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ЕВРОПЕЙСКА АСОЦИАЦИЯ НА СТАРШИТЕ БОЛНИЧНИ ЛЕКАРИ
ASOCIATIA EUROPEANA A MEDICILOR DIN SPITALE

Document :	**AEMH 16-015**
Title:	**National Report Germany**
Author :	**VLK**
Purpose :	**Information**
Distribution :	**AEMH Member Delegations**
Date :	**17-04-2016**

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VERBAND DER
LEITENDEN KRANKENHAUSÄRZTE
DEUTSCHLANDS e.V.

German Delegation Report
for the AEMH General Assembly
on 27/28 May 2016 in Naples

1. Act on the Structural Reform of Hospital Care

The German delegation already announced in its previous year's report that a comprehensive act on the structural reform of hospital care is under preparation. The Act entered into force an 1 January 2016.

The Act aims to secure the funding of hospital operating costs sustainably on the hand, and to develop care quality standards further, on the other.

After intense discussions held as part of the parliamentary consultation route for this Act the hospital representatives succeeded in that the foreseen legal provisions seem to ensure the funding of operating costs of hospitals. Whether they will also achieve this stated goal sustainably will have to be seen.

In view of the aspired further development of quality standards this Act foresees a "quality initiative" for the hospital sector:

Quality indicators for the quality of structures, processes and outcomes are to be elaborated to serve as a basis for decisions in hospital planning. Hospitals that fail to comply with these planning-critical quality indicators not just temporarily may not at all or in part provide in-patient care paid by statutory health insurance. On the other hand, the hospitals that have already been included in the hospital plan can be fully or in part excluded from the hospital plan if they deliver insufficient quality for longer than a temporary period.

Furthermore, the so-called "minimum quantities" tool is to be strongly extended. This approach is based on the assumption that the quality of outcomes correlates with the amount of services rendered. If hospitals fall short of the specified minimum quantities for specific services they will not receive any remuneration not even for the services already rendered.

And finally a catalogue is foreseen that defines services and service areas that are delivered in an extraordinarily good or unsatisfactory quality. This catalogue is designed to differentiate between the quality of services delivered by hospitals and to apply surcharges on, or deductions from the fees for these services based on results.

VLK vehemently but – at the end of the day futily – opposed to including these 3 measures in the Act on the Reform of Hospital Care, since the performance quality of hospitals will exclusively be measured on the basis of outcome quality indicators. However, it takes a period of several years to elaborate and test such indicators if you want to ensure that these indicators are appropriate and can be regarded as relevant for planning and legally watertight specifications for hospitals.

2. Act on Combating Corruption in Health Care

For some 4 years the German legislator has been busy drafting legislation for combating corruption in health care. The central provision of the current draft legislation foresees the following:

Members of a medical profession, who undergo state regulated education as part of their vocational training or for holding their professional title, and who ask for, demand to be promised or accept a benefit for themselves or third parties in exchange for orders placed in connection with the execution of their duties in the

1. Administration of drugs, therapeutic products or medical aids,
2. Sourcing of drugs, therapeutic products or medical aids or of medicinal products which are meant for the immediate use by members of the medical profession or one of their professional assistants or
3. The allocation of patients or examination material

or give unfair advantage to others in national and international competition, shall be punished with a term of imprisonment of up to 3 years or a fine.

If this text was to become legislation as it stands now, not only physicians but also nurses, occupational therapists, psychotherapists, pharmacists, veterinarians and the like would "qualify" as potential perpetrators. All of them are members of a medical profession and have to undergo a state regulated education for practising their professions or holding their professional titles.

Since the draft legislation does not include any unambiguous, reasonable and practical differentiation criteria and definitions for what will in future be punishable in health care and what will, of course, remain permitted, the existing insecurities and demarcation difficulties are not removed by rather legally "cemented" by creating this new criminal offence.

VLK fears that in future any type of cooperation in the health care sector will come under the general suspicion of corruption through this new draft legislation. Falling within this scope will also be numerous forms of collaboration that are demanded by health policy in the interest of patients.

Whether this draft will be adopted as it stands now is currently just as open as the possible time of its entering into force.