

# MEDICAL ENTITIES –FINANCING TYPES AND SOURCES IN LIGHT OF THE ACT ON MEDICAL ACTIVITY

MAŁGORZATA PASZKOWSKA\*

## Abstract

Defining legally permitted financing sources is fundamental for each medical entity. The act on medical activity of 15<sup>th</sup> April 2011 introduced many changes for medical service suppliers also as concerns the permitted financing sources. This paper aims to present the types of medical entities and their financing sources in the light of the new regulations, i.e. the act on medical activity.

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## INTRODUCTION

The year 2011 brought significant changes in the medical services market, connected with implementing its partial reform. The changes concern mainly medical service providers, and in particular the permissible organisational and legal forms of providing health services. The reform was implemented by the act of 15<sup>th</sup> April 2011 on medical activity (Dz.U. of 1<sup>st</sup> June 2011), binding since 1<sup>st</sup> July 2011. The act on medical activity (in short: a.m.a.) is a single legal act which regulates the principles of conducting medical activity in a comprehensive manner. It defines:

- 1) the principles of conducting medical activity,
- 2) the functioning principles of entities which conduct medical activity but are not entrepreneurs,
- 3) the principles of keeping the register of entities which conduct medical activity,
- 4) working time norms of medical entity employees,

- 5) the principles of overseeing the conducting of medical activity and entities which conduct medical activity.

Due to the scope of issues it concerns, the new act largely resembles the act on healthcare centres of 30<sup>th</sup> August 1991 (in short: act on ZOZs), which expired when the act on medical activity entered into force. The new act applies to all entities which conduct medical activity. According to art. 3 of a.m.a., medical activity consists of providing healthcare services. Healthcare (medical) services is a term already established in the Polish healthcare system, and one which has already been regulated in the act on ZOZs. Currently the definition – in a shortened version, but one concurrent with the previous definition (from the act on ZOZs) – is found in art. 2 item 1 point 10 of a.m.a. According to the said stipulation, healthcare services are activities which serve to maintain, rescue, restore or improve health, and other medical activities which result from the treatment process or separate provisions regulating the principles of providing

\* Ph. D., Małgorzata Paszkowska, Department of Administrative Law, University of Information Technology and Management in Rzeszów, Sucharskiego 2, 35-225 Rzeszów, [mpaszkowska@wsiz.rzeszow.pl](mailto:mpaszkowska@wsiz.rzeszow.pl).

them. In addition to providing healthcare services, medical activity may also consist of:

- 1) health promotion,
- 2) performing didactic and research tasks in connection with providing healthcare services and health promotion, including new medical technologies and treatment methods.

An entity which conducts medical activity may also partake in preparing people for the medical profession and educating people who work in the medical profession, on principles defined in separate regulations concerning educating such people. The above regulations are basically concurrent with the previously binding regulations of the act on healthcare centres concerning the aim of a healthcare centre's activity or the definition of healthcare centre. Didactic and research activity remains so far an optional and additional activity. Medical activity is regulated activity as understood by the act of 2<sup>nd</sup> July 2004 on freedom of economic activity, hence the above-quoted act applies thereto. The act on medical activity is the particular types of medical activity as follows:

- 1) inpatient and round-the-clock healthcare services:
  - a) hospital type,
  - b) non-hospital type,
- 2) outpatient healthcare services.

Standard division of healthcare services into in- and outpatient categories has been used in practice for a long time, but it has now been clearly stated in the act. Hospital services are comprehensive healthcare services which are provided round the clock, consisting of diagnosis, treatment, nursing and rehabilitation, and cannot be provided within other inpatient and round-the-clock healthcare services or outpatient healthcare services. Hospital services include also such services as are planned to be provided within no more than 24 hours. Inpatient and round-the-clock healthcare services other than hospital services include attendance, nursing, palliative care, hospice services, services within long-term care, medical rehabilitation, substance abuse treatment, psychiatric healthcare and health resort treatment, provided to patients whose health requires round-the-clock or all-day healthcare services in suitably equipped, permanent rooms. Inpatient and round-the-clock healthcare services other than hospital services are provided in chronic medical care homes, nursing homes, medical rehabilitation centres

and hospices. Outpatient healthcare services cover basic or specialist healthcare and services within medical rehabilitation provided in suitably equipped, permanent rooms when they are not required to be provided in the inpatient or round-the-clock mode. Outpatient healthcare services are provided in an outpatient unit (any type of outpatient clinic or unit, healthcare centre, or medical procedure unit with a sick room), as well as in a diagnostics centre and medical diagnostics laboratory. The aim of this paper is to present the types of medical entities and their financing sources in the light of the new regulations, i.e. the act on medical activity.

## TYPES OF MEDICAL ENTITIES IN POLAND

Healthcare services of any type may be provided legally only by people with suitable qualifications as defined by the law, and within the relevant organisational and legal form. Until 30<sup>th</sup> June 2011, medical services could be provided to patients only within the following three organisational and legal forms:

- 1) a public or non-public healthcare centre,
- 2) an individual (general or specialist) medical, nursing or midwife practice,
- 3) a group (general or specialist) medical, nursing or midwife practice.

As a result, a doctor (nurse, midwife) who held a valid right to practice the profession could provide the services in a (public and/or non-public) healthcare centre under a contract of employment or a civil law contract, as well as have an independent private office, meaning an individual or group (if there were at least two doctors) medical practice. For the last dozen years, the basic service providers in the medical market were healthcare centres (ZOZs). Before the act on medical activity entered into force, the fundamental legal act to regulate ZOZ functioning was the act of 30<sup>th</sup> August 1991 on healthcare centres (Dz.U.No. 91, item 408 as amended). The said act expired on the day the act on medical activity entered into force (so in practice it was binding until 30<sup>th</sup> June 2011). Art. 1 of the act on ZOZs gave the legal definition of the term "healthcare centre". According to the article, a healthcare centre was a group of people and assets, separate in organisational terms, created and maintained in order to provide healthcare services and promote health. The act on ZOZs gave a basic normative division of healthcare centres into:

- 1) public (PZOZ),
- 2) non-public (NZOZ).

The criterion for the above dichotomous division was connected with the type of entity which created the particular ZOZ, or in other words, with its founding body. Article 8 of the act on ZOZs gave a closed list of entities which could establish a ZOZ. In the case of PZOZ founding bodies, the catalogue was rather limited. As compared to the relatively narrow catalogue of PZOZ founding bodies, the list of entities entitled to establish NZOZs was very wide and covered basically each of the three fundamental entities in Polish law, i.e. natural persons, legal persons and un-incorporated organisational units (e.g. commercial partnerships). In the case of healthcare centres, in particular the public centres, the founding body and the centre itself were two different entities (the difference lay mainly in their competences). It was the ZOZ and not its founding body that provided medical services. Yet for NZOZs, which – in contrast to SPZOZs – were unincorporated, in practice there occurred a certain “fusion” of competences (e.g. contracting) which were performed by the founding entity instead of the centre. The lack of clear rules within the above area was one of the basic reasons for the legislation to abandon this NZOZ construction in the act on medical activity. The ZOZ manager was responsible for managing the centre and was in practice its most important body. In the case of NZOZs, the deciding role usually fell to the founding body. Managers of each type of ZOZs had to meet qualification requirements defined by the law.

In light of the act on medical activity, such activity may only be conducted by “entities conducting medical activity”. The act on medical activity introduces two fundamental terms referring to medical service providers – medical entities and entities conducting medical activity. The latter term is broader, as in light of the new act, entities conducting medical activity can be:

- 1) medical entities,
- 2) professional practices.

According to art. 4 of a.m.a., medical entities include:

- 1) entrepreneurs as defined by the act of 2<sup>nd</sup> July 2004 on freedom of business activity (Dz.U.of 2010, No. 220, item 1447, and No. 239, item 1593) in any form provided for conducting business activity,
- 3) independent public healthcare centres (SPZOZs),
- 4) budgetary units, including state budgetary units created and controlled by the Minister of National

Defence, competent minister of domestic affairs, Minister of Justice, or Head of the Internal Security Agency (ABW), which have in their structures a medical procedure room/unit (ambulatorium), medical procedure unit with a sick ward or a primary healthcare doctor,

- 5) research institutes described in art. 3 of the act of 30<sup>th</sup> April 2010 on research institutions (Dz.U.No. 96, item 618),
- 6) foundations and associations whose statutory objective is to perform tasks within healthcare and whose statute allows them to conduct medical activity,
- 7) churches, church legal persons or religious associations (in the scope in which they perform medical activity).

As a result of legislative changes, since 1<sup>st</sup> July 2011 the Polish market of service providers with medical entity status covers entrepreneurs and non-entrepreneur medical entities (former SPZOZs and budgetary units), as well as other entities entitled to conduct medical activity – research institutes, foundations, associations and churches. Under the previously binding act, foundations, associations, churches and religious associations could be the founding bodies for non-public healthcare centres. Basically, as the catalogue of medical service providers has extended, it has been clearly stated that it includes also entrepreneurs as understood by the act on freedom of business activity, in any possible form, yet like the above mentioned entities, entrepreneurs could found non-public healthcare centres (NZOZ). In light of art. 4 of the act of 2<sup>nd</sup> July 2004 on freedom of business activity, an entrepreneur may be a natural person, legal person, and an organisational unit which is not a legal person but which has been granted legal capacity under a separate act and which conducts business on its own behalf. Most NZOZ founding bodies are former entrepreneurs and now they become medical entities themselves. The act divides medical entities into entrepreneurs and non-entrepreneurs, and regulates the latter category specifically in chapter 3 of section II. A particular type of non-entrepreneur medical entities are independent public healthcare centres (SPZOZs). It is a construction known and fundamental in the previous legal status and in the practice of the medical service providers market. An independent public healthcare centre covers costs of its activity and settles liabilities with its own resources and revenues gained. Quite importantly, the act on medical activity allows an independent public healthcare centre to be transformed into a capital

company. The Polish legal system allows only two kinds of capital companies:

- 1) [limited liability companies](#),
- 2) [joint stock companies](#).

Those are commercial companies, and their establishment and functioning are regulated by the act of 15<sup>th</sup> September 2000 – Commercial Companies Code (Dz.U.No. 94, item 1037 as amended). An independent public healthcare centre is transformed into a capital company on principles specified in art. 70-82 of a.m.a. It must be stressed that such transformation is not obligatory but optional, yet there are legal instruments, related in particular to financial aid from the state, to encourage SPZOZs to commercialise. Until the end of 2011 no SPZOZs were transformed, which stemmed e.g. from lack of executive provisions to the act.

Each medical entity which provides healthcare services must meet general formal requirements stated in art. 17 of a.m.a. According to the regulation, a medical entity must:

- 1) [have rooms or tools corresponding to the normative requirements](#),
- 2) [use products which meet the requirements of the act of 20<sup>th</sup> May 2010 on medical products \(Dz.U.No. 107, item 679\)](#),
- 3) [ensure that healthcare services are provided only by people who work in the medical profession and who meet the medical requirements defined by separate regulations](#),
- 4) [conclude:](#)
  - a) [a liability insurance contract](#),
  - b) [an insurance contract for patients against medical incidents defined in provisions on patients rights and a Patient Ombudsman – in the case of a medical entity which runs a hospital](#).

So far, the act on healthcare centres set similar requirements (rooms, staff, etc.) for founding and functioning of each healthcare centre. Rooms and equipment of an entity which conducts medical activity should comply with the requirements relevant to the conducted medical activity, and are supervised by the Chief Sanitary Inspectorate. The said requirements concern in particular general space, sanitary and installation requirements. The act on medical activity delegates to the Minister of Health the legislative power to issue directives within that scope. So far, binding in that scope is still the directive of the Minister of Health of 2<sup>nd</sup> February 2011 on requirements to be met by rooms

and equipment of a healthcare centre as concerns professional and sanitary issues (Dz.U.No. 31, item 158). New is the requirement for a medical entity to have liability insurance, as previously the requirement concerned basically only those service providers who had a contract with the National Health Fund (NFZ). Moreover, new is the requirement for hospitals to have additional insurance (practice shows that currently that poses a considerable problem due to the premiums charged by the insurance company and due to the fact that so far there is only one such insurance offer). The detailed scope of insurance, insurance requirement date and minimum insurance cover are specified in the resolution of the Minister of Finance of 22<sup>nd</sup> December 2011 on obligatory liability insurance for entities conducting medical activity (Dz.U.No. 293, item 1729). Medical activity may be initiated only after entry into the register (as before). An entity which intends to conduct medical activity as a medical entity must submit an application for entry into the register of entities conducting medical activity to the body which keeps the register. For medical entities, the body which keeps the register is the voivod competent for the seat or residence of the medical entity. The data of the medical entity entered into the register are open and generally available. Central information on medical entities is kept in an electronic form, and is available at [www.rejestrzoz.gov.pl/RZOZ/](http://www.rejestrzoz.gov.pl/RZOZ/). When applying to the registering body, an entity which conducts medical activity must attach documents to confirm having met the conditions for conducting medical activity (e.g. organisational regulations). The mode of proceedings before the registering body related to registering an entity is specified in the resolution of the Minister of Health of 29<sup>th</sup> September 2011 on the detailed scope of data covered by the entry of entities conducting medical activity into the register and detailed procedures for making the entries, changes to the register and removals from the register (Dz.U.No. 221, item 1319). According to the name of the medical entity and the scope of healthcare services it provides, the body which keeps the register gives the entity a Health Ministry ID code.

The act on medical activity has modified a range of legal regulations concerning structural matters of medical service providers. Since the act on medical activity entered into force, it is not possible to establish independent public healthcare centres, except for such independent public healthcare centres which have emerged from mergers under

principles specified in the said act. When the act on medical activity entered into force, public healthcare centres functioning under the previously binding regulations became non-entrepreneur medical entities. Within 12 months of the act entering into force, managers of those entities must adjust their activity, statute and organisational regulations to this act's stipulations, and apply to be entered into the register. With the act's coming into force, non-public healthcare centres became medical entity enterprises. The changes in legislation concern to the greatest extent NZOZs, which stop existing as a legal form. In practice, it means that the founding bodies of non-public healthcare centres (e.g. foundations, companies) become directly medical service providers (it is them who provide the services as medical entities). A medical entity conducts medical activity in an enterprise as understood in art. 551 of the act of 23<sup>rd</sup> April 1964 – Civil Code (Dz.U.No. 16, item 93 as amended). According to art. 551 of the said Code, “an enterprise is an organised set of tangible and intangible assets meant to conduct business activity”, and it includes in particular assets indicated as examples by the act. The medical entity does not necessarily have to own the said assets, yet it must use them under specific legal titles. Pursuant to the act, the notion of an enterprise had material meaning. In effect, the following elements in particular become a medical entity enterprise: enterprise name, movable and immovable property, rights under contracts of hire and lease of movable and immovable property (as well as rights resulting from other legal relationships), receivables, rights in securities, financial means, concessions, licences, permissions, patents, other industrial property rights, economic copyrights and related economic rights. It ought to be stressed that on 1<sup>st</sup> July 2011, non-public healthcare centres did not become new legal entities. Neither is there a need to create a new entity – a non-public healthcare centre becomes an enterprise of the medical entity which created it.

## STATUTORY SOURCES OF FINANCING MEDICAL ENTITIES

### FINANCING SPZOZs

Legally permitted financing sources have fundamental significance for the functioning of each organisation, and that is also true for a medical entity. Just like the earlier act on ZOZs, the act on medical activity

defines SPZOZ financing sources permitted by law. An independent public healthcare centre covers the costs of its activity and settles liabilities with its own resources and revenues gained. It decides on how its profit will be shared. The management basis for an independent public healthcare centre is the financial plan established by the manager. An independent public healthcare centre manages the estate and property of the State Treasury or local government unit, provided to it for gratuitous use, and its own property (donated or purchased) by itself. Sale of the fixed assets of an independent public healthcare centre, lease, hire, transferring or lending it for use may only be done on principles defined by the founding entity.

The value of an independent public healthcare centre's property is made up by the founding capital and company capital. The centre's founding capital is the value of the part of property of the State Treasury, an LGU, or a medical university, which is allocated for the independent public healthcare centre. The company capital is the value of the independent public healthcare centre's property minus the founding capital. The company capital of the independent public healthcare centre is increased by net profit, the increased amounts of fixed assets' value resulting from statutory revaluation of the assets, and the amount of money transferred to cover losses. The company capital of the independent public healthcare centre is decreased by net loss and the reduced amounts of fixed assets' value resulting from statutory revaluation of the assets. According to art. 55 of a.m.a., an independent public healthcare centre may obtain financial means:

- 1) from chargeable medical activity, unless separate provisions state differently,
- 2) from separate business activity other than specified in the point above (i.e. non-medicinal), if the statute provides for conducting such activity,
- 3) from donations, bequests, inheritance and public donations, including those from abroad,
- 4) for aims and on principles defined in provisions of art. 114-117 of a.m.a. (concerning public means described further in the publication),
- 5) to perform other tasks defined in separate provisions (e.g. health policy programmes from art. 48 of the insurance act in cases of natural disasters or infectious disease epidemics),
- 6) to cover losses.

Medical activity should be the basic source of SPZOOZ income. The major source of gaining financial means by an SPZOOZ for providing healthcare services are public means from health insurance. In each country, as in Poland, the basic financing sources for healthcare services result from the healthcare system model adopted there. The current Polish healthcare model is an insurance-type model (most public medical care is financed with premiums from the insured). The model is established mainly by the act of 27th August 2004 on healthcare services financed with public means, and executive regulations based thereon. The said act defines the rights and duties of the insured person, the principles, mode and deadlines for applying for health insurance, setting health insurance premiums, paying, settling and reclaiming the premiums, keeping records of the insured, NFZ organisation and principles of functioning, the principle of supervision and control. NFZ is bound by Polish law to perform the organisational duty of ensuring healthcare services to the insured person with a system of contracts. The Fund itself does not provide the services, but only organises the provision. The service recipient (the patient) may obtain a guaranteed service (i.e. one financed with public means) only from a provider who has a contract with NFZ, as according to art. 132 of the insurance act, a contract for providing healthcare services concluded between a medical service provider and director of the Fund's regional branch is the basis for providing healthcare services financed with public means by the Fund. Medical service providers are mainly medical entities. Contracts for providing healthcare services are concluded by the Fund after a public tender or negotiations. The procedure for concluding a contract is regulated in detail by the resolution of the Minister of Health of 15th December 2004 on the way of announcing proceedings on concluding a contract for providing healthcare services by NFZ, inviting to negotiations, tender submission, appointing and disbanding the tender committee and its tasks (Dz.U. of 27<sup>th</sup> December 2004). The total amount of the Fund's liabilities resulting from the contracts concluded with medical service providers may not exceed the amount of costs provided for that purpose in the Fund's financial plan. The following manners of settling the costs of services have been officially adopted:

- 1) annual capitation fee,
- 2) unit price per unit of account,

3) lump sum.

Financing with health insurance (with public means paid to the medical entities through NFZ) concerns mainly primary healthcare and out- and inpatient specialist services. Beside a contract with NFZ, SPZOOZs conclude contracts for providing healthcare services mainly with employers and sometimes with insurance companies. SPZOOZs may conclude contracts with employers for providing healthcare services within occupational medicine. Contracts with SPZOOZs for providing healthcare services may also be concluded by an insurance company acting under the act of 22<sup>nd</sup> May 2003 on insurance activity. Medical activity is regulated business activity. SPZOOZs may conduct and gain profits also from business activity not concerned with medical activity, e.g. renting rooms. However, the condition for legally gaining means from conducting business activity other than medicinal is that it is regulated by normative provisions. In practice, that means a provision concerning the issue is included in the statute, which is the basic intra-normative act for an SPZOOZ (the statute should directly provide for conducting such activity). Another category of obtaining financial means by an SPZOOZ is related to specific legal activities within civil law, i.e. donations, inheritance and bequests<sup>1</sup>. Generally, it is the independent public healthcare centre that covers losses on its own, yet the founding entity (e.g. a local government unit) of the independent public healthcare centre may cover the centre's losses for the financial year within 3 months of the deadline for SPZOOZ financial statement approval, if the said financial result is negative (loss) after adding depreciation costs – up to the value of the loss. The loss and depreciation costs concern the financial year covered by the financial statement. If the loss is not covered as given above, within 12 months of the time specified above, the given founding entity issues a regulation, an order, or passes a resolution on changing the SPZOOZ's organizational and legal form or liquidating it.

Summarising, the act on medical activity allows SPZOOZs to obtain financial means from:

- 1) the State Treasury,
- 2) the founding entity,
- 3) LGUs, which may provide means both for their own and for other SPZOOZs,

<sup>1</sup> Cf. art. 888-902 (donation), 922-1057 (inheritance), 968-981 (bequest) of the Civil Code.

- 4) other entities entitled by separate provisions (e.g. ZUS – Social Insurance Company).

Neither should financial issues related to SPZOOZ transformation be forgotten, as in accordance with art. 196 of a.m.a., a founding entity which has transformed an independent public healthcare centre into a capital company on principles defined in art. 69-82, may until 31<sup>st</sup> December 2013 apply for a special-purpose subsidy from the state budget. The main condition for granting the subsidy is entering the company created by transforming the independent public healthcare centre to the business register not later than 31<sup>st</sup> December 2013. The application for a subsidy is submitted to the competent minister of health together with documents to confirm the meeting of statutory conditions. The competent minister of health grants a special-purpose subsidy to the founding entity which meets the conditions for obtaining the subsidy, under a contract. The subsidy is allocated to paying the liabilities of the founding entity which have been taken over from the independent public healthcare centre, interest therein, or to cover education costs.

As concerns other medical entities, their financing sources are basically not regulated by the act on medical activity. The act only states that they may obtain public means for specific purposes. In general, it may be stated that medical entities (except non-entrepreneur medical entities) may be financed with any legally permitted source, depending on the resourcefulness of their owner/manager. To generalise, the above mentioned entities may obtain financial means:

- 1) from the founding entity (e.g. company, foundation),
- 2) directly from the patient for healthcare services and and/or additional services,
- 3) for providing healthcare services under a contract with NFZ, an employer, an insurance company, or another entity (e.g. a clinic),
- 4) from EU funds,
- 5) from gainful activity other than providing healthcare services (e.g. renting rooms),
- 6) from public means for aims defined by the law (on the principles given below).

## PUBLIC MEANS FOR MEDICAL ENTITIES

Like the previous act, the act on medical activity contains regulations concerning transfer of public

means to medical service providers for aims defined by the law. However, the provisions of the act on ZOZs referred only to healthcare centres (SPZOOZs), and those of the act on medical activity concern a much broader category of recipients – medical services providers, as they include all entities which conduct medical activity (i.e. medical entities and medical practices). It results from the fact that under the act of 27<sup>th</sup> August 2009 on public finance (Dz.U. No. 157, item 1240 as amended), entities which conduct medical activity should be treated equally as concerns access to public means. Article 114 item 1 points 1-7 of the act on medical activity provide the catalogue of objectives for which an entity conducting medical activity may receive public means. According to the stated provisions, entities which conduct medical activity may receive public means with allocation for:

- 1) performing tasks within health policy programmes (as defined in the insurance act) and health promotion, including purchasing medical equipment (understood as medical products – current normative term and relevant act), and other investments necessary to perform the tasks,
- 2) renovation (as defined in the Construction Law of 1994),
- 3) investments other than those defined in the first point, including purchasing medical equipment,
- 4) conducting projects financed with resources from the EU budget or non-refundable resources from aid granted by member countries of the European Free Trade Association (EFTA), or resources other than those listed above and coming from non-refundable foreign sources on principles defined in separate regulations,
- 5) purposes defined in separate regulations and international contracts,
- 6) implementation of long-term programmes (as defined in the act on public finance),
- 7) covering costs of educating and raising qualifications of people who practice medical professions.

It is not a closed catalogue (meaning the purposes defined in separate regulations and international contracts). An entity which conducts medical activity may receive public means for tasks mentioned in points 1-3, in a scope in which performing those tasks serves to provide medical services financed with public means as understood by the act of 27<sup>th</sup> August 2004 on healthcare services financed with public means. The amount of the said public means cannot exceed the costs necessary to perform the whole task. In practice, it means that it will be legal to cover the

costs of performing the entire task (e.g. admissions ward renovation, purchase of a mammograph) with public means. The public means allocated to performing the task may not constitute a “profit” for the entity which conducts medical activity. Basically, it should be assumed that means for the above mentioned tasks may be granted only to the entity conducting medical activity which provides healthcare services financed with public means (i.e. has a contract with NFZ or the competent minister). Public means are granted in an amount calculated with the formula below:

$$W = K \times P0,$$

where:

$$P0 = \frac{[a0]}{a0 + b0},$$
 and the particular symbols mean:

W – public means amount,

K – planned cost of the task,

a0 – revenues of the entity which conducts medical activity for providing healthcare services financed with public means that were gained in the previous financial year as understood by the act on healthcare services financed with public means,

b0 – revenues of the entity which conducts medical activity for providing healthcare services financed with means other than those specified for a0, gained in the previous financial year.

Entities which conduct medical activity may obtain financial means to perform the tasks mentioned in art. 114 item 1 points 1 and 4-7 under contracts with:

- 1) the State Treasury represented by a minister, a central government administration body, a voivod, and also with an LGU or a medical university,
- 2) another entity entitled to finance those tasks under separate provisions.

In effect, an entity which conducts medical activity may obtain financial means for some statutory tasks under a contract concluded with one of the above listed entities. Such contract for granting public means should contain at least the following elements:

- 1) detailed description of the task, including the aim for which the means are allocated, and time of completion,
- 2) financial means amount,
- 3) financial means payment manner,
- 4) time for using all of the financial resources, not longer than by 31st December of the given financial year,
- 5) task performance supervision mode,
- 6) time and manner of settling the granted financial means,

- 7) time of returning the unused part of the financial means, not longer than 15 days of the task completion day as stated in the contract, and for a task performed abroad – 30 days of the task completion day.
- 8) What is important, provisions concerning public procurements do not apply to the conditions and mode of granting public means under the above specified contract, unless separate provisions state otherwise. Entities which conduct medical activity may obtain public means under the above specified contract, and also as a subsidy, since the public entities listed above, except for medical universities, may grant subsidies to entities which conduct medical activity, allocated for:
  - 9) performing tasks within health policy programmes and health promotion,
  - 10) investments other than those defined in the above, including purchasing medical equipment,
  - 11) renovation,
  - 12) conducting projects financed with resources from the EU budget or non-refundable resources from aid granted by member countries of the European Free Trade Association (EFTA), or resources other than those listed above and coming from non-refundable foreign sources on principles defined in separate regulations,
  - 13) purposes defined in separate regulations and international contracts,
  - 14) implementation of long-term programmes.

It must be stressed that according to art. 116 item 4 of a.m.a., provisions on public finance apply to contracts for conducting projects financed with resources from the EU budget or non-refundable resources from aid granted by member countries of the European Free Trade Association (EFTA), or resources other than those listed above and coming from non-refundable foreign sources on principles defined in separate regulations. That means that the act on public finance applies to settling the means for those tasks, while for other tasks that the entity conducting medical activity may obtain public means, provisions of the act on medical activity apply.

## CONCLUSION

The act on medical activity contains legal definitions that are fundamental for the medical services market/ healthcare system, defines categories of service providers (entities which conduct medical activity), and also regulates the status of some of them. In consequence of the changes in legislation, medical activity (i.e. provision of healthcare services) may only be conducted by entities which conduct medical



activity – the act provides a closed catalogues of such entities. One of the major legal instruments which may impact the medical market is the possibility to transform SPZOZs into capital companies, directly provided for in the new act. Another advantage of the new act is that it departs from the controversial construction of an NZOZ. The act on medical activity contains direct regulations on legally permitted SPZOZ financing sources, and indicates the aims for which public means may be granted to medical entities and medical practices. It must be said that the solutions concerning the financing sources for independent public healthcare centres which have been adopted in the act on medical activity repeat in principle the solutions from the act of 30<sup>th</sup> August 1991 on healthcare centres. A new – as compared to the act on healthcare centres – source directly indicated by the law for financing the activity of independent public healthcare centres is the possibility to cover the centre’s losses by the founding entity. The act on medical activity sets equal

principles for granting public means to entities which conduct medical activity (the regulation concerns e.g. SPZOZs, but also entrepreneurs), which is a novelty. Separate principles of granting public means apply only to medical entities in the form of budgetary units. The principles of granting and using public means by budgetary units are regulated by the act on public finance. The problem that remains, however, is the possibility for SPZOZs to provide commercial healthcare services (paid directly by the patient).

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Act of 15<sup>th</sup> April 2011 on medical activity.