte einer Transplantation





# Mental capacity

Czech republic regulates diseases which are incompatible with work in hospital

- Schizophrenia
- Dementia
- Recidiving manic episodes or depression

Journal List > Can Med Assoc J > v.121(3); 1979 Aug 4 > PMC1704352

CMAJ·JAMC

Medical knowledge that matters Des connaissances médicales d'envergure

[Journal Home Page](#)  
[Information for Authors](#)

Can Med Assoc J. 1979 Aug 4; 121(3): 283-288.

PMCID: PMC1704352

## Psychiatric illness in physicians.

[S E Shortt](#)

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This article has been [cited by](#) other articles in PMC.

### Abstract

Psychiatric illness and behavioural problems among physicians are reviewed in this paper. Some studies suggest that the medical profession has a high rate of alcoholism, drug abuse and marital discord. As well, physicians appear to commit suicide and to seek admission to psychiatric institutions more frequently than comparable populations. Considered as etiologic factors in psychiatric illness among physicians are the role strain inherent in the profession and the personality development of individual practitioners prior to their entering medical school. The review concludes with suggestions for an improved approach to treatment and prevention.

### Full text

Full text is available as a scanned copy of the original print version. Get a printable copy (PDF file) of the [complete article](#) (1.0M), or click on a page image below to browse page by page. Links to PubMed are also available for [Selected](#)

[References](#).

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# **Professional Capacity**

# Professional capacity

To perform profession per se

- Education

To perform specialized tasks

- Practice

# Recognition of professional qualification within the EU

Temporarily mobility

Establishment

Employment ?

# Temporarily mobility

Maximum 6 months

Has to be reported



# THE EU SINGLE MARKET

## Regulated professions database

European Commission > Internal Market > Free movement of professionals > Regulated professions datab



### IS MY PROFESSION REGULATED IN ANOTHER MEMBER STATE?

EU country where you got your qualification:

Please select a country ▼

EU country where you wish to practice:

Please select a country ▼

Profession you wish to practice:

Fill here a generic name of a profession in the site language, or if not possible, the name of the regulated profession in the language of the home or host country.

**SUBMIT**

**CLEAR**

# Basic medical Training IN EU

Admission to basic medical training shall be contingent upon possession of a diploma or certificate providing access, for the studies in question, to universities

Basic medical training shall comprise a total of at least six years of study or 5 500 hours of theoretical and practical training provided by, or under the supervision of, a university.

3. Basic medical training shall provide an assurance that the person in question has acquired the following knowledge and skills:
- (a) adequate knowledge of the sciences on which medicine is based and a good understanding of the scientific methods including the principles of measuring biological functions, the evaluation of scientifically established facts and the analysis of data;
  - (b) sufficient understanding of the structure, functions and behaviour of healthy and sick persons, as well as relations between the state of health and physical and social surroundings of the human being;
  - (c) adequate knowledge of clinical disciplines and practices, providing him with a coherent picture of mental and physical diseases, of medicine from the points of view of prophylaxis, diagnosis and therapy and of human reproduction;
  - (d) suitable clinical experience in hospitals under appropriate supervision.



# Specialist medical Training (EU)

Admission to specialist medical training shall be contingent upon completion and validation of six years of study

Specialist medical training shall comprise theoretical and practical training at a university or medical teaching hospital or, where appropriate, a medical care establishment approved for that purpose by the competent authorities or bodies. Training shall be given on a full-time basis at specific establishments which are recognised by the competent authorities. It shall entail participation in the full range of medical activities of the department where the training is given

<http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32005L0036&from=en>

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**Moral integrity**

# Criminal records

UK

certification from the Disclosure and Barring Service (DBS)

Employer has duty to check, GMC may decide but no automatic ban

USA

According to [American Medical News](#), 2/3rds of state medical boards are now conducting criminal background checks on their members. The goal? Physicians with a criminal record can "be denied a license, have restrictions placed on their practice or face no repercussions, depending on the will of the board in a particular state."

Czech republic

Automatic ban if there is imprisonment for more than year

## Approbation als ARZT - Erteilung - bei abgeschlossener ärztlicher Ausbildung im Ausland

Erteilung einer Approbation als Ärztin / Arzt an Personen, die ihre ärztliche Ausbildung im Ausland abgeschlossen haben.

### Voraussetzungen

- ▶ Nachweis der Zuständigkeit für das Land Berlin (Einstellungszusage; Meldebescheinigung)
- ▶ Eine im Ausland abgeschlossene ärztliche Ausbildung, die mit einer deutschen Ausbildung gleichwertig ist oder ein gleichwertiger Kenntnisstand.  
Die Gleichwertigkeit des Kenntnisstandes ist ggf. durch eine Prüfung nachzuweisen.
- ▶ Ausreichende Deutschkenntnisse der Stufe B 2
- ▶ Fachsprachentest, abzulegen bei der Ärztekammer Berlin
- ▶ Gesundheitliche Eignung
- ▶ Nachweis der Zuverlässigkeit und Würdigkeit für die Ausübung des ärztlichen Berufs
- ▶ Wichtig: Es ist in jedem Fall eine persönliche Einzelberatung erforderlich!

### Erforderliche Unterlagen

- ▶ Antrag
- ▶ Tabellarischer Lebenslauf mit Unterschrift
- ▶ Geburtsurkunde und ggf. Namensänderungsurkunden
- ▶ Identitätsnachweis (gültiger Personalausweis oder Reisepass)
- ▶ Unterlagen über den Ausbildungsgang und Ausbildungsabschluss mit deutscher Übersetzung
- ▶ Ggf. weitere Unterlagen in Abhängigkeit vom Ausbildungsland und Ausbildungsabschluss bzw. bei Berufstätigkeit im Ausland
- ▶ Amtliches Führungszeugnis Beleg-Art "0"  
Das Führungszeugnis darf bei Antragstellung nicht älter als ein Monat sein
- ▶ Erklärung darüber, ob ein gerichtliches Strafverfahren oder ein staatsanwaltschaftliches oder berufsrechtliches Ermittlungsverfahren anhängig ist
- ▶ Ärztliche Bescheinigung, in der die gesundheitliche Eignung zur Ausübung des Berufs bestätigt wird  
Die ärztliche Bescheinigung darf bei Antragsstellung nicht älter als ein Monat sein
- ▶ Bescheinigung der Ärztekammer, wenn bereits eine ärztliche Tätigkeit ausgeübt wurde
- ▶ Ggf. Zeugnisse bisheriger Arbeitgeber
- ▶ Promotionsurkunde (wenn vorhanden)
- ▶ Wichtig:



Conflict of interest |

# Significant policy problem

Anything that can create risk, that your actions regarding primary interest (patients well-being) will be influenced by your secondary interest.

# EXAMPLE from the UK: NHS Code of conduct

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# Example Professional Code for Physicians in Germany – Adopted by German Medical Assembly

## II. Duties Towards Patients

- Art. 7 Treatment Principles and Rules of Conduct
- Art. 8 Obligation to Provide Information
- Art. 9 Confidentiality
- Art. 10 Obligation to Keep Medical Records
- Art. 11 Medical Examination and Treatment Methods
- Art. 12 Fee and Remuneration Agreements

## 4. Safeguarding of Medical Independence in Cooperation with Third Parties

- Art. 30 Medical Independence
- Art. 31 Impermissible Allocation
- Art. 32 Impermissible Donations
- Art. 33 Donations during Contractual Cooperation





Gifts and tokens of  
gratitude |

# Gifts and gratitude

Small gifts in the value 5-10 EUROS are usually tolerated

- Commercial merchandise from companies (pens, stickers)

Larger gifts can be considered as compromising „Medical Independence“

- Sometimes need to be declared

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**Examples**

# Example – German code of conduct

## Art. 31

### Impermissible Allocation

- (1) Physicians are not permitted to demand or have themselves or third parties promised or granted payment or other benefits, or themselves promise or grant payment or benefits, for the allocation of patients or examination material or for the prescription or acquisition of pharmaceuticals, medical aids or medical devices.

# Example – German code of conduct

## Art. 32

### Impermissible Donations

- (1) Physicians are not permitted to demand gifts or other benefits from patients or other persons for themselves or for third parties, or to have them promised to or accept them for themselves or third parties, if this creates the impression that the independence of the medical decision is influenced as a result. An influence is not against professional ethics if it is conducive to an economical method of treatment or prescription on the basis of social law and the physician retains the possibility of making an alternative decision on medical grounds to that which is connected with financial incentives.

# Example – conference events (GER)

- (2) The acceptance of benefits of reasonable value is not against professional ethics as long as these are utilised exclusively for continuing medical education related to the profession. The benefit granted for participation in a scientific continuing medical education event is unreasonable if it exceeds the necessary travel costs and conference fees.
- (3) The acceptance of third-party contributions for carrying out events (sponsorship) is only permissible to a reasonable extent and exclusively for financing the scientific programme of continuing medical education events. The extent and conditions of sponsorship are to be openly disclosed when announcing and holding the event.

# Example NHS code of conduct - UK

Gifts should normally be firmly but politely declined. However, articles of low intrinsic value, need not necessarily be refused.

Mugs; Office Stationery; Boxes of chocolates or biscuits.

Gifts with the value of between £5- £25 may be accepted but must be declared.

crystal, ornaments.

Any other gifts over this value should be politely declined. Under no circumstances should employees accept personal gifts of cash even if this is below the limit of £25.



Invitations to lunches,  
conferences and events |



# Invitations to free attendance of conferences and events

Accepted only if it serves education and scientific purpose

Must not compromise your independence

Regulation of pharmaceutical companies

- Not so important to physicians

Regulation on the ethical side of physician

# NHS Code

## 7.1.2 Hospitality

Modest hospitality, provided it is normal and reasonable in the circumstances, e.g. lunches in the course of working visits, may be acceptable, though it should be similar to the scale of hospitality which the Trust, as an employer, would be likely to offer or you would be prepared to pay for yourself. All other offers of hospitality or entertainment should normally be declined.

### **Examples of acceptable hospitality may include:**

- Invitations to attend functions where the attendee is representing the Trust;
- Working lunches, light refreshments.

### **Unacceptable hospitality that should be declined may include:**

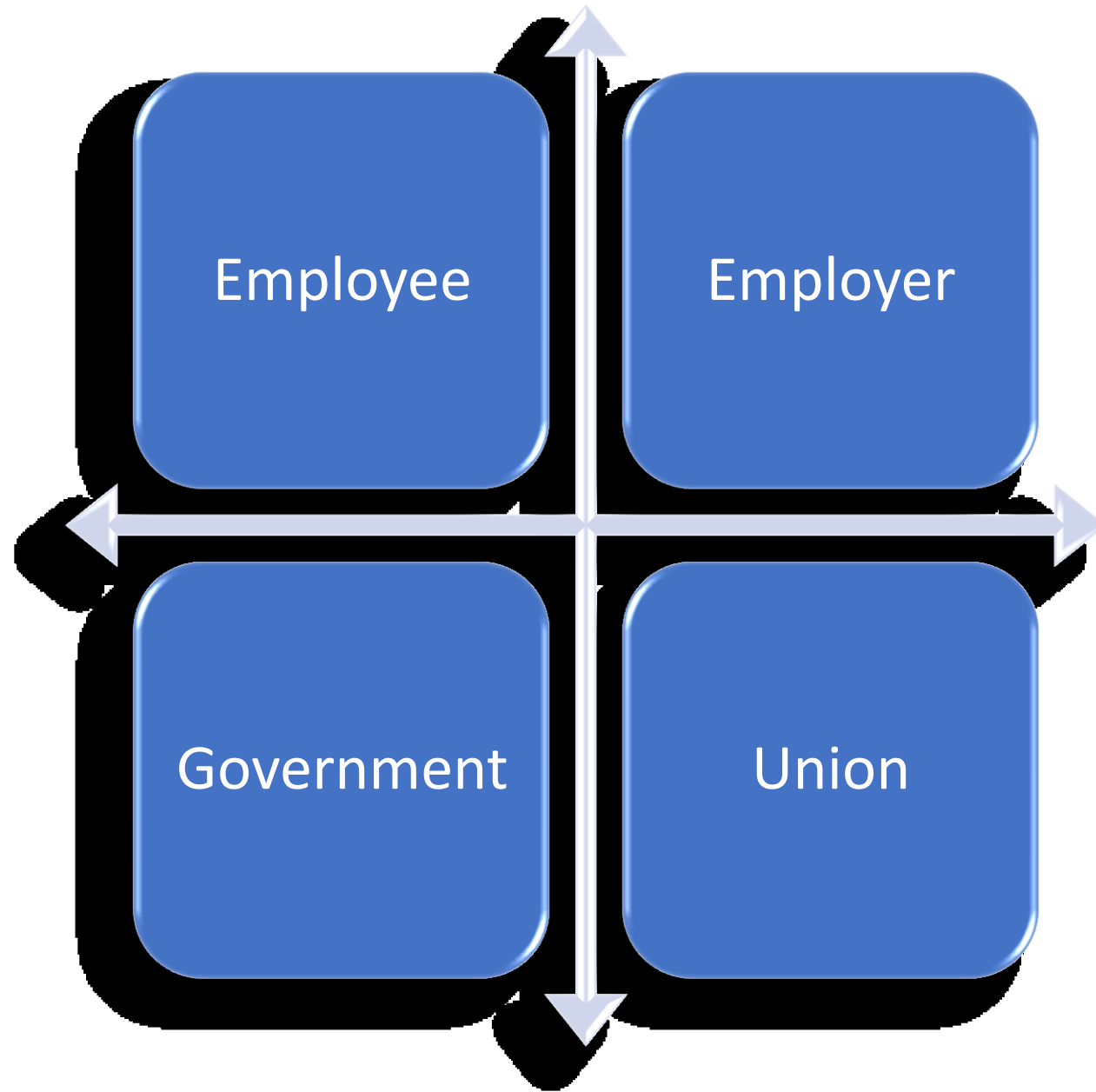
- Personal invitations to sporting events, or other entertainment;
- Tickets for non-work related events;
- Holidays (including free holiday accommodation), weekend breaks, air or rail travel;
- Non-working lunches or evening meals, cabarets and nightclub entertainment.

# German code of conduct

- (2) The acceptance of benefits of reasonable value is not against professional ethics as long as these are utilised exclusively for continuing medical education related to the profession. The benefit granted for participation in a scientific continuing medical education event is unreasonable if it exceeds the necessary travel costs and conference fees.
- (3) The acceptance of third-party contributions for carrying out events (sponsorship) is only permissible to a reasonable extent and exclusively for financing the scientific programme of continuing medical education events. The extent and conditions of sponsorship are to be openly disclosed when announcing and holding the event.

# Employment Law





# Equal conditions of workers in the EU

- Prohibition of discrimination on grounds of nationality between EU Member States
- Any discrimination in working conditions between domestic workers and persons coming to work in the territory of a given State from other Member States is considered inadmissible
- Gender equality – equal wage for equal work
- The right to vocational training under the same conditions as domestic workers
- The right to join unions in the country of employment

# Labour Contract

# Before signature

Employer



Employee



# After signature



Employer

The diagram consists of two blue rectangular boxes with white text. The top box is labeled 'Employer' and is positioned to the right of the bottom box. The bottom box is labeled 'Employee' and is positioned to the left of the top box. A vertical black line connects the bottom center of the 'Employer' box to the top center of the 'Employee' box, indicating a relationship or flow between the two roles.

Employee

# Minimum requirements

Example  
of Czech  
Republic

- Type of work
- Place of work
- Day of commencement of work

# Duration of the contract

Indefinitely

For a definite period

- may be limited – e.g. in the Czech Republic, at most three times in a row with the same employer, then it must be concluded for an indefinite period

# Termination of employment

- By Employee
  - Usually, the reason does not need to be stated
  - Notice period
- By Employer
  - Usually, the reason must be stated – not for employment „at-will“ (typically some states of U.S.A.)
  - For breach of obligations by the employee
  - Change of organizational structure/cancellation of job position
  - Termination of employer

# Rights and obligations under the Labour Code

## The employee is required:

- Follow the instructions of the employer
- Perform work personally
- Only the work that corresponds the position
- In apportioned working time and
- To comply with obligations that arise from the employment relationship.

# Obligations of healthcare professional according to HCA

---


**(a)** provide healthcare services to which they have a professional or specialist qualification,,  
to the extent corresponding to their competence, patient's medical condition  
on appropriate professional level  
and to act in accordance with ethical principles,

---

**b)** immediately provide first aid to everyone

---

**c)** fulfill other obligations imposed by HCA or other legislation.



# Trade Unions

# Union

- Legal entity consisting of employees or workers having a common interest
  - E.g. all the assembly workers for one employer, or all the workers in a particular industry
- Formed for the purpose of collectively negotiating with an employer (or employers) over wages, working hours and other terms and conditions of employment
- Often use their organisational strength to advocate for social policies and legislation favorable to their members or to workers in general



# The Community Charter of the Fundament al Social Rights of Workers - 1989

- Employers and workers of the European Community shall have the *right of association in order to constitute professional organisations or trade unions* of their choice for the defence of their economic and social interests.
- Every employer and every worker shall have the *freedom to join or not to join such organisations* without any personal or occupational damage being thereby suffered by him.



# Salary



# Salary

Remuneration for work performed on behalf of an employer

Including such elements as a basic rate, a piecework bonus and other forms of bonus, overtime, etc.

# Determining the amount of salary

Contractually agreed

Specified by regulation

- internal regulations of the employer
- collective agreements
- government decree

# Minimum wage

- Should be in the amount that allows a decent living for workers and their families.
- Most EU Member States have a statutory national minimum wage in place, although its level, adjustment mechanisms and coverage vary. Austria, Denmark, Finland, Italy and Sweden have minimum wages set within collective agreements, while Cyprus has statutory rates for different occupations.



# Working hours

(DIRECTIVE 2003/88/EC concerning certain aspects of the organisation of working time)



# Breaks

## Breaks during work hours

- No later than after 6 work hours

## Rest hours

- 11 consecutive hours per 24-hour period

## Weekly rest period

- minimum uninterrupted rest period of 24 hours plus the 11 hours' daily rest
- If objective, technical or work organisation conditions so justify, a minimum rest period of 24 hours may be applied

# Maximum weekly working time



THE AVERAGE WORKING TIME  
FOR EACH SEVEN-DAY PERIOD,



SHOULD NOT EXCEED 48  
HOURS INCLUDING OVERTIME



# Annual leave

- At least four weeks
- Minimum period of paid annual leave may not be replaced by an allowance in lieu, except where the employment relationship is terminated

# Nighth work



Night workers whose work involves special hazards or heavy physical or mental strain do not work more than eight hours in any period of 24 hours during which they perform night work.



Health assessment



Obligation of an employer to notify authorities of regular use of night workers

# Derogations from Daily rest, Breaks, Weekly rest period and Length of night work

- In the case of activities involving the need for continuity of service or production, particularly ... treatment and/or care provided by hospitals or similar establishments, including the activities of doctors in training ...

# Change in working ability

# Change in health condition

## Temporary incapacity

- a short-term change in health that does not allow work

## Partial incapacity

- health status has been changed in the long term so that it allows to perform work only with certain limitations

## Total incapacity

- health status has been changed in the long term so that it does not allow to work anymore

# Pregnancy

- Pregnant worker
  - worker who informs her employer of her condition, in accordance with national legislation
- DIRECTIVE 92/85/EEC - <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:01992L0085-20140325>

# Pregnancy

- Employer shall assess the nature, degree and duration of exposure, in the undertaking and/or establishment concerned
  - If the adjustment of her working conditions and/or working hours is not feasible, or cannot reasonably be required on duly substantiated grounds, the employer shall take the necessary measures to move the worker concerned to another job.
  - If moving her to another job is not feasible or cannot reasonably be required on duly substantiated grounds, the worker concerned shall be granted leave in accordance with national legislation and/or national practice for the whole of the period necessary to protect her safety or health.

# Pregnancy

- Workers shall not be obliged to perform night work during their pregnancy and for a period following childbirth which shall be determined by the national authority competent for safety and health



# Pregnancy

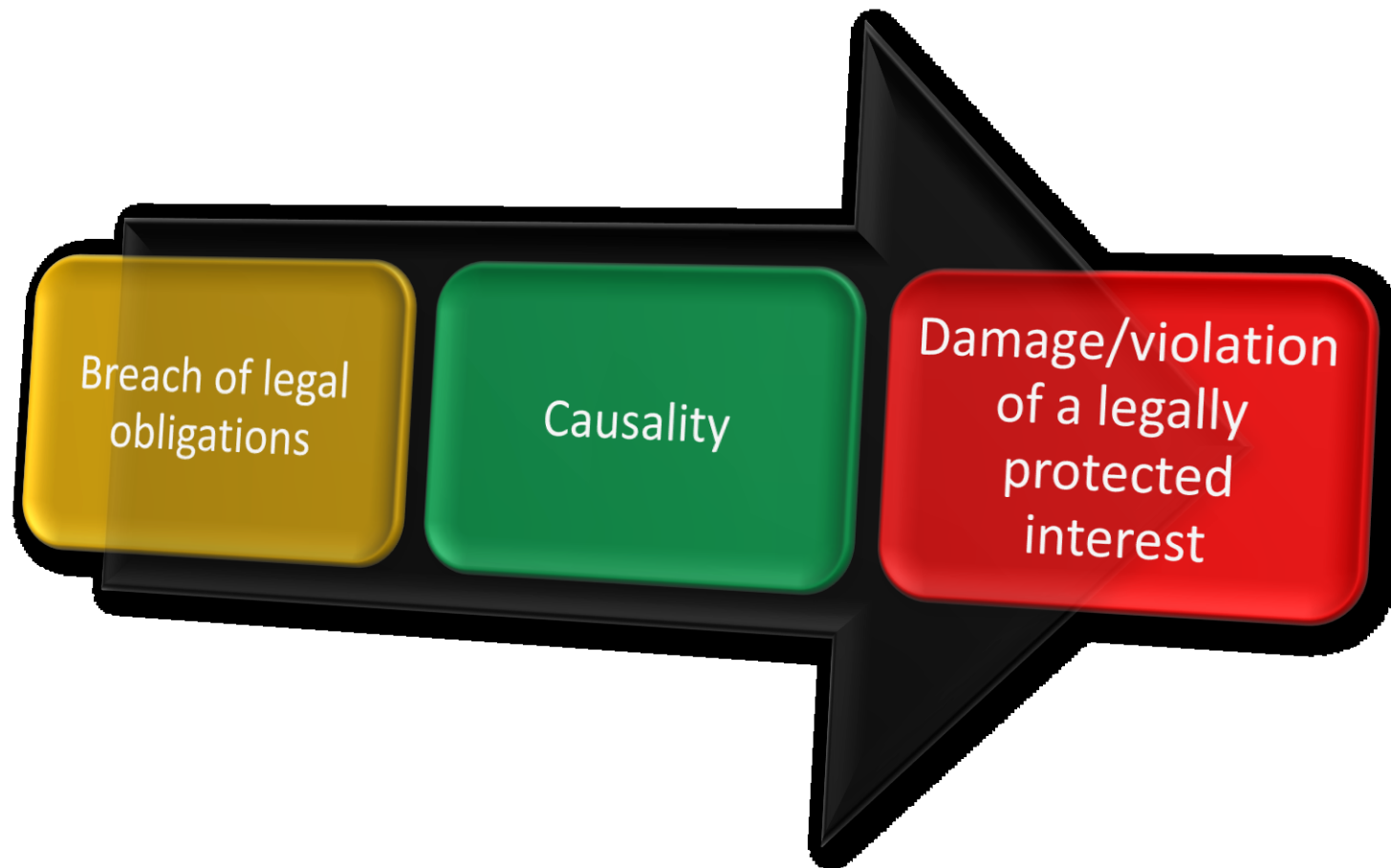
- Prohibition of dismissal
  - from the beginning of pregnancy to the end of the maternity leave, save in exceptional cases not connected with their condition which are permitted under national legislation, provided that the competent authority has given its consent;



# Employee Liability



# Assumptions of Liability



# The obligation of prevention

- The employee is obliged to act in such a way as to prevent material damage, non-material damage or unjust enrichment.
- If intervention is urgently needed to prevent damage to the employer, the employee is obliged to intervene; employee does not have to do so if it is prevented by an important circumstance or if employee would put himself or other employees at serious risk.

# Damages

The employee is usually liable to his employer for the damage he causes

usually associated with a breach of some obligation (remember lege artis, confidentiality etc.)

May be limited

e.g. the upper limit of liability in Czech Republic is ten and a half times the average monthly wage

# LOSS

## Loss of vested things

- an employee is liable for the loss of vested thing, which he has taken over, in its entirety

## Loss of entrusted value

- an employee is liable for the loss of entrusted values (eg money), which he has taken over, in its entirety

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