

stanka štete po zdravlje pacijenata koji su podvrgnuti medicinskom ogledu (čl. 38. st. 7. Zakona o zdravstvenoj zaštiti), osiguranje od odgovornosti proizvođača i drugih predlagača kliničkog ispitivanja leka i medicinskog sredstva za štete po zdravlje lica koja su podvrgnuta kliničkom ispitivanju leka, odnosno medicinskog sredstva (čl. 60. st. 1. i čl. 128. st. 3. Zakona o lekovima i medicinskim sredstvima) i osiguranje od odgovornosti proizvođača, zastupnika i predstavnika proizvođača i nosilaca dozvole za promet na veliko medicinskih sredstava (ne i leka?) za štete nastale trećim licima u primeni medicinskih sredstava (čl. 113. Zakona o lekovima i medicinskim sredstvima). S obzirom da ove vrste obaveznih osiguranja nisu zakonom dovoljno regulisane da izraze njihove specifičnosti i da zaštite opravdane interese oštećenih lica, nužno je da se učine predlozi i osmisle aktivnosti u zalaganju za odgovarajuće dopune zakona u kojima su ova osiguranja propisana kao obavezna. Ali, i osmisle predlozi i realizuju aktivnosti u zalaganju za sprovođenje drugih specifičnih

nih vrsta osiguranja koja su u nekim zemljama EU obavezna, kao što je osiguranje psihijatrijskih bolnica od građansko-pravne odgovornosti i posledica nesrećnog slučaja bolesnika, članova porodice u koju je bolesnik upućen radi nadzora i trećih lica, a porodice u koje se bolesnici primaju radi vršenja nadzora svoju odgovornost za slučaj neočekivane nezgode bolesnika. Ključnu ulogu u ovim aktivnostima treba da imaju pored navedenih subjekata i lekarske komore.

6. Domaća društva za osiguranje moraju da izmene svoje uslove osiguranja profesionalne odgovornosti lekara, tako što će u njima proširiti osigurani slučaj i na druge oblike odgovornosti lekara, osim odgovornosti za profesionalnu grešku, i ukinuti brojna u njima predviđena isključenja iz osiguranja koja obesmišljavaju osiguranje od odgovornosti za lekarsku grešku, te na taj način učine ovo osiguranje prihvatljivim i atraktivnim za lekare i kao dobrovoljno osiguranje.

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PROFESSIONAL LIABILITY INSURANCE OF MEDICAL DOCTORS

SUMMARY

First part of the article author assigns to the study of possible reasons why in the EU member-countries professional liability insurance of medical doctors ranges between minor compulsory and major voluntary systems of insurance.

Definition, functions and features of professional liability insurance of medical doctors are compared with other professional providers' liability insurance in the second part of the article.

Third part of the article investigates, from the point of Serbian Law, forms and types of medical doctors' civil liability as possible insured risks.

In the fourth part author analyzes insurance clauses and exclusion clauses of the major domestic insurance companies and criticize, for the insured, unfavorable rules in those clauses.

In the conclusion, author describes reasons of its initiative for operation of professional liability insurance in compulsory way. Author suggests legal regulation should be complete and Serbian lawmaker's should abandon practice of incomplete regulation of compulsory insurances. Furthermore, he suggests this type of insurance should be regulated as a form of individual and group insurance (by designation of the policyholder, insured and co-insured persons), defining insured risks, types of losses covered and exclusions, minimal sum insured per medical doctors' specialization, mandatory application of bonus-malus system, body compe-

tent for fulfillment of duty to insured, penalties for policyholders, insured who did not fulfill their duty, sources for claims payment in case of uninsured, scope of supervision over this insurance operation and other elements making specific contract content of the professional liability of medical doctors insurance

Author warns on resistance that may appear against activities of the consumer associations, associations for patient protection and non-governmental organizations aimed at introduction of professional liability insurance of medical doctors as compulsory insurance, similar to those that exist today in the Serbian legal system of compulsory insurance of lawyer's civil liability.

He pleads that until professional liability insurance of medical doctors in Serbia becomes compulsory, simultaneously encourage this line of insurance as voluntary insurance, by the worked out strategy, operation of similar lines of insurance that are compulsory in Serbia, are encouraged. Those are: liability insurance of medical institutions for health impairment of a patient exposed to medical test, liability insurance of manufacturers and other providers of a clinic testing of a medicine or medical mean and liability insurance of manufacturers, agents and representative of a manufacturers and licensed wholesale dealers of medical means (excluding medicines) for losses to third parties who applied those means. Having in mind these types of compulsory insurances have not been sufficiently regulated by law to accommodate their features and protect justified interest of the third parties, author pleads for adequate amendments to the law providing for these insurances.

Author pleads that domestic insurance companies change their conditions for professional liability insurance of medical doctors by extending insured event to other forms of medical doctors liability, except for liability for a professional error, and abandon numerous exclusions that this insurance make illogic and make this insurance acceptable and attractive even as a voluntary insurance.