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*Liability for so-called organizational fault*

Liability for medical malpractice may arise as a result of the wrongdoing of a doctor and other staff or a hospital as an organized entity. A hospital may bear both the vicarious liability for damages caused by its medical staff and liability for its own faulty acts and omissions. The latter is called organizational fault (or fault in organization).

Organizational fault appears when - irrespective of the actions of doctors and other personnel - the damage is caused by improper organization of hospital's work and the malfunction of the process of providing health services. The hospital (an entity which runs a medical facility) is then responsible for its own fault, pursuant to Article 415 or Article 416 of the Polish Civil Code or Art. 471 of the Polish Civil Code if the plaintiff refers to *ex contractu* liability.

The general definition of organizational fault is supplemented by a set of events which have been recognized by doctrine and jurisprudence as manifestation of hospital's own negligence. These are, inter alia, cases of lack of an appropriate number of experienced doctors (specialists) and medical personnel required for the proper functioning of a hospital, errors in the identification of a patient who is to undergo a surgery, use of defective medical equipment, failures to observe the rules of asepsis and hygiene, leading to the so-called nosocomial infections, negligence in ensuring the safety of patients during their stay in a medical facility.

The organizational fault is quite different from the fault of a natural person, since it has been objectified by the jurisprudence. Due to the lack of an individual perpetrator (a doctor, a member of other personnel), the subjective element of a fault (*culpa sensu stricto*) cannot be established. Therefore, the fault of a hospital is determined by objective criteria and in practice consists in identifying defects in the organization and functioning of a certain health care unit.