

Law in healthcare

Seminary Course of
Health and medical law

Before we begin...

- Convention on Human Rights and Biomedicine (European Treaty)
 - Consent
 - Private life and right to information
 - Human genome
 - Scientific research
 - Organ and tissue removal from living donors for transplantation purposes
 - Prohibition of financial gain and disposal of a part of the human body

Before we
begin...



Healthcare Services Act (HCA)

Generally regulates health services and conditions for their provision

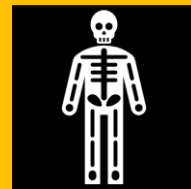
the rights and obligations of patients, persons close to patients, everything that



Act on Specific Healthcare Services (ASHS)

A set of exceptions from the ASHS without much of consistency

Assisted reproduction, Sterilization, Psychosurgical interventions, Blood



Civil Code (CC)

The basic framework for social relationships between people

Regulates among other things Contract law and liability

Question no. 1

What is the purpose of the law in healthcare?

What is the purpose of the rules?

Road Signs

Roundabout	Road narrow...	Hump Bac...	Horse Riders	Height rest...	Falling Rocks	Slippery Ro...	Children C...	Sheep	Cattle	Cattle Grid	Steep hill d...	Steep hill u...
Danger place	Intersection	Intersectio...	Bend	Double bend	Two ways t...	Mobile bri...	Traffic Lights	Pedestrian ...	Road work	Back up	Give way	Crossing
Stop	Roundable	Cycle track	Pass this side	Direction t...	One way st...	No entry	No entry b...	No pedestr...	No vehicle...	No towed ...	No goods ...	Maximum ...
No cycling	No motor...	No horse...	No motor ...	No motor ...	No Overta...	No vehicle...	No U-turns	No articula...	No Stopping	No left turn	No right turn	Maximum ...
Maximum ...	Maximum ...	Maximum ...	Minimum ...	Maximum ...	National s...	Shared cycle	Segregated...	Segregated...	Entering 20...	Maximum ...	Speed Ca...	Unsuitable ...
Escape lane	Escape lane	SOS Point	No through...	Parking	No passing...	No parking	Speed limit	Heigh limit	Width limit	Weight limit	Priority ov...	Streetcar o...
Taxi status	Speed 30-z...	End speed ...	Pedestrian ...	Police	Hotel	Restaurant	Break dow...	P+R	Restroom	Fuel	Telephone	Recommen...
Nodal poin...	Motorway	End motor...	Populated ...	End popul...	Parking wit...	Number sign	Number si...	Exit	Direction t...	Board of a...		



Social role?

Create trust

Level of organisation in society

Achieve „justice“

Achieve „equality“

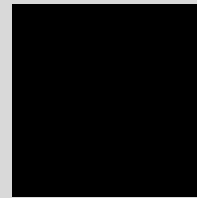
Protect the weak

Serve as tool for economic transactions

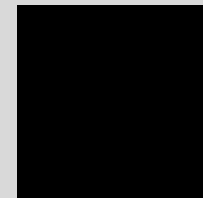
Protect investment

Two main masses of Law

- PUBLIC LAW
 - Constitution
 - Hierarchy
 - Enforcement
 - Formal process



- PRIVATE LAW
 - Individual
 - Equality
 - Authonomy
 - Freedom



Lesson no. 1

Competence, Employment, Administration

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)

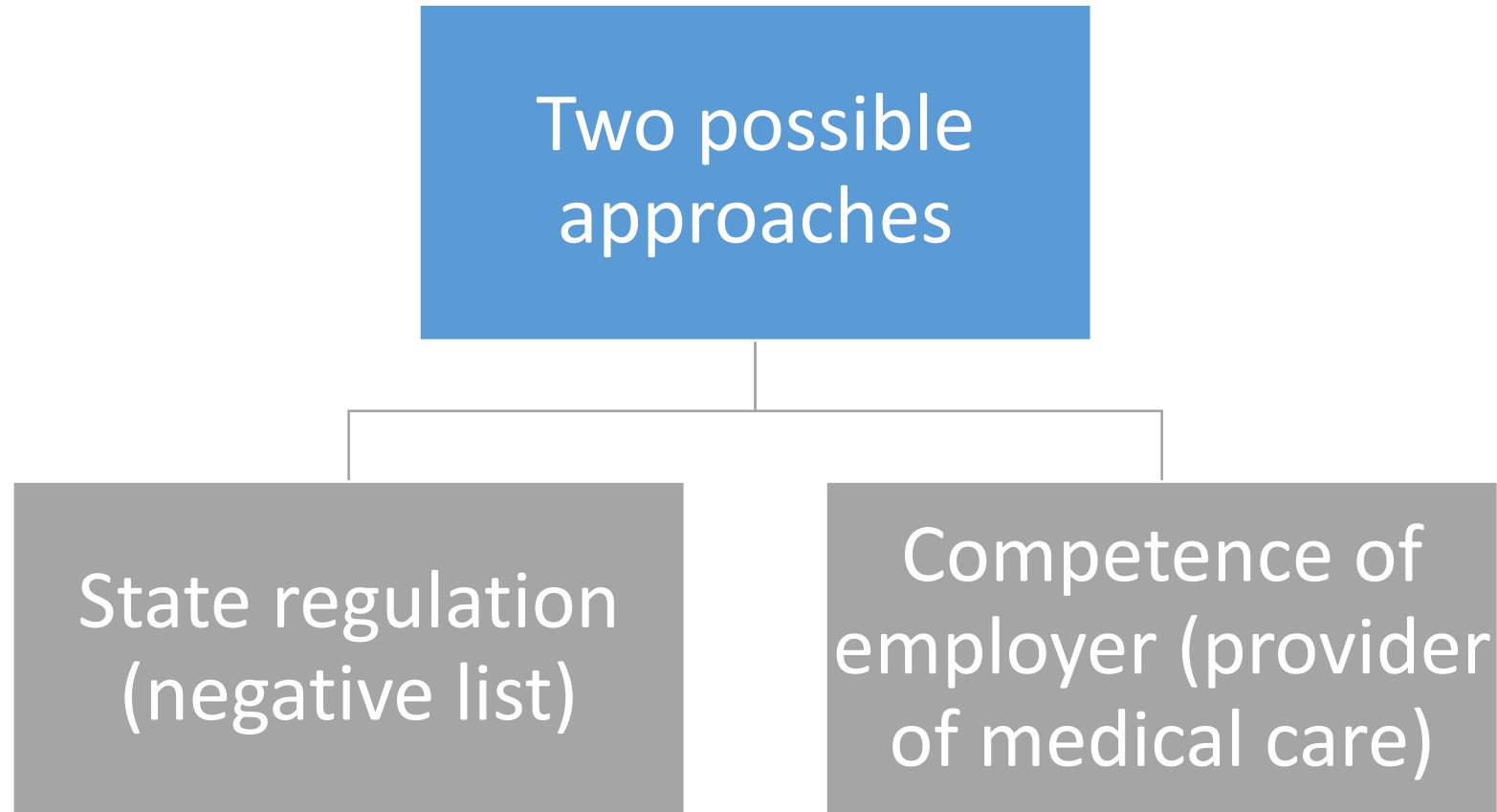
Health capacity

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... Inet MU: In... Google Ca... Google Ca... Program... Hestia Fed... Restriction...

← → ↻ <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

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🕒 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-...

STELLENMARKT LEBENSWEGE SCHULE FAZ.NET F.A.Z. F.A.S. Anmelden Abo Mobil Newsletter Mehr

HERAUSGEGEBEN VON WERNER D'INKA, JÜRGEN KAUBE, BERTHOLD KOHLER, HOLGER STELTZNER

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](#).

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:

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>

Administration

Method of regulation

Public law

Private law

Administration of Healthcare

Governmental level

Regional level

Autonomous organisations

Economic regulation (contractual)

Universal declaration of human rights

- Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services

Who is ultimately
responsible?

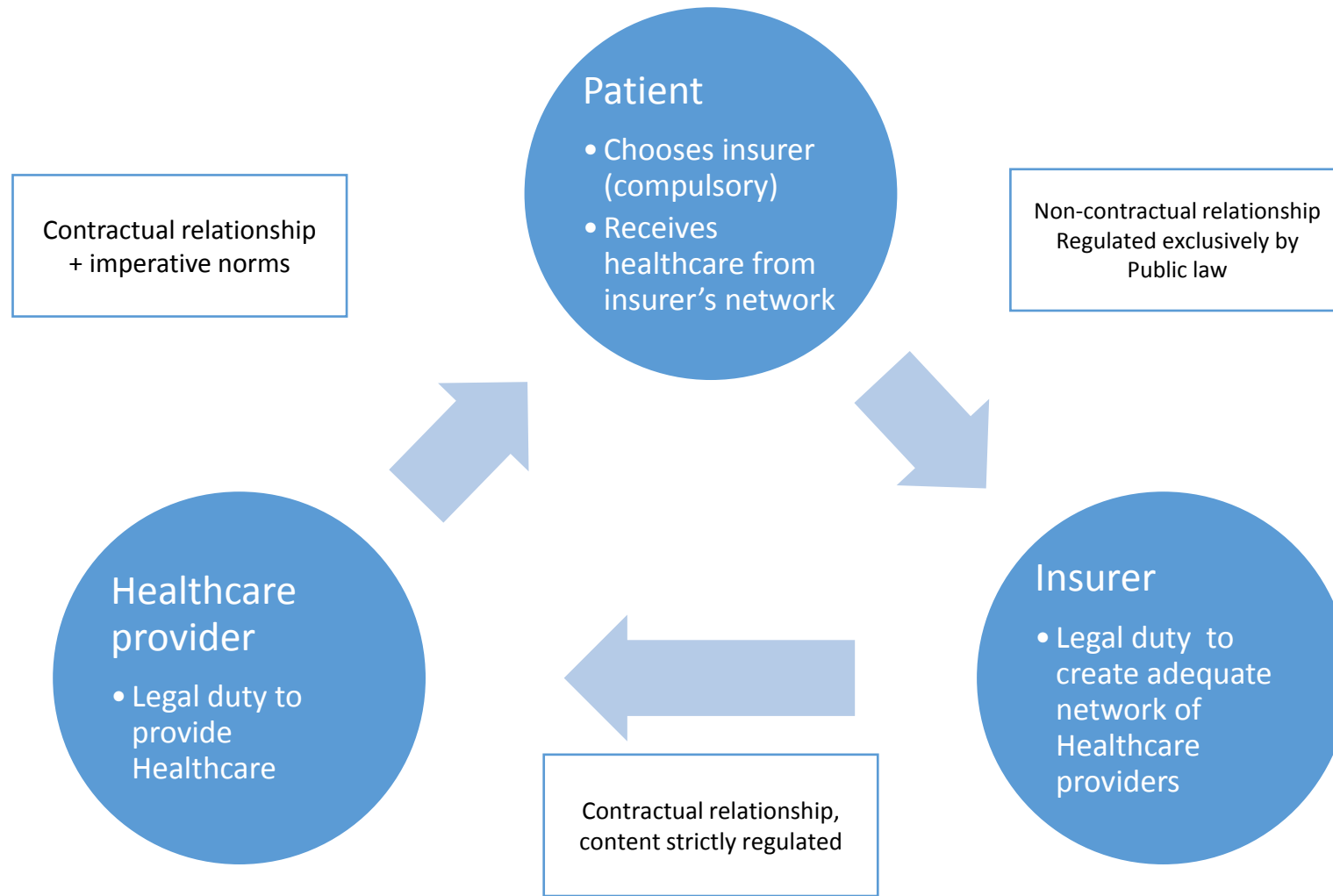
State vs Autonomy?



Central Authorities

- Government
 - Ministry of health
- Institute for drug control
- Statistical institute
- Public health insurance companies

System of public insurance



Ministry of Health services (typical)

- Central administrative body
- Does not provide healthcare, does not assess its quality
- Responsible for integrity of a system
- Creates rules of the game

LOCAL RESPONSIBILITIES

Regions, Counties,

Cities and Municipalities

Healthcare providers

Healthcare workers

Professional autonomy

Medical boards and councils

- Voluntary or compulsory membership
- Supervise the quality of individual members (not the quality of institutions)
- Provide education
- Disciplinary competence

Supervision

Of a healthcare provider

- Government/authority
- Insurance company
- Police

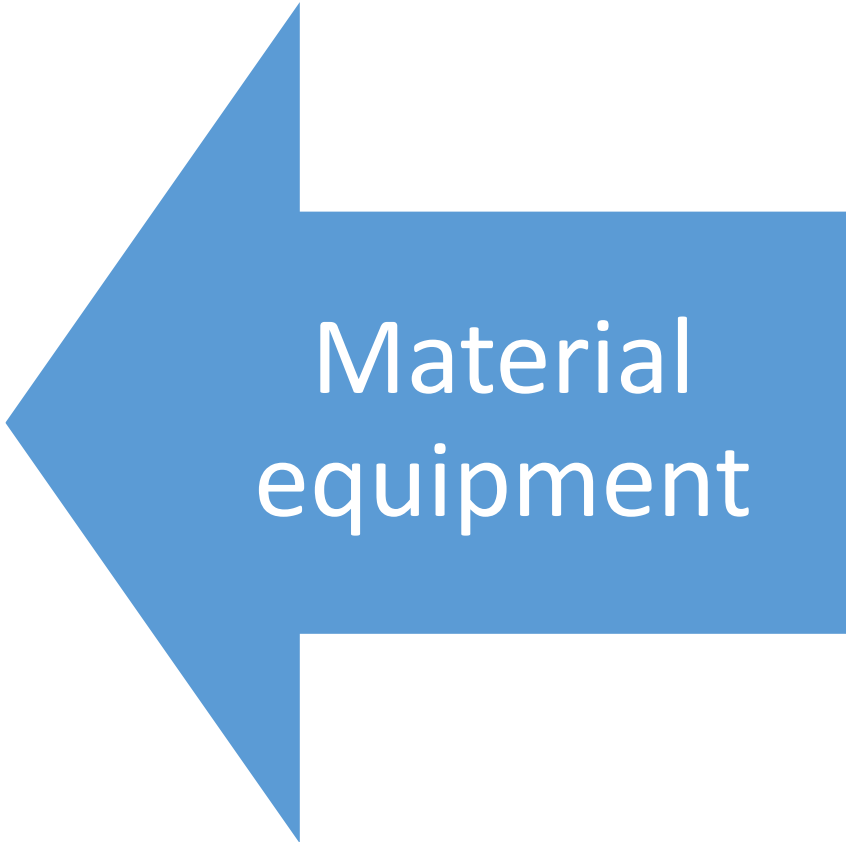
Of an individual physician

- Healthcare provider
- Medical Board
- Police

Requirements of a healthcare provider



Personnel
composition



Material
equipment

Definition of appropriate health care

