

# Working group

## Professional fault to be excluded from criminal codes in Europe

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# Medical liability

- Any health professional, however competent, may one day commit **professional misconduct** having more or less dramatic consequences
- **In legal terms**, the impact can be severe
- Civil or administrative **liability** of a health professional, whether liberal or salaried may be retained if the following three elements are present :
  - a fault
  - a damage (= an injury)
  - a causal link between that fault is this damage

# Effects of errors on doctors

- Doctors experience their mistakes very seriously
  - Errors may lead to permanent distortion of self-image
  - During the months after serious error
    - Quality of life is decreasing
    - Symptoms of depression and burnout is increasing
- These problems result in high risk of new errors
  - > *circulus viciosus*

Doctors are named the **second victims of medical errors**

*West et al. JAMA 296:1071-1078, 2006*  
*Wu AW. BMJ 320:726-727, 2000*

# Scope of the WG

Professional fault and its legal consequences are part of the psycho-social risks and stress, threatening the salaried physicians leading from time to time to burnout.

Our scope is to present the legal systems in force in the FEMS & AEMH Member countries and to see the dynamics of it.

# Questionnaire

- Number of salaried doctors in your country
- Are the salaried doctors covered by a hospital insurance ?
  - If YES, are there situations where the hospital insurance is refusing to take charge ?
- Is there a no-fault system in your country ?
  - If YES, what is the number of peaceful settlements ?
  - Increasing or decreasing ?
- In what situations is the criminal code still used ?
  - What is the number of lawsuits ?
  - Increasing or decreasing ?

# Kitzbühel GA May 2020

**Presentation of the legal systems in force in the FEMS & AEMH Member countries and to see the dynamics of it**

- History and evolution of the legal systems
  - ANAAO Conference Genoa (I) 2016
  - Personal data & works of WG members
- Results of the survey launched in FEMS & AEMH members beginning 2020
- Conclusion and proposals for further steps to be taken by FEMS & AEMH to improve the no-fault system in European countries