

KAROLINA ŚWIĄTEK

## **Extrajudicial legal models of medical damage compensation - a legal and comparative analysis**

### **Summary**

The article addresses the topic of alternative legal models for pursuing out-of-court claims for medical damages, taking as its starting thesis the inefficiency of the Polish model stemming from its faulty legal construction. The purpose of the article is to conduct a legal analysis of the Polish alternative model of medical damage compensation, with particular attention to *de lege ferenda* postulates presented in the legal doctrine. In addition, in order to show the possible directions of legislative changes, the article presents the characteristics of selected foreign alternative models of medical damage compensation, including the model operating in New Zealand, which is an example of a model that can be classified as "no-fault", the German model and the French model.

The article culminates with an analysis of the draft of the Law on Quality in Health Care and Patient Safety to the extent that the draft provides for a new legal regulation of the alternative model for the out-of-court settlement of medical damage claims. The purpose of this analysis was to see whether the legislator has recognized the demands for change articulated in the legal doctrine, and whether the draft law on quality in health care and patient safety is inspired by solutions adopted in foreign legislation in terms of the legal construction of the alternative model of compensation for medical damages.

The analysis here confirms the initial thesis of the work and leads to the conclusion that the draft law on quality in health care and patient safety takes into account many proposals constructed in the legal doctrine in connection with regulating an alternative model for the compensation of medical damages. It is also clear that the proposed model is inspired by some solutions that have been successful in other countries. Nevertheless, the article distinguishes proposed regulations that may still raise doubts and reservations.

**Keywords:** medical incident – the draft law on quality in health care and patient safety – alternative model for compensation of medical damages