

Legal Alert

Draft Act on Health-Care Facilities

April 2008

The draft act sets forth new rules for organization and operation of health-care facilities. The new act would replace the current statute, the Act on Health-Care Facilities of 30 August 1991 (*Journal of Laws* 2007 No. 14 item 89). It is an important element of a package of legislative changes that would implement comprehensive reform of the health service.

The draft ("Draft Act on Health-Care Facilities", Printing No. 284) is currently under review by the Polish Parliament.

Main features of the Draft Act on Health-Care Facilities

The Draft Act on Health-Care Facilities provides for:

- maintaining the current division between public and non-public health-care facilities
- voluntary conversion of independent public health-care facilities (SPZOZ) into commercial companies (a limited-liability company or joint-stock company) – the company would assume the legal relations, of whatever nature, to which the existing SPZOZ is a party (as a general successor)
- protection of the rights of employees of the converted SPZOZ (assumption of employees)
- streamlined management of health-care facilities
- the possibility of charging fees to patients for higher-standard hospital rooms
- mandatory civil liability insurance for all health-care facilities.

Conversion of health-care facilities – change in legal form of operation

The draft provides procedures for conversion of health-care facilities currently operated in the form of independent public health-care facilities (SPZOZ) into commercial companies. Conversion would involve the following steps:

- A decision would be made by the relevant founding authority, such as the minister, a central organ of the government administration or the province governor (in the form of a decree) or by a regional or local governmental unit commune council, district council or province parliament (in the form of a resolution).

- Conversion documentation would be drawn up. Among the documentation, the director of the SPZOZ would prepare a questionnaire and an appraisal of the assets (balance sheet).
- A conversion deed would then be prepared, which is the key document in the conversion of the SPZOZ into a commercial company. The conversion deed would contain the founding deed, appointment of the initial members of the company's authorities, and the initial charter of the health-care facility.

The conversion deed would take the place of the actions set forth in the Commercial Companies Code leading up to filing of a motion to enter the company in the Register of Entrepreneurs of the National Court Register (KRS).

The conversion of the SPZOZ into a commercial company would be effective as of the first day of the month following entry of the company in the KRS.

The package of legal acts making up the comprehensive reform of the health service includes:

- the Act on Protection of Individual and Collective Rights of Patients and on the Ombudsman for Patients' Rights
- the Act on Specific Rights of Employees of Health-Care Facilities
- the Act on Health-Care Accreditation
- the Act on National and Province Health-Care Consultants
- implementing regulations.

As the Draft Act on Health-Care Facilities continues to work its way through the legislative process, it is expected that additional revisions will be made to the draft. We will keep you informed of the changes.

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