

# INTEGRITY GUIDE FOR MEDICAL PROFESSIONALS IN THE REPUBLIC OF MOLDOVA



Controlling Corruption through Law Enforcement and Prevention (CLEP)

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Funded  
by the European Union  
and the Council of Europe



EUROPEAN UNION

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CONSEIL DE L'EUROPE

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The Project on Controlling Corruption through Law Enforcement and Prevention (CLEP) aims to strengthen the anti-corruption framework in the Republic of Moldova in line with the Council of Europe conventions and other international treaties. Building on the Council of Europe's experience in fighting corruption, money laundering and financing of terrorism, CLEP is providing targeted technical assistance in support of the reforms and the functioning of the relevant institutions.

CLEP is a joint project of the European Union and the Council of Europe, implemented by the Council of Europe.

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## Abbreviations:

<b>PHI</b>	Public Healthcare Institutions
<b>MHLSP</b>	Ministry of Health, Labour and Social Protection
<b>NIA</b>	National Integrity Authority
<b>PSA</b>	Public Service Agency
<b>NAC</b>	National Anticorruption Centre
<b>Healthcare Law</b>	Law on Healthcare, no.411 from 28.03.1995
<b>Medical Profession Law</b>	Law on Medical Profession, no.264 from 27.10.2005
<b>Code of Medical Deontology</b>	Government's Decision no.192 from 24.03.2017 on approving the Code of the Medical Employee's and Pharmacist's Deontology
<b>NIAS 2017-2020</b>	National Integrity and Anticorruption Strategy 2017-2020, passed by Parliament's Decision no.56 from 30.03.2017
<b>Integrity Law</b>	Integrity Law, no.82 from 25.05.2017
<b>Integrity Assessment Law</b>	Law on the Assessment of Institutional Integrity, no.325 from 23.12.2013
<b>Whistleblowers Law</b>	Law on Whistleblowers, no.122 from 12.07.2018
<b>Law on Declaration of Assets and Personal Interests</b>	Law on the Declaration of Assets and Personal Interests, no.133 from 17.06.2016
<b>Law on NIA</b>	Law on the National Integrity Authority, no.132 from 17.06.2016

## 1. INTRODUCTION

According to the National Integrity and Anti-Corruption Strategy 2017-2020 (NIAS 2017-2020), approved by Parliament's Decision no. 56 of March 30, 2017, corruption is systemic in the public sector. This is caused, among others, by violations of the Public Procurement Law, use of public-private partnerships for purposes other than those provided by relevant legislation, tolerance to lack of integrity of representatives of public institutions and their impunity. The NIAS 2017-2020 clearly refers to health as one of the public-sector areas vulnerable to corruption and foresees sectorial actions to remedy the situation. Improving the perception but also the experience of citizens and businesspeople with regard to corruption in the healthcare sector is included as one of NIAS' outcome indicators.

In 2018, the first NIAS 2017-2020 impact assessment study aimed at establishing benchmarks for monitoring purposes, including in the health sector. According to the survey, 92% of the population and businesses think that a doctor asking for bribe in order to provide healthcare services disrespects the patient's right to healthcare<sup>1</sup>. A total of 56% of the population and 44% of businesses describe healthcare institutions as highly corrupt<sup>2</sup>. Despite this, 47% of the population believe that bribing a doctor to receive better care is acceptable. This shows a higher tolerance to offering bribes in the healthcare sector than in others<sup>3</sup>. 16% of the population admitted having paid bribes to representatives of healthcare institutions in the last 12 months<sup>4</sup>. On the other hand, out of those who refused to offer bribes in the last 12 months, 14% stated that for this

<sup>1</sup> UNDP, CIVIS, Chisinau 2018, "Impact assessment of the National Integrity and Anti-Corruption Strategy - Moldova 2017", [translated from Romanian] pag. 34, Figure 2, accessed in October 2018;

<sup>2</sup> Ibidem, pag. 41, Figure 10.3;

<sup>3</sup> Ibidem, pag. 42, Figure 15;

<sup>4</sup> Ibidem, pag. 50, Figure 23;

reason they or a family member had not received the necessary care and their condition worsened<sup>5</sup>.

The NIAS 2017-2020 requires all public institutions, including healthcare institutions, to be rigorously monitored in their efforts to cultivate a climate of institutional integrity, in accordance with the provisions of the Law No.82 of 25.05.2017 on Integrity (hereinafter the "Integrity Law").

The Integrity Guide for Medical Professionals in the Republic of Moldova (hereinafter, "the Guide") follows the logic of the Integrity Law, concerning the institutional integrity climate within the public entities<sup>6</sup> but also to address each measure aimed to ensure integrity. The Guide reflects on cases concerning medical professionals and managers of public healthcare institutions (PHI) and proposes examples of behaviour that illustrate, under the Moldovan legislation, the failure to observe integrity provisions. While not all violations of the Integrity Law are of criminal nature, the failure of medical professionals and PHI managers to prevent acts of corruption may trigger disciplinary actions.

The Guide aims at helping medical professionals in situations where their professional integrity may be questioned. A number of annexes contained in the Guide shall simplify the process of complying with the applicable integrity requirements.

### 1.1. Terminological clarifications on "deontology", "ethics" and "integrity"

Integrity comes from the Latin "integer", which means honest or incorruptible<sup>7</sup>. The term "professional integrity"<sup>8</sup> is therefore the quality of being honest and incorruptible in exercising any profession.

Often, the terms "integrity" and "ethics" are used interchangeably. However, these concepts are not identical in meaning. The term "ethics"

<sup>5</sup> Ibidem, pag. 54, Figure 29;

<sup>6</sup> Integrity Law, art.10-24;

<sup>7</sup> Explanatory Dictionary of the Romanian Language, edition 2009 (translated into English);

<sup>8</sup> Republic of Moldova, *Institutional Integrity Assessment Law, No.325 of 23.12.2013*, accessed in November 2018;

comes from the Greek “ethos” (in Latin - “ethicus”) and involves a set of rules regulating human behaviour and distinguishing what is legitimate and acceptable. Thus, the concept of “professional integrity” is wider than “ethics”, but the concept of “ethics” is included in the concept of “professional integrity”.

Deontology is the part of ethics that studies the norms and obligations specific to a professional activity, including all the norms of conduct and the ethical obligations of a profession (especially for medical professionals)<sup>9</sup>. In this context, “ethics” is much wider in its scope than “deontology”. At the same time, talking specifically about the professional group this document refers to – medical ethics and medical deontology – these two concepts appear as overlapping.

In the Republic of Moldova, ethical/deontological norms of medical professionals have been regulated by the Law on Healthcare, No.411 of 28 March 1995 (hereinafter the “Healthcare Law”), the Law on the Medical Profession, No.264 of 27.10.2005<sup>10</sup> (hereinafter the “Medical Profession Law”), Government’s Decision no.192 from 24.03.2017 on approving the Code of the Medical Employee’s and Pharmacist’s Deontology (hereinafter the “Code of Medical Deontology”).

The Code of Medical Deontology regulates the conduct, the values and the fundamental commitments underlying the healthcare profession on the territory of the Republic of Moldova.

## 1.2. Meaning of some of the terms used in the Guide

The Integrity Law has harmonized the applicable integrity standards in the public sector. To align with this law, the Guide uses the following terms<sup>11</sup>:

<sup>9</sup> Explanatory Dictionary of the Romanian Language, edition 2009;

<sup>10</sup> Republic of Moldova, *Medical Profession Law No.264 of 27.10.2005*, accessed in November 2018;

<sup>11</sup> Republic of Moldova, *Integrity Law No.82 of 25.05.2017*, art.3 (as the notion of „public agent” also includes the category of medical professionals and pharmacists, the following definition has been appropriately adapted), accessed in November 2018;

*Public entity* – a legal entity having the status of:

- ▶ public authority, a central authority, a specialized central public authority, a local public authority, as well as the **organizational structures subordinated to them or within their sphere of competence**;
- ▶ self-governing, independent and/or self-regulatory authority, institution, body, organization, office or agency;
- ▶ constitutional court, a court of law, the prosecutor’s offices;
- ▶ state or municipal enterprise, state-owned enterprise.

*Public agent* – a person employed in a public entity, exercising a public office, public position with a special status, a public dignitary position, a person employed in the cabinet of dignitary or **providing services of public interest** as well as the local elected official;

*Institutional integrity of the healthcare institution* – the professional integrity of all medical professionals and other public agents within the healthcare institution, cultivated, controlled and consolidated by the management, including but not limited to zero tolerance for integrity incidents;

*Professional integrity of medical professionals* – the ability to conduct any medical profession in an ethical manner, free from undue influence and corruption, respecting public interest, the supremacy of the Moldovan Constitution and the law;

*Undue influence* – interference in the professional activity of a medical professional from third parties, manifested by pressures, threats or requests, in order to pressure him/her to conduct the professional activity in a specific way, when such interference is illegal and is not accompanied by the promise, offering or giving, in person or through an intermediary, of goods, services, privileges or benefits in any form whatsoever (which does not meet the elements of an offence/crime);

*Corruption acts* – corruption deeds and their related, as well as corruptible acts<sup>12</sup>;

<sup>12</sup> The term “corruptible deeds” has replaced the “corruptible behavior acts”, which was previously used in the legislation. Corruptible acts, corruption and related acts are addressed in Chapter IV of the Integrity Law;

*Integrity incident* – corruption act taking place in a professional setting or another similar manifestation occurred during a professional integrity test;

*Favouritism* – support granted in the exercise of duty by a public agent to natural or legal persons in solving their issues, for any reason, if such support is not provided for by normative acts and does not meet the elements of a conflict of interest or the elements of a crime;

*Integrity plan*<sup>13</sup> – the internal plan approved by the management of a PHI following the institutional integrity assessment which aims to develop and strengthen the institutional integrity climate during the implementation period;

*PHI manager* – heads or deputy heads of PHI, who according to the law, have a clear mandate to promote integrity.

### 1.3. Integrity climate in healthcare institutions

In accordance with the provisions of the Integrity Law, the integrity climate in a public entity, including in healthcare institutions, is cultivated by the implementation by medical professionals and PHI managers of integrity measures applicable for the entire public sector<sup>14</sup>. The Code of Medical Deontology stipulates in paragraph 108 the obligation of the PHI managers to ensure the institutional integrity climate in their respective institution, by applying the national and sectorial anti-corruption policies, as well as the specific professional integrity requirements.

Further, the Guide will address one by one all integrity measures applicable to medical professionals, as supplemented by specific provisions regulating their activity, with relevant derogations:

- ▶ Employment based on merit and professional integrity of medical professionals (Chapter 2);

<sup>13</sup> Republic of Moldova, *Integrity Law No.82 of 25.05.2017*, art.36, accessed in November 2018;

<sup>14</sup> Republic of Moldova, *Integrity Law No.82 of 25.05.2017*, art.10 and *Institutional Integrity Assessment Law, No.325 of 23.12.2013*, art.5, both accessed in November 2018;

- ▶ Compliance with the legal regime of incompatibilities in healthcare activity (Chapter 3);
- ▶ Compliance with the legal regime of restrictions and prohibitions in healthcare activity (Chapter 4);
- ▶ Avoiding, reporting and handling of undue influences (Chapter 5);
- ▶ Avoiding favouritism (Chapter 6);
- ▶ Respecting the legal regime of gifts (Chapter 7);
- ▶ Avoiding, reporting corruption and protection of whistle-blowers (Chapter 8);
- ▶ Intolerance to integrity incidents (Chapter 9);
- ▶ Compliance with medical deontology rules (Chapter 10);
- ▶ Ensuring access to information of public interest (Chapter 11);

The Guide separates additional integrity measures applicable only to the PHI managers in a separate section (Chapter 12), covering the following aspects of integrity:

- ▶ Assets and personal interest declaration;
- ▶ Compliance with the conflict of interest regime;
- ▶ Advertising/publicity restrictions;
- ▶ Ensuring transparency in the decision-making process;
- ▶ Transparent and responsible management of financial and material resources of the healthcare institutions;
- ▶ Compliance with the post-employment limitations' regime for former PHI managers ("revolving doors").

The important role in preserving institutional integrity is assigned to ethics committees within PHI and is further described in Chapter 13.

The failure to apply general integrity measures referred to above, as well as the measures provided for by the special legislation regulating the medical and pharmaceutical activity, compromises the integrity of the PHIs and the integrity of the public sector as a whole. In turn, a compromised integrity climate leads to more corruption and harms the public interest. This situation triggers measures to control integrity in



the public sector by anti-corruption authorities, entailing disciplinary liability, irrespective of the occurrence of administrative or criminal liability<sup>15</sup>.

The specific professional integrity requirements for medical professionals adopted by departmental acts by the Ministry of Health, Labour and Social Protection (MHLSP) or the management of PHI cannot establish less rigorous derogations or behavioural standards than those set out in the Integrity Law if these exceptions are not established by the special laws on medical and pharmaceutical activity<sup>16</sup>.

<sup>15</sup> Republic of Moldova, *Integrity Law No.82 of 25.05.2017*, art.10 and the *Code of Medical Deontology, Government Decision 192 of 24.03.2017*, point 116, accessed in November 2018;

<sup>16</sup> Republic of Moldova, *Institutional Integrity Assessment Law, No.325 of 23.12.2013*, art.5, accessed in November 2018;

## 2. EMPLOYMENT BASED ON PROFESSIONAL INTEGRITY OF THE MEDICAL PROFESSIONALS

According to the Integrity Law, medical professionals shall be recruited and promoted in a PHI based on a public contest, according to transparent and objective criteria of selection based on merit, professional qualification, capacity, competences and professional integrity, without the influence of private interests and any forms of discrimination based on sex, race, language, religion, political opinion or any other opinion, national or social origin, or other forms of discrimination<sup>17</sup>.

Selection and appointment as a medical professional or manager of a PHI is carried out in accordance with the provisions of the special legislation, with relevant additions and exceptions, but without prejudice to the obligation to observe the standards of professional integrity and merit-based selection<sup>18</sup>.

Compliance with the professional integrity standards is to be checked by the employer, who shall request:

- ▶ Professional integrity records certificate from the National Anti-Corruption Centre (NAC);
- ▶ Information on unsettled incompatibility situations, assets and personal interest (crosschecked for unjustified wealth and sanctioned conflicts of interests) from the National Integrity Authority (NIA) (integrity certificate);

The candidate shall submit, alongside with other documents required in the contest:

- ▶ The criminal records certificate that has to include the information about the limitations of the right to practice / to hold certain positions<sup>19</sup>.

<sup>17</sup> Republic of Moldova, *Integrity Law No.82 of 25.05.2017*, art.11, accessed in November 2018;

<sup>18</sup> Ibidem;

<sup>19</sup> Ibidem;

While the Guide does not seek to review the detailed procedures for hiring medical professionals with the most appropriate technical skills, it does address the following fundamental issues: the conditions to run in contests for medical staff and PHI managers (section 2.1), the request of professional integrity record from the NAC (section 2.2), the request of the integrity certificate from the NIA (section 2.3), as well as the request of the criminal record including any information on the limitations to practice/to hold certain positions (section 2.4).

## 2.1. Conditions to participate in the contest for medical professionals and PHI managers

The specific conditions of employment of **health professionals** are regulated by the Medical Profession Law and the Order of the MHLSP no.139 PS3 of 15.10.2015 on the approval of the Regulation on contest-based recruitment of medical staff in the healthcare system. Indeed, the rules provide for employment in vacant positions on a competitive basis. The **candidates must meet the requirements** provided for in the Medical Profession Law (art.4 and 8):

- ▶ To be a citizen of the Republic of Moldova and have domicile or work permit in the Republic of Moldova;
- ▶ Have a bachelor's degree in Medicine (Integrated Studies) and a diploma of specialist doctor or diploma of higher education in medicine and bachelor's degree after graduation of resident program/certificate after graduation from the residency, issued under the legislation of the Republic of Moldova or obtained in another state and recognized and validated under the criteria established by the Government;
- ▶ To ensure development, throughout professional activity, of the theoretical knowledge and practical skills according to the regulations developed and approved by the MHLSP, using all the accessible possibilities for this purpose;
- ▶ To be medically fit for the profession;
- ▶ To have no previous conviction for intentionally committing an offence, in circumstances related to the medical profession;

- ▶ Not to have been prohibited from carrying out the medical profession, for a period of time determined by a final court decision;
- ▶ Not to have been declared, by court order, as having restricted or lacking capacity to act.

**General requirements for candidates** under the Regulation on contest-based employment of medical professionals in the healthcare system are:

- ▶ Citizenship of the Republic of Moldova;
- ▶ Citizenship of other states, but domiciled in the Republic of Moldova and having a work permit in the Republic of Moldova;
- ▶ Knowledge of written and spoken Romanian language;
- ▶ Full capacity to act;
- ▶ Medically fit for the position he/she is applying to, as confirmed by a health certificate, issued by the family doctor or authorized healthcare units;
- ▶ No final conviction for having committed an offence, incompatible with the exercise of the position;
- ▶ Compliance with the education requirements stipulated by the law for the post;
- ▶ Compliance with the specific conditions for filling the post.

The specific conditions to be met by the person taking part in the competition for a vacant or temporary position shall be laid down in the job description at the proposal of the hiring institutions.

The **specific employment conditions of the PHI managers** are regulated by the Healthcare Law<sup>20</sup> and by the Regulation on the contest-based appointment of the managers of the public healthcare institutions and their template contract approved by Government Decision no.1016 of 1.09. 2016<sup>21</sup>. In the case of managers, the contest is also mandatory.

<sup>20</sup> Republic of Moldova, Law on Healthcare No.411 of 28.03.1995, accessed in November 2018;

<sup>21</sup> Republic of Moldova, *Government Decision No.1016 of 01.09.2016 on the approval of the Regulation for the competition-based appointment of managers of public healthcare institutions and the standard contract for managers*, accessed in November 2018;

The Healthcare Law stipulates in Article 4 paragraph (2) that managers of republican, municipal and district PHI are selected following a contest organized by the MHLSP and are appointed by the person in charge at the level of the founding authority (respectively minister, mayor of the municipality, district president, etc.). The managers of a PHI (republican, municipal and district) are also dismissed by the same responsible person. The contest is organized based on the regulation mentioned above, with the following **conditions for the candidates applying for top management positions**:

- ▶ Citizenship of the Republic of Moldova;
- ▶ Citizenship of other states, but domiciled in the Republic of Moldova;
- ▶ Higher/undergraduate medical studies, master studies in public health management/organizational management/administration. For the candidate with studies in fields other than the medical one (organizational management/administration, etc.), the masters studies in public health management are mandatory;
- ▶ Knowledge of written and spoken Romanian;
- ▶ Full capacity to act;
- ▶ Medically fit for the position he/she is applying to, as confirmed by a health certificate, issued by the family doctor or authorized healthcare units;
- ▶ No criminal history as confirmed by criminal record;
- ▶ No conviction for committing an offence in the following categories: crimes against peace and global security, war crimes, crimes against the life and health of the person, against freedom, honour and dignity of the person, regarding sexual life, against family and minors, against public health which would make it incompatible with practicing the profession;
- ▶ At least 5 years of work experience for district medical and healthcare institutions and 10 years for republican and municipal medical and healthcare institutions;
- ▶ Being under the retirement age.

## 2.2. Professional integrity record

### Important!

1. *The professional integrity record is requested **upon hiring healthcare staff, managers of PHI as well as other public agents from the PHI.***
2. *The professional integrity record certificate is **requested by the employer only** (the PHI management – with regard to candidates aspiring to positions of medical professionals and other categories of public agents, or, by the MHLSP – regarding the candidates for managers of PHIs).*
3. *The professional integrity record is **requested before the person is hired**, as the signing of the employment contract may depend on the information contained in the record.*

The Law on Institutional Integrity Assessment provides for testing the integrity of public agents. The NAC has the power to test all public agents, except for its own employees and employees of the Security and Intelligence Service (SIS), which are tested by the latter<sup>22</sup>. Test results are entered by these two bodies in the record of professional integrity.

The professional integrity records of public agents (including medical professionals and PHI managers) provide evidence of the results of professional integrity testing required by the hiring procedures applicable to public entities. The information entered in the professional integrity record is based on the assessment of results of the professional integrity test by the court. Information on the negative result of the professional integrity test shall be retained in the record for one year or, as appropriate, 5 years, depending on the type of violation found in the professional integrity test.

Thus, the 5 year-term for keeping information in the professional integrity record is applicable for violations of the obligation to refrain

<sup>22</sup> Republic of Moldova, *Institutional Integrity Assessment Law, No.325 of 23.12.2013*, art.6, accessed in November 2018;

from corruption acts, committed by the public agent in the case of a professional integrity test. Information is retained for one year for violation of the obligations to denounce corruption attempts, of the obligations to declare undue gifts and/or conflict of interest<sup>23</sup> violations, in situations of professional integrity tests.

The professional integrity record certificate is required for candidates participating in contests for the positions of medical professionals and PHI managers.

The professional integrity records certificate is requested by the PHI management (or by the person authorized by a management order for this purpose) after having submitted the set of necessary documents for candidates for positions of medical professionals, while in the case of candidates for the position of PHI managers – by the MHLSP. The request is addressed in all cases to the NAC and if the candidate has been employed in the last 5 years at the NAC and/or the SIS, a second request is addressed to the SIS.

The procedure for keeping and using the record regarding the professional integrity of public agents is regulated in Annex no.2 of the Government Decision no.767 of 19.09.2014 for the implementation of the Law no.325 of December 23, 2013. Annex 1 of the Guide provides a [form for requesting the professional integrity record certificate](#), adapted to the model included in the Regulation approved by the Government Decision mentioned above.

<sup>23</sup> Republic of Moldova, *Integrity Law No.82 of 25.05.2017*, art.29, accessed in November 2018;

## 2.3. Integrity certificate

### Important!

1. *The integrity certificate is requested **upon hiring to positions of manager and deputy manager of PHI.***
2. *The integrity certificate is **requested by the employer only** (MHLSP – concerning the candidates to managers of PHI).*
3. *The integrity certificate is **requested before hiring** the person, as signing the employment contract may depend on the information contained in the certificate.*

An unresolved incompatibility, the declaration of all or part of unjustified wealth and sanctioned conflict of interests, besides the various forms of legal liability provided by the legislation, constitute grounds for terminating the employment or the service relations. The person dismissed from office for such reasons shall be deprived of the right to hold a public position and a managerial position in any public institution for a period of 3 years from the date of dismissal<sup>24</sup>. This also applies to medical professionals from PHI and PHI managers.

If the person no longer holds the public or dignitary position at the time when the unjustified wealth, incompatibility or conflict of interest is found, the three-year ban shall apply by law from the date the ascertaining act or the court decision are considered final and irrevocable.<sup>25</sup> The procedure for issuing such integrity certificates is regulated by a joint interdepartmental order of the NIA, the Public Service Agency (PSA) and the National Probation Inspectorate<sup>26</sup>.

An **integrity certificate** is the official document containing information about the ascertaining acts or final court judgements of the last 3 years regarding a natural person's applying for or intending to apply for a public

<sup>24</sup> Republic of Moldova, *Law on Assets and Personal Interest Declarations No.133 of 17.06.2016*, art. 23, accessed in November 2018;

<sup>25</sup> Ibidem;

<sup>26</sup> NIA, Regulation on the issuance of integrity certificates, NIA Order No.90/653/07 from 09.10.2018, point 2., accessed in May 2019;

office. The certificate issued by NIA contains information about unjustified assets, identified conflicts of interest, outstanding incompatibilities, breached limitations and prohibitions to hold a public office or a public dignity position<sup>27</sup>.

The integrity certificate will be requested by submitting an electronic application from the official e-mail account of the PHI to the official e-mail of the NIA, confirmed by digital signature of the relevant officials in the hiring institution<sup>28</sup>. The information on the cryptographic device configuration, which is required before installing the MoldSign application (digital signature), can be found on the [www.ani.md](http://www.ani.md) webpage at the "Guides" section<sup>29</sup>. The Guide includes the *Form for requesting the issuance of the Integrity certificate*.

#### 2.4. Criminal record covering information on limitations to practice

##### Important!

1. *Criminal records shall be submitted upon employment as medical professionals, pharmacists, managers and deputy managers of PHI.*
2. *The criminal record is requested from all candidates and is submitted together with other application documents.*

The criminal records shall be issued by submitting a request through the PSA portal: [www.servicii.gov.md](http://www.servicii.gov.md).

<sup>27</sup> Definition from the Regulation on the order of issuance of integrity certificates, NIA Order No.90/653/07 from 09.10.2018, adapted to the needs of the Guide, excluding the reference to candidates for elective functions, not applicable to users of the Guide;

<sup>28</sup> Regulation on the order of issuance of integrity certificates, NIA Order No.90/653/07 from 09.10.2018, point 5;

<sup>29</sup> NIA, 2017, Guidelines on the configuration of the E-Signature, accessed in November 2018;

### 3. INCOMPATIBILITIES IN EXERCISING MEDICAL ACTIVITIES

For the efficient and unbiased exercise of duties, the professional activity of a medical professional and PHI manager has to be exercised separately from other specific functions, qualities or activities<sup>30</sup>, as provided by the special legislation. The Medical Profession Law regulates the content of the doctor's activity and establishes the incompatibilities specific to the medical activity.

The doctor's profession implies:

1. provision of medical assistance in the event of illness or injury of any patient, regardless of gender, age, national and racial status, social and material status, political and confessional view, religion, language, opinion;
2. promoting health education;
3. organizing preventive activities;
4. improving professional qualities and gaining medical experience;
5. training activity in pre-university, university and postgraduate medical institutions.

In addition to the above, the doctor may exercise other activities within the limits of the legislation in force<sup>31</sup>. At the same time, the following activities/conditions are incompatible with the doctor's profession:

- ▶ **pharmaceutical activity:** preparation, delivery, distribution and marketing of pharmaceutical and para-pharmaceutical products;
- ▶ any activity or occupation that **damages the professional dignity and violates the deontology code;**
- ▶ **a health status which is inadequate** to the medical profile, confirmed by a medical certificate, issued according to the legislation;

<sup>30</sup> Republic of Moldova, *Integrity Law No.82 of 25.05.2017*, art.12, accessed in November 2018;

<sup>31</sup> Republic of Moldova, *Healthcare Law No.411 of 28.03.1995*, art.5, accessed in November 2018;

- ▶ **use of medical knowledge to the detriment of a patient's health or for criminal purposes**<sup>32</sup>.

In addition to the incompatibilities referred to in the Medical Profession Law, the Code of Medical Deontology stipulates that the *medical profession is incompatible with the hardness, apathy, ignorance, indifference, arrogance, impatience, corruption, discrimination, stigmatization, all of which undermine the authority of a medical professional and of the professional team and medicine as a whole*<sup>33</sup>.

Any of the abovementioned incompatibilities results in discontinuation of medical activity. Thus, the Healthcare Law in Article 4 para.(1) letter d), establishes that the medical profession can be exercised by persons who, in addition to meeting a number of requirements, do not fall under the incompatibilities mentioned above.

The confirmation of incompatibility regarding activity or occupation that diminishes or damages professional dignity and violates the Code of Medical Deontology is the responsibility of the ethics committee (please, refer to Chapter 13 below for more information about their role and responsibilities).

At the same time, the Integrity Law, under art.12, establishes the following obligations for the PHI heads and deputy heads when it comes to incompatibilities with the medical profession:

- ▶ resolve incompatibilities within one month from the beginning of his/her employment or service relationship, or if the resolution of the incompatibility within the given time does not depend on his/her will, present evidence of good faith of the actions undertaken to solve the situation.

Administrative sanctions are foreseen for the violations of the legal regime of incompatibilities, under art. 313<sup>4</sup> of the Code of Administrative Offences. They are applied as follows:

<sup>32</sup> Ibidem, art.8;

<sup>33</sup> Republic of Moldova, Government Decision No.1016 of 01.09.2016 on the approval of the Regulation for the competition-based appointment of managers of public healthcare institutions and the standard contract for managers, point 29, accessed in November 2018;

- ▶ a fine of 50 to 60 conventional units applied to physical persons, rising to 120 to 200 units for managers, with or without the ban to perform specific activities, including official positions and dignity positions, for 6 months to one year, or a fee between 200 and 250 conventional units of legal persons.

With regard to subjects of declaration, when a situation of unsolved incompatibility is identified, this constitutes ground to terminate the mandate, employment or service relationship. In this case, by way of derogation from the provisions of the special laws governing disciplinary liability, the disciplinary sanctions applied on the basis of a disciplinary violation cannot consist of a warning, reprimand or harsh reprimand<sup>34</sup>.

<sup>34</sup> Republic of Moldova, *Law on Assets and Personal Interest Declaration No.133 of 17.06.2016*, accessed in November 2018;

## 4. RESTRICTIONS AND PROHIBITIONS IN EXERCISING MEDICAL ACTIVITY

In order to avoid promoting personal interests over public interest, the medical professionals are subject to certain restrictions, limitations and prohibitions in the exercise of their functions, as provided by the special legislation.

Restrictions and prohibitions specific to the medical and pharmaceutical activity are governed by the Medical Profession Law and the Code of Medical Deontology.

**The following specific restrictions** concern situations conflicting with the work as a doctor:

- ▶ a person who has been convicted of intentionally committing an offence in circumstances related to the exercise of the medical profession;
- ▶ a person banned from exercising as a doctor for a period established by a final court decision;
- ▶ a person who has been declared by a court decision as having limited capacity to act;
- ▶ the person lacking the required education certificates (i.e., a bachelor's degree in medicine (integrated studies) and a diploma as specialized doctor or higher education degree in medicine and a bachelor's degree after graduation of the residency/certificate after graduation of residency, issued under the laws of the Republic of Moldova or obtained in another state and recognized and validated)<sup>35</sup>.

<sup>35</sup> Republic of Moldova, *Medical Profession Law No.264 of 27.10.2005*, art.8 and 4., accessed in November 2018;

**The following specific prohibitions** are applicable to medical professionals:

- ▶ a medical professional should not use his/her function or other circumstances to increase the number of patients under their care;
- ▶ a medical professional is required to avoid involvement in corruption or bribery. They shall not issue certificates or other medical records that bring an undue or unlawful material advantage to themselves or to their patient;
- ▶ any agreement between two or more medical professionals, between medical professionals and pharmacists, or doctors or pharmacists and auxiliary staff employed in any healthcare or pharmaceutical establishment to obtain material benefits. The doctor shall not prescribe any medicines indicating specific pharmaceutical companies in order to obtain personal or institutional benefits, nor shall prepare, issue, distribute or sell pharmaceutical and para-pharmaceutical products;
- ▶ a medical professional shall not, for any reason, condition the diagnosis and treatment of a patient on requesting from him/her, from the guardian or his/her relatives money, gifts, services and/or other benefits;
- ▶ a medical professional shall not disclose patient-related information obtained in the course of professional activity;
- ▶ a medical professional shall not propose or apply to the patient empirical or insufficiently proven remedies or procedures presented as beneficial or risk-free;
- ▶ it is forbidden to use diagnostic or treatment methods lacking scientific support or not accepted by the wide medical community and potentially risky for patients;
- ▶ it is forbidden to practice any form of deceit;
- ▶ a medical professional shall refuse to perform any procedure that may harm the patient;
- ▶ any collaboration or support of persons illegally practicing the medical profession is prohibited. A medical professional shall

inform the competent law enforcement authorities about the existence of such situations<sup>36</sup>.

At the same time, the Integrity Law, under art. 12, establishes the following obligations for PHI heads and deputy heads regarding the respect of the legal regime of restrictions:

- ▶ to undertake actions, within two months, to terminate direct hierarchical relationships with close relatives (parents, brothers, sisters, son or daughter) or with affinity (wife/husband, parents, brother or sister in law), with live-in partner in the framework of the public entity.

The failure to observe the legal regime of restrictions and prohibitions for medical professionals is established by the Ethics Committee from the PHI and is sanctioned by the PHI management. Disciplinary sanctions shall be applied for infringements, without prejudice to procedures for incurring into other types of legal liability (criminal, administrative, civil or material, as the case may be)<sup>37</sup>.

<sup>36</sup> Republic of Moldova, Government Decision No.1016 of 01.09.2016 on the approval of the Regulation for the competition-based appointment of managers of public healthcare institutions and the standard contract for managers, point 18-25, 27-28, accessed in November 2018. According to the Code, these specific prohibitions constitute “the integrity of the medical professional and pharmacist”. However, these requirements cannot generically denote the integrity requirements of this professional category, as they also apply to national anti-corruption policies governed by the Integrity Law. Under these circumstances, these requirements may be referred to as “specific integrity requirements/specific anti-corruption requirements of the medical professional and pharmacist”;

<sup>37</sup> Ibidem, point 116;

## 5. UNDUE INFLUENCES

In order to ensure that the public interest is served with impartiality and objectivity, any undue influence in the professional activity of medical professionals and PHI managers shall be avoided<sup>38</sup>.

The Code of Medical Deontology (point 108) provides the obligation of the PHI managers to ensure institutional integrity climate in their subordinate institutions by applying the national and sectorial anti-corruption policies, as well as the specific professional integrity requirements, especially for reporting and handling undue influences. The mechanism of reporting and treating undue influences is regulated by the Government<sup>39</sup>.

According to the Integrity Law, **undue influence** – in this particular context – means the interference in the professional activity of medical professionals and of PHI managers from third parties, expressed as pressures, threats or demands, in order to determine the exercise of their professional activity, when the interference is illegal and is not accompanied by the promise, offering or giving, in person or through intermediary, of goods, services, privileges or advantages in any form whatsoever (does not meet the elements of a crime).

Undue influence is often confused with the attempt to commit a corruption crime, although these categories are radically different:

- ▶ in the case of undue influence, *there is no counteraction on the part of the subject who exercises influence*, whereas in the case of crime, the corrupter offers something in return: money, goods, advantages, favours, offers of an illegal remuneration or promises to offer such remuneration in the future;

<sup>38</sup> Republic of Moldova, *Integrity Law No.82 of 25.05.2017, art.17*, accessed in November 2018;

<sup>39</sup> Republic of Moldova, Government Decision no.767 of 19.09.2014 on the implementation of Law No.325 of 23 December 2013 on professional integrity testing, accessed in November 2018;



- ▶ the person *exercising the undue influence acts through pressures, threats and demands*, without giving anything, and the person subject to influence illegally changes behavior because he/she has been intimidated without pursuing their own material interest;
- ▶ the person exercising the undue influence does it *to direct the actions of the person he/she is trying to influence, to change his/her behavior in an illegal manner*, while in the case of a crime, the corrupter offers unlawful remuneration to obtain behavior consistent with or contrary to the work duties of the person he/she is corrupting.

Although undue influences are different from corruption crimes, when left unaddressed, undue influences degenerate into an attempt to commit a corruption act, which will require a completely different approach. Medical professionals and PHI managers that are subject to **undue influence must explicitly reject it and lawfully conduct the activity in question**<sup>40</sup>.

When the influenced person cannot expressly reject undue influence and his/her professional activity is affected as a consequence (i.e. a high ranking official from a ministry is asking or threatening and the influenced person feels unable to respond properly, as feels intimidated and/or vulnerable), the person must file a written complaint concerning undue influence within 3 working days to his/her employer or the responsible person designated by the latter. **The undue influence may be reported to the NAC in two cases:**

- ▶ the employer or the representative appointed by the employer fails to register the person's report in the respective register; or
- ▶ the employer himself/herself is the source of the undue influence<sup>41</sup>.

<sup>40</sup> Republic of Moldova, *Integrity Law No.82 of 25.05.2017*, art.17, accessed in November 2018;

<sup>41</sup> Ibidem;

**Forms to report undue influence to the management of PHI and to the NAC** are provided in **Annex 3** to the Guide.

The employer, i.e. the PHI or the MHLSP, as appropriate, may take measures to prevent cases of undue influence without direct participation in their settlement (e.g. warnings sent through official complaints, dissuading the person who causes undue influence as well as identification of other legal measures).

The Integrity Law establishes the obligation for the PHI head to denounce and treat undue influences, as follows:

- ▶ by adopting administrative acts regulating the possibility to report, denounce and treat undue influences in the framework of the institution;
- ▶ by ensuring that the evidence collected is recorded in a special register for undue influences exercised on medical professionals (public agents);
- ▶ by ensuring the possibility to report cases of undue influences confidentially;
- ▶ by ensuring the necessary conditions for the medical professional to carry out his/her activity and to verify the performance of the duties for which the inappropriate influence has occurred;
- ▶ by activating prevention measures for undue influences and identifying solutions when such cases occur;
- ▶ by applying disciplinary sanctions to medical professionals who perform their duties without reporting undue influences to which they are subjected.

The failure to report undue influence and to change illegally the professional conduct thereto entails disciplinary sanctions<sup>42</sup>.

<sup>42</sup> Ibidem;

## 6. FAVOURITISM

In order to ensure that the public interest is served with impartiality and objectivity, the favouritism in public entities, including within the PHI, is inadmissible<sup>43</sup>.

According to the law, *favouritism* is the support granted in the exercise of duty by a public agent to natural or legal persons in solving their issues, for any reason, if such support is not provided for by normative acts and does not meet the elements of a conflict of interest or the elements of a crime<sup>44</sup>.

The concept of "*favouritism*" differs from the concept of "*conflict of interest*" by the fact that favouritism refers to a larger circle of persons than related persons, within the meaning of the conflict of interest legislation. At the same time, conflict of interest implies the existence of a personal interest, while favouritism does not require proving it. It is sufficient for the legal classification of favouritism to **provide support to a natural or legal person in the exercise of office, unless such support is provided for by the law**.

Employees of PHI are under the obligation to avoid favouritism in their professional activity<sup>45</sup>. In turn, the management of PHI has the following obligations:

- ▶ to avoid knowingly accepting favouritism in the professional activity of the employees;
- ▶ to report identified cases of favouritism to the NAC<sup>46</sup>.

<sup>43</sup> Republic of Moldova, *Integrity Law No.82 of 25.05.2017*, art.15, accessed in November 2018;

<sup>44</sup> The term "*favouritism*" has replaced "*protectionism*" previously used in the legislation on preventing and combating corruption. The word "*protectionism*" is still used in the law on administrative offences (art.3131). The definition of "*favouritism*" is provided in the *Integrity Law No.82 of 25.05.2017*, art.3;

<sup>45</sup> Republic of Moldova, *Integrity Law No.82 of 25.05.2017*, art.15, accessed in November 2018;

<sup>46</sup> Ibidem;

Under the provisions of the Integrity Law, "*favouritism*" represents a misdimineour. The Integrity Law defines "*favouritism*" the act of *offering support to solve problems of natural or legal persons, although not provided by the law, for whatever reasons, without any elements of crime, granted in the exercise of the function*. The following sanctions will apply as per art. 313<sup>1</sup> of the Code of Administrative Offences ("*protectionism*"): a fee between 60 and 90 conventional units<sup>47</sup>, for physical persons, and between 72 and 150 for managers.

Liability for favouritism is provided for in the Code of Administrative Offences. Art.3131 of the Code regulates the offence of "*protectionism*" (further changed into favouritism), sanctioned by a fine from 60 to 90 conventional units for individuals and from 72 to 150 conventional units for persons holding higher managerial positions. The responsibility for establishing favouritism lies with the NAC.

<sup>47</sup> A conventional unit is 50 MDL;

## 7. GIFTS

According to the medical deontological rules, medical professionals cannot, for any reason, condition the diagnosis and/or treatment of a patient by requesting money, gifts, services and other benefits from the patient, his/her guardian or relatives<sup>48</sup>.

The gifts regime for medical professionals, including managers of PHIs as well as other public agents, is the same as the general legal regime established for public servants and is regulated in Article 16 of the Integrity Law.

In order to avoid corruption in the activity of the PHI, it is prohibited for medical professionals to request or accept gifts (goods, services, favours, invitations or any other advantage) that are intended for themselves or for their family, if their offering is directly or indirectly linked to their professional activity (**inadmissible gifts**). Requesting or accepting inadmissible gifts constitutes an act of corruption within the meaning of the Criminal Code<sup>49</sup>.

The legislation also establishes a certain category of **admissible gifts**, offered out of courtesy or received on protocol occasions, which can be accepted by the public agents, including by the staff of the PHI. Admissible gifts **do not include**:

- ▶ money in circulation in national or foreign currency (except jubilee and commemorative metal coins);
- ▶ any means of payment (e.g. vouchers).

All gifts are subject to mandatory declaration and registration within the PHI. **Admissible gifts** are declared and recorded in a public register held by

<sup>48</sup> Republic of Moldova, *Code of Medical Deontology, Government Decision 192 of 24.03.2017*, point 21, accessed in November 2018;

<sup>49</sup> Republic of Moldova, *Integrity Law No.82 of 25.05.2017*, art.16, accessed in November 2018;

each PHI. Admissible gifts whose value does not exceed the limits set by the Government<sup>50</sup> may be retained by the medical professionals or may be handed over to the PHI, in both cases – after declaration.

Admissible gifts exceeding the established value shall be handed over to the PHI, once they have been declared. If the PHI employee announces his/her intention to retain the admissible gift above the established limit, he/she is entitled to keep it by paying the difference between the gift value and the established limit in the PHI budget<sup>51</sup>.

If a PHI employee is offered an inadmissible gift, he/she shall:

- a) refuse the gift;
- b) identify witnesses, for instance colleagues, if possible;
- c) immediately report the happening to the anti-corruption authority in charge;
- d) notify the management of the PHI;
- e) submit the gift of the PHI manager if the gift has been offered without his/her knowledge (left in the office, in the reception, etc.), while taking the measures referred to in letter d);
- f) carry out his/her professional activity according to the deontological rules, especially the one for which the gift was offered<sup>52</sup>.

If the employee is offered an admissible gift, he/she shall:

- a) hand over the gift to the PHI's commission for gifts' recording and assessment within 3 days from the receipt or end of the shift during which the gift was received;

<sup>50</sup> Currently, the admissible limit set by the Government is 1000 MDL (*Government Decision 134 of 22.02.2013 establishing the acceptable value of symbolic gifts, courtesy gifts or certain protocol actions and the approval of the Regulation on Recording, Assessment, Keeping, Use and Compensation of symbolic gifts, of those gifts offered out of courtesy or as protocol actions*), but it is needs revision to fully enforce the provisions of the Integrity Law;

<sup>51</sup> Republic of Moldova, *Integrity Law No.82 of 25.05.2017*, art.16, accessed in November 2018;

<sup>52</sup> Ibidem;

- b) declare the circumstances under which the gift has been offered, stating his/her intention to keep it or to hand it over to the PHI management;
- c) redeem the gift he/she decided to keep by paying to the budget of the PHI the difference between the value of the gift, estimated by commission for gifts' recording and assessment and the limit set<sup>53</sup>.

PHI management has the following obligations to ensure compliance with the gifts' regime:

- a) to enact administrative acts laying down the rules for the observance of the gifts regime within the PHI;
- b) to appoint members of the gifts' recording and assessment commission and to ensure the necessary conditions for their activity;
- c) to ensure the recording, in a special register, including electronically, of all gifts received by the employees and by the management of the PHI;
- d) to ensure that the amounts resulting from the redemption of inadmissible gifts are collected in the PHI budget in cases where their redemption is possible;
- e) to hand over to the Anti-Corruption Prosecutor's Office or, as the case may be, to the NAC the inadmissible gift provided to the employees or the management of the PHI, in the cases provided above;
- f) to ensure the proper conduct of the professional activity of the employees and the management of the PHI, to whom unacceptable gifts have been offered;
- g) to ensure the publication of the special register of gifts on the PHI web page;
- h) to initiate the disciplinary procedure against the employees and managers of PHI for infringement of the legal regime of gifts, as well as to inform the MHLSP about the persons who commit such violations<sup>54</sup>.

<sup>53</sup> Ibidem;

<sup>54</sup> Ibidem;

**The gifts register** will contain the following data:

- ▶ description of the gifts;
- ▶ specification whether these are admissible or inadmissible;
- ▶ circumstances under which they have been received.

In case of *inadmissible gifts*, the register shall also indicate the following:

- ▶ the value estimated by the commission for gifts' recording and assessment;
- ▶ the note on their transmission to the PHI management or, as the case may be, their return to the persons who received them, specifying relevant information about their redemption.

In the case of *inadmissible gifts*, the register shall also contain data on transmission of such gifts as evidence materials to the Anticorruption Prosecutor's Office or to the NAC, as appropriate<sup>55</sup>.

In order to facilitate the declaration of gifts by medical professionals and PHI managers, the Guide includes in [Annex 4 forms for declaring admissible and inadmissible gifts](#), while [Annex 5](#) provides [Registers of admissible and inadmissible gifts](#).

<sup>55</sup> Ibidem, art.5;

## 8. RESPONSE TO CORRUPTION ACTS

In order to ensure the proper functioning of the PHI, in accordance with its legal mandate to serve the public interest and to respect human rights, preserving the good image and the reputation of the PHI, medical professionals and PHI managers **are required** to report without delay any attempts to involve them in acts of corruption, such as bribery, acts related to it and corruptible acts<sup>56</sup>.

Employees of the PHI who are aware of cases of corruption or illegal and unethical practices threatening public interest **are entitled** to disclose such practices to the management of the PHI, or, as appropriate, to the anti-corruption authority in charge<sup>57</sup>. In order to meet the set integrity requirements, the response of the PHI employees as provided by the law is:

- ▶ **mandatory** reporting of attempted bribery (of themselves) by third parties;
- ▶ **optional** reporting of corruption acts in which others are involved.

### 8.1. Mandatory reporting of corruption as a witness

When becoming a **target of an act of corruption by a third party, the PHI employee is obliged:**

- a) to expressly refuse to engage in attempted corruption acts and to warn the person in question, whenever possible, about the unlawfulness of such attempt;
- b) to make sure witnesses are available, including colleagues, if possible;

<sup>56</sup> Republic of Moldova, *Integrity Law No.82 of 25.05.2017*, art.3, accessed in November 2018;

<sup>57</sup> Ibidem, art.18;

- c) to immediately inform the NAC about such potential corruption manifestations if they meet the elements of a crime or an administrative offence;
- d) to immediately inform the PHI management about the attempts to engage in corruption manifestations if they represent other types of offences (not criminal or administrative);
- e) to exercise his/her professional activity for which the attempt of his/her involvement in corruption acts occurred according to deontological rules; this particularly refers to the activity undertaken<sup>58</sup>.

**The management of the PHI has the following obligations** in order to prevent the corruption acts and to ensure their reporting:

- a) to immediately notify the NAC about the corruption manifestations of which they have been informed by PHI employees if such attempted manifestations meet the elements of a crime or an administrative offence and if such information has not been communicated to the NAC by the employees concerned;
- b) to ensure appropriate conduct of the professional activity by employees in respect of whom attempts to engage in corruption manifestations have been made;
- c) to ensure that administrative measures are taken to prevent other attempts to involve employees in corruption acts similar to those that have been reported;
- d) to sanction disciplinarily employees who have failed to report attempts to involve them in corruption manifestations;
- e) to provide the NAC upon request with information on the reporting of corruption manifestations by employees<sup>59</sup>.

Reporting an act of corruption can be done by submitting an online complaint through the NAC web site ([www.cna.md/Contacte/SesizațiCNA](http://www.cna.md/Contacte/SesizațiCNA)),

<sup>58</sup> Ibidem;

<sup>59</sup> Ibidem, art.15;

by phone to the national anti-corruption hotline (0-800-55555) or by filing a written complaint. In this respect, the Guide contains in **Annex 6** a **form for reporting a corruption act**.

Reporting of an act of corruption is carried out under the Criminal Procedure Code and the whistle-blowers who feel unsafe during the criminal prosecution may request protection.

## 8.2. Optional reporting of corruption as a whistleblower

When becoming aware of corruption acts committed by other employees, medical professionals and PHI managers **are entitled to disclose such illegal practices**. This happens through whistleblowers' reports. **Forms for reporting illegal practices** are included in **Annex 7** to the Guide.

In turn, the **PHI management** has the **following obligations** to ensure the protection of whistleblowers:

- a) to enact administrative acts laying down the rules on reporting corruption acts, how to submit the whistleblowers' reports and to ensure the whistle-blowers' protection;
- b) to designate the specialized structure responsible for registering whistleblowers' reports;
- c) to ensure, through a specialized structure, the confidential registration of whistleblowers' reports submitted by PHI employees in the relevant PHI's register;
- d) to ensure that the whistleblowers' reports are reviewed and that the review results are communicated within no more than 30 days from their registration;
- e) to provide to the NAC or, as the case may be, to another competent anti-corruption authority, the information contained in the whistleblowers' reports on corruption and/or illegal and unethical practices threatening public interest occurring in the PHI, if they contain elements of a crime or an administrative offence;

- f) to ensure measures for the protection of whistleblowers facing real risks of retaliation against him/her from the person whose actions or omissions has been reported;
- g) to initiate disciplinary actions against the responsible persons for the failure to ensure registration and examination of whistleblowers' reports, and/or for failing to communicate the outcome of their examination within the legal term, and/or for failure to ensure the whistle-blower's personal data protection;
- h) to bear the consequences for disciplinary, administrative or, as the case may be, criminal liability for failure to apply protection measures and knowingly being aware of retaliation against the PHI employee who has filed a whistleblowers' reports<sup>60</sup>.

The procedure for filing, examining, keeping records of whistleblowers' reports and for sanctions in case of failure to take protective measures for retaliation against whistle-blowers is governed by the Law on Whistleblowers No.122 of 12.07.2018 (hereinafter Whistleblowers' Law).

## 8.3. Recording disclosures by whistleblowers

Any employee is entitled to report unlawful actions posing a threat to public interest. If the report meets the conditions listed below, it is considered to be a whistleblowers' reports and is recorded in a special register, which gives the employee the status of whistle-blower and the right to legal protection against possible retaliation.

There are three types of disclosure of illegal practices:

1. internal: notification to the employer;
2. external: communicated to NAC and
3. public: disclosed in the media and/or to the civil society<sup>61</sup>.

Normally, the **disclosure of illegal practices occurring in a PHI and affecting the public interest must be referred to the management**

<sup>60</sup> Ibidem, art.18;

<sup>61</sup> Republic of Moldova, *Whistleblower's Law No.122 of 12.07.2018*, art.9, accessed in November 2018;

**of the institution** as it should be mostly interested in securing the smooth running of the PHI's tasks, taking into account the legitimate interests of patients, employees and the public interest. As the first stakeholder, the PHI needs to act without delay in removing threats and/or prejudice to the public interest caused by the illegal practice disclosed by the employee. Secondly, the PHI needs to take steps to protect the employee(s) from possible harassment by the persons allegedly involved in the illegal practice.

The employee may omit the internal disclosure of the illegal practice (to the PHI management), making an **external or public disclosure instead, when:**

- ▶ he/she has reasons to believe that the employer could be involved in the disclosed illegal practices;
- ▶ he/she considers that there is a risk for the confidentiality of his/her disclosure;
- ▶ he/she considers that there is a risk of loss, disappearance or destruction of evidence;
- ▶ the employer failed to arrange proper recording of whistleblowers' reports or did not inform him/her of the results of the examination within the prescribed timeframe.

The confidentiality and professional secrecy clauses between the employer and employee do not prevent the disclosure of illegal practices.

The **internal and external** disclosure of illegal practice can be done:

- ▶ in writing, on paper, signed by the employee;
- ▶ through an on-line disclosure system – NAC's or if provided by the employer;
- ▶ on the anti-corruption hotline of the employer or the NAC's<sup>62</sup>.

The disclosure is performed through the **forms for internal or external disclosure of illegal practices** provided for in **Annex 7** of the Guide, filled by the employee or the hotline operator, as appropriate. The disclosure of an illegal practice is recorded in the **Register of illegal practices disclosures**

<sup>62</sup> Ibidem;

**and whistleblowers' reports**, kept by each PHI, whose template is provided in **Annex 8** to the Guide<sup>63</sup>. If the internal disclosure of the illegal practice contains constitutive elements of a crime or an administrative offence, the employer is obliged to transmit the information contained in the disclosure to a competent authority (in cases of corruption – to the NAC or, as the case may be, the Anti-Corruption Prosecutor's Office).

The Whistleblowers' Law guarantees **confidentiality**. Thus, the identity of the employee who discloses illegal practices shall not be revealed, especially to persons suspected of such practices, unless the employee him/herself has already disclosed his/her identity. Personal data may only be disclosed in the case of criminal proceedings initiated on the basis of a disclosure of public interest. In this case, the whistleblower is heard as a witness under the terms of criminal or administrative law<sup>64</sup>.

In order to be recorded in the Register of illegal practices and whistleblowers' reports, disclosures within a PHI need be recognized as such. Indeed, the disclosure of illegal practices must **meet the following conditions:**

- ▶ to be made by an employee of the PHI;
- ▶ to be related to the activity of the PHI where the employee works;
- ▶ to contain information/evidence about illegal practices and the actual, imminent or potential harm to the public interest;
- ▶ the person making the disclosure must identify himself/herself (last name, first name, place of work, contact details and in case of a written disclosure - the signature)<sup>65</sup>.

In the sense of the Whistleblowers Law, a **PHI employee's entitlement to file a disclosure is a broader concept** and includes also personnel who worked in that specific PHI in the past 12 months before the disclosure, covering the following categories:

- ▶ the status of an *employee*, in the meaning given in the Labour Code, in relation with the PHI;

<sup>63</sup> Ibidem, art.7;

<sup>64</sup> Ibidem, art.8;

<sup>65</sup> Ibidem, art.11;

- ▶ the status of *resident (for doctors, interns) or volunteer* in relation with the PHI;
- ▶ *contractual relationship* with the PHI<sup>66</sup>.

The registering of a disclosure of illegal practices of public interest in the Register of illegal practices' disclosures and whistleblowers' reports grants the concerned employee the status of whistleblower. In this context, the **employee is provided with the following information:**

1. *if the disclosure is filed in writing:* the written confirmation of the registration in the dedicated Register, the initiation of an examination of the circumstances described in the disclosure and the timeframe for notification about the results of the examination (the term is 30 days, with the possibility of extension for an additional 30 days, as appropriate<sup>67</sup>);
2. *if the disclosure is notified by telephone:* the call registration number, the information about the initiation of a review of the circumstances described in the disclosure, and the timeframe. The whistleblower is also informed about the possibility to call again or to be recontacted by the operator to inform him/her of the results of the examination;
3. *in all cases:* about compliance with the requirement of confidentiality of his/her identity when examining the disclosure, except in cases where the criminal or administrative offence proceedings are initiated. In such case, the whistleblower is considered a witness and shall ask for protection;
4. *in all cases:* the whistleblower status will be withdrawn if the results of the examination found that the disclosure does not meet any of the conditions set out above.

If the examination of the disclosure found that the disclosure has not been made by an employee of the PHI, it does not refer to an activity of the PHI or the author of the disclosure has not been identified, but it contains information and/or evidence of the illegal practice – such information is examined under general rules.

<sup>66</sup> Ibidem, art.3;

<sup>67</sup> Ibidem, the deadline is set forth in art.12;

In case of public disclosure of illegal practices, the employee may be recognized as a whistleblower either by the examining authorities (the PHI where he/she is employed or the NAC) or by the defence authorities (the PHI where he/she is employed or the Ombudsperson), while applying for protection<sup>68</sup>.

If an administrative or criminal proceeding is initiated based on the disclosure, the whistleblower shall be informed that his/her report will be examined under the terms and conditions of the Code of Administrative Offences or the Criminal Procedure Code<sup>69</sup>.

#### 8.4. Whistleblower's protection

An employee who, due to his/her disclosure of illegal practices, may become a victim of retaliation (through actions, inactions or threats) by the employer or by another person in the PHI where he/she is employed. For this reason, **whistleblowers are entitled to seek protection from:**

- ▶ the employer (PHI) in the case of internal disclosures of illegal practices;
- ▶ the Ombudsperson, in case of external and public disclosures of illegal practices.

*The employer* carries out administrative actions to end the retaliation against the employee, including at work, and to ensure his/her protection as a whistleblower. The employer repels the final administrative acts in connection with the disclosure of illegal practices by the integrity whistle-blower.

*The Ombudsperson* reviews the request for protection and helps protect the whistle-blowers as enshrined in the Law on the Ombudsperson<sup>70</sup>. In case of public disclosure of illegal practices, the Ombudsperson may grant protection *ex officio* on his/her own initiative<sup>71</sup>.

<sup>68</sup> Ibidem, art.11;

<sup>69</sup> Ibidem, art.12;

<sup>70</sup> Republic of Moldova, *Law on the Ombudsperson No.52 of 03.04.2014*, accessed in November 2018;

<sup>71</sup> Ibidem, art.16;



**The whistleblower shall enjoy the following guarantees of protection:**

1. his/her transfer or transfer of the person undertaking retaliation for the period of examination of the application for protection to another subdivision of the PHI, keeping the same activity or, in the absence thereof, to a subdivision carrying out a related activity, in order to exclude or limit the influence of the retaliating person;
2. sanctioning the person who has committed retaliation in connection with the illegal practices' disclosure qualifying as whistleblowers' reports or, as the case may be, the PHI manager for the failure to ensure protection measures;
3. cancelling by the employer or by the administrative jurisdiction court of the disciplinary sanctions imposed on the employee as a result of a public disclosure made in good faith;
4. compensation for material and moral damages incurred as a result of retaliation<sup>72</sup>.

It is important to mention that **an employee is considered to act in good faith** if the disclosure of the illegal practice made by him/her is found to be true or if the employee has a reasonable conviction that the acts witnessed jeopardize or harm the public interest. Disclosure of an illegal practice by an employee is presumed to be true until proven otherwise<sup>73</sup>.

**The whistleblower is entitled to file a written request for enforcement of his/her protection guarantees.** This request shall be filed with the employer (in the case of internal disclosures) or the Ombudsperson (in case of external and public disclosures).

The employee must meet the following **conditions in order to benefit of protection:**

- ▶ to be acknowledged as a whistleblower or have made a public disclosure of illegal practices by the employer or, if the case, by the NAC;

<sup>72</sup> Ibidem, art.14;

<sup>73</sup> Ibidem, art.6;

- ▶ to be subjected to retaliation;
- ▶ existence of a causal link between the disclosure of illegal practices and the alleged retaliation.

The employer (for internal disclosures) or the Ombudsperson (for external or public disclosure) will examine the request for protection of the whistleblower on a priority basis within no more than 15 days, after which they will notify the whistle-blower about the result of his/ her request or the reasons for the refusal. The term referred to above shall run from the day the request is registered with the PHI or the Ombudsperson.

**The protection granted can be withdrawn** in the following situations:

- ▶ the notified information is not true, including by proving that the employee knew or ought to have known the false nature of the content of his/her disclosure (the disclosure is therefore considered to have been made in ill-faith);
- ▶ the alleged retaliation is not real;
- ▶ there is no causal link between public interest disclosure and the alleged retaliation<sup>74</sup>.

<sup>74</sup> Ibidem, art.15;

## 9. INTOLERANCE TOWARDS INTEGRITY INCIDENTS

The medical professionals and the PHI managers protect the credibility and the reputation of the PHIs by demonstrating their commitment to zero tolerance to integrity incidents within the health care system<sup>75</sup>.

An *integrity incident* refers to a corruption manifestation actually occurred (bribery, acts related to it and corruptible acts) as well as to a similar event occurred within a professional integrity test<sup>76</sup>. Integrity incidents, which constitute deviations from ethics and deontological rules, are regulated by the special legislation in the area of healthcare and, as the case may be, by the Labour Code. They may also constitute crimes and offences as provided for by the Code of Administrative Offences and the Criminal Code<sup>77</sup>.

To comply with the national policy of zero tolerance vis-à-vis integrity incidents, **medical professionals have the following obligations:**

- ▶ to refuse being involved in integrity incidents and to report such attempts on them by others, including those of being offered inadmissible gifts, being subject to undue influences and involved in any corruption or corruption-related act;
- ▶ to include information in good faith in illegal practices' disclosures, taking into account the conditions described *above*;
- ▶ to support other medical professionals in refraining from becoming involved in integrity incidents<sup>78</sup>.

<sup>75</sup> Republic of Moldova, *Integrity Law No.82 of 25.05.2017*, art.19, accessed in November 2018;

<sup>76</sup> Ibidem, art.3;

<sup>77</sup> Ibidem, art.19;

<sup>78</sup> Ibidem;

On the other hand, **PHI management** has the **following obligations** to ensure zero tolerance to integrity incidents:

- ▶ to lead the staff of the PHI by example, observing public interest and refraining from integrity incidents in their own professional activity;
- ▶ to ensure disciplinary sanctioning of all integrity incidents that constitute disciplinary misconduct by PHI employees;
- ▶ to notify the anti-corruption authority in charge of the integrity incidents that constitute administrative or criminal offences, when committed by PHI employees<sup>79</sup>.

<sup>79</sup> Ibidem;

## 10. MEDICAL ETHICS AND DEONTOLOGY

In order to establish a climate of trust and mutual respect between the citizens and the health care system, aimed at improving its reputation and overall services provided in the PHIs, the MHLSP, the managers and the employees shall promote the provisions of the Code of Medical Deontology and inform the public about the ethical and professional conduct that citizens are entitled to expect from medical professionals and pharmacists<sup>80</sup>.

The Code of Medical Deontology aims at protecting patients' rights, ensuring the respect of professional obligations, increasing awareness of appropriate behaviour of all members of the medical community. Ultimately, the Code of Medical Deontology strives to protect the reputation and prestige of the profession of both doctors and pharmacists<sup>81</sup>.

While this chapter does not present an exhaustive list of deontological obligations established by the Code, it proposes an overview of those rules linked to integrity and anti-corruption aspects:

- ▶ reputation and prestige of medical professionals (10.1);
- ▶ special integrity requirements of the medical professionals (10.2);
- ▶ deontological requirements with regards to patients (10.3);
- ▶ deontological requirements with regards to the healthcare institution and colleagues (10.4);
- ▶ medical error (10.5);
- ▶ maintaining professional competence (10.6).

<sup>80</sup> Republic of Moldova, *Integrity Law No.82 of 25.05.2017*, art.23, accessed in November 2018;

<sup>81</sup> Republic of Moldova, *Code of Medical Deontology, Government Decision 192 of 24.03.2017*, paragraph 3, accessed in November 2018;

### 10.1. Reputation and prestige of medical professionals

The status of the medical professional represents a personal moral capital and depends on his/her professional training, implying a certain prestige and reputation of the person concerned<sup>82</sup>.

According to the Code of Medical Deontology, the indicator of the quality of medical service is the patient's trust<sup>83</sup>. Therefore, medical professionals shall participate directly in establishing and protecting the positive image of their profession and the institution they represent<sup>84</sup>. Moreover, each member of both the medical and pharmaceutical community has an obligation to respond and report to higher hierarchical authorities any cases encountered in their professional activity that may affect their professional image and status, have a negative impact on the occupational prestige of the medical professional, or affect the reputation of their institution<sup>85</sup>.

The healthcare profession is incompatible with ignorance, indifference, arrogance, impatience, discrimination, stigmatization that affects and discredits the reputation of an individual medical professional, of the entire healthcare institution or of the medical system in general<sup>86</sup>.

### 10.2. Special integrity requirements of the medical professionals

Integrity requirements of medical professionals, as set out in the Code of Medical Deontology, constitute specific prohibitions as presented in Chapter 4 of the Guide.

<sup>82</sup> Ibidem, point 10;

<sup>83</sup> Ibidem, point 14;

<sup>84</sup> Ibidem, point 12;

<sup>85</sup> Ibidem, point 11;

<sup>86</sup> Ibidem, point 29;

### 10.3. Deontological requirements with regards to patients

The doctor-to-patient relationship is based on mutual respect and trust, on the patient's right to choose a treatment, exercised under the legislation in force<sup>87</sup>.

Once responding to a request from a patient, medical professionals are morally obliged to provide the patient with qualified care, including by referring the patient to another medical facility or to a different specialist with more advanced competences<sup>88</sup>.

The deontological expectations from medical professionals in relation to patients will be analyzed from the following perspectives:

- ▶ public health (10.3.1);
- ▶ informing and respecting the opinion of the patient (10.3.2);
- ▶ confidentiality and professional secrecy (10.3.3);
- ▶ medical interventions (10.3.4);
- ▶ medical emergencies, natural calamities and force majeure (10.3.5);
- ▶ respect for the integrity and dignity of the patient (10.3.6);
- ▶ biomedical research on human subjects (10.3.7);
- ▶ refusal to provide medical assistance (10.3.8).

#### 10.3.1. Public health

Medical professionals have the moral and ethical obligation to bring to the attention of the competent authorities any situation that could pose a threat to public health<sup>89</sup>.

<sup>87</sup> Republic of Moldova, *Medical Profession Law No.264 of 27.10.2005*, art.18, accessed in November 2018;

<sup>88</sup> Republic of Moldova, *Code of Medical Deontology, Government Decision 192 of 24.03.2017*, point 31, accessed in November 2018;

<sup>89</sup> Ibidem, point 33;

#### 10.3.2. Informing and respecting the choice of the patient

Medical professionals must respect the patient's free choice regarding the provision of healthcare services<sup>90</sup>. He/she must respect the patient's right to decide without imposing personal convictions and without exerting psychological pressure on the patient<sup>91</sup>.

Medical professionals must provide the patient, at his/her request, with full and comprehensible information about his/her health status, the stages of treatment, the risks and the expected results<sup>92</sup>. The information should be provided in a manner inspiring optimism, hope and confidence, without omitting the importance of the psychological factor of healing<sup>93</sup>.

The more complex and risky the medical procedure, the more information about the risks and possible alternatives must be provided to the patient<sup>94</sup>. A serious prognosis shall be brought to the attention of the patient with caution, compassion, and tact, providing the patient with psycho-emotional support, and, if necessary, referring him/her to psychological counselling<sup>95</sup>. The real prognosis will not be disclosed if the patient states that he/she does not want to know about his/her condition. In this case, members of the patient's family may be informed as requested by the patient<sup>96</sup>. The prognosis will be communicated to the family only with the patient's consent<sup>97</sup>.

The consent is considered implicit in cases where the patient is personally present for medical consultation. The consent will be accepted only after the patient has been fully informed of the diagnosis, prognosis, therapeutic alternatives, risks and benefits<sup>98</sup>.

<sup>90</sup> Ibidem, point 34;

<sup>91</sup> Ibidem, point 39;

<sup>92</sup> Ibidem, point 36;

<sup>93</sup> Ibidem, point 38;

<sup>94</sup> Ibidem, point 40;

<sup>95</sup> Ibidem, point 42;

<sup>96</sup> Ibidem, point 43;

<sup>97</sup> Ibidem, point 41;

<sup>98</sup> Ibidem, point 45-46;

The patient's consent may be accepted in verbal or written form and shall be acknowledged in his/her medical records with the obligation to appose the patient's signature or that of his/her legal representative's (close relative). The records shall also include information about the doctor and/or other medical staff involved in the case, description of the conditions and intended medical procedure. The possible risks shall be expressly stated<sup>99</sup>. In the case of underage patients or persons with limited capacity to act, the consent will be expressed by the guardian, legal representatives or other designated persons<sup>100</sup>.

The medical professional should ensure that the patient's refusal to follow recommended treatments is not due to a moment of physical suffering or mental overload. In these cases, with the consent of the patient, the medical professional may seek the help of relatives who can provide support in the patient's decision making. In the absence thereof, the medical professional will provide to the patient support in making the decision, in accordance with his/her professional duty, the primary objective being the life, health and benefit of the patient<sup>101</sup>.

If the reason for uncertainties exceeds professional competence and has a social, legal or other non-medical aspect, it is advisable to consult the ethics committees existing at the institutional level, which will issue an opinion and recommendations in this respect<sup>102</sup>.

### 10.3.3. Confidentiality and professional secrecy

Medical professionals have the duty to protect the confidentiality of patient information obtained in the course of their professional activity in the process of collecting, storing, transmitting, receiving or destroying data. Confidentiality implies the patient's right that information about his/her physical and mental health as well as the intimate aspects of personal life are not divulged to third parties according to the provisions

<sup>99</sup> Ibidem, point 48;

<sup>100</sup> Ibidem, point 50;

<sup>101</sup> Ibidem, point 47;

<sup>102</sup> Ibidem, point 51;

of the Law on Personal Data Protection<sup>103</sup>. Confidential information may be disclosed:

- ▶ with the written consent of the patient;
- ▶ with the written consent of the guardian/legal representative of the patient, when the patient's age or health conditions do not allow for direct consent;
- ▶ in order to prevent major harm or damage to the health of the patient, a third person or the general public;
- ▶ at the request of the criminal investigation authorities, the prosecutor's office and the court in connection with an on-going criminal prosecution or judicial inquiry;
- ▶ in other situations, exclusively provided for by the law.

Disclosure of private information in the cases referred to *above* shall be made without causing moral harm to the patient, with maximum respect for his/her dignity<sup>104</sup>.

### 10.3.4. Medical interventions

Any medical intervention may be performed only with the consent of the patient, except when his/her physical and mental conditions prevent him/her from taking a conscious decision or in other situations established by law. The medical professional shall inform the patient or his/her legal representatives about the possible risks of a medical intervention, as well as the possibility to refuse it. The medical professional is also entitled to refuse to perform a medical intervention (except in emergency situations), referring the patient to another specialist, in the following exceptional cases:

- ▶ in the absence of professional competence in the field or of the technical and medical resources necessary for the medical intervention;

<sup>103</sup> Republic of Moldova, *Law No.133 of 08.07.2011 on Personal data protection*, accessed in November 2018;

<sup>104</sup> Ibidem, point 52-55;

- ▶ in case of contradictions between the medical intervention and the ethical and moral principles of the doctor;
- ▶ if it is impossible to create a therapeutic contact with the patient<sup>105</sup>.

### 10.3.5. Medical emergencies, natural disasters and force majeure

Medical professionals are not obliged to exercise their profession under conditions that could compromise the quality of medical care and professional medical procedures, except for vital medical and surgical emergencies<sup>106</sup>. In emergency situations when the life of the patient is endangered and he/she cannot express his/her will and his/her relatives or legal representatives cannot be contacted, the consent will be deemed to be implicit and the medical professional will do his/her best to save the patient's life, subsequently informing the patient about the extent of the medical procedure performed<sup>107</sup>.

Medical professionals who are in the proximity of an injured patient or a patient at risk are obliged to provide the required assistance to the best of their abilities at that moment and place or shall ensure that the patient receives the necessary care. In case of risk of death, the medical professional will stay with the patient for as long as his/her professional help is needed.

In exceptional cases, medical professionals will provide their professional services as soon as they learn about the event. In case of force majeure or exceptional circumstances, they shall not abandon their patients unless the central specialized public authority allows it by an order issued in accordance with the law<sup>108</sup>.

<sup>105</sup> Republic of Moldova, *Medical Profession Law No.264 of 27.10.2005*, art.18, accessed in November 2018;

<sup>106</sup> Republic of Moldova, *Code of Medical Deontology, Government Decision 192 of 24.03.2017*, point 32, accessed in November 2018;

<sup>107</sup> Ibidem, point 49;

<sup>108</sup> Ibidem, point 56-59;

### 10.3.6. Respecting the patient's integrity and dignity

The medical professional asked to provide assistance to a person deprived of liberty, including a detainee, cannot cause, directly or indirectly, or favour any prejudice to the prisoner's physical or mental integrity, including his/her dignity. If they notice that the person in detention requires medical care, they have the moral and professional obligation to ensure that the detained person is provided with necessary medical or pharmaceutical services<sup>109</sup>. Medical professionals shall not be involved in committing degrading acts against human beings<sup>110</sup>. Every medical professional must do their utmost to reduce the suffering of incurable patients, in full respect of his/her dignity<sup>111</sup>. They shall also reject any forms of mutilation of the patient without medical justification and without his/her informed consent, except in emergencies involving vital risk<sup>112</sup>.

Through their professional actions, medical professionals will not subject the patient to any act prohibited by the law, even if there is a clear request of the patient or his/her representative<sup>113</sup>. They will not assist or encourage the patient to commit suicide or self-harm through advice, recommendations and other means, and will refuse any explanation or assistance in doing so. The medical professional has the obligation to inform in detail any donor of organs, tissues, blood about the nature of the intervention envisaged and the possible consequences. The medical professionals involved in transplant procedures cannot confirm cerebral death of the donor of organs or tissues<sup>114</sup>.

It is forbidden to produce human embryos for the purpose of scientific research and marketing. The medical professional must show a fair and unrestricted attitude towards couples undergoing artificial insemination,

<sup>109</sup> Ibidem, point 35;

<sup>110</sup> Ibidem, point 30;

<sup>111</sup> Ibidem, point 71;

<sup>112</sup> Ibidem, point 73-74;

<sup>113</sup> Ibidem, point 72;

<sup>114</sup> Ibidem, point 76-77;

and the child born following this procedure will be able to enjoy all the natural rights prescribed by law<sup>115</sup>. Pregnancy interruption can be practiced only in the cases and conditions provided for by the law<sup>116</sup>.

### 10.3.7. Biomedical research on human subjects

Any biomedical research (clinical trial) involving human beings, whether sick or healthy, shall be endorsed by the National Committee of Clinical Trial Ethics Expertise<sup>117</sup>. In clinical trials on human subjects, the well-being of the individual shall prevail over the good of society and of science<sup>118</sup>. Any therapeutic or experimental activities on human beings motivated by professional curiosity are prohibited<sup>119</sup>.

Forcing or misleading the subject to participate in biomedical research (clinical trial) is a severe violation of the principles of medical ethics and of the legislation in force<sup>120</sup>. A human subject may participate in a biomedical research (clinical trial) only voluntarily and only after he/she has expressed his/her written consent and if he/she is unable to express his/her informed consent, after the legal representative gave written consent, being informed of the nature, extent, consequences and risks of the clinical trial. Subjects can withdraw at any time from biomedical research (clinical trial) by revoking their written consent without any damage to them. A patient's refusal to participate in a biomedical research (clinical trial) should not influence the quality of the doctor-patient relationship<sup>121</sup>.

The medical professionals involved in biomedical research (clinical trial) have a duty to promote and protect the life, health, privacy and dignity of human subjects participating in the research. They should take all necessary measures to protect the privacy of the subjects involved in the

<sup>115</sup> Ibidem, point 78-79;

<sup>116</sup> Ibidem, point 75;

<sup>117</sup> Ibidem, point 68;

<sup>118</sup> Ibidem, point 60;

<sup>119</sup> Ibidem, point 63;

<sup>120</sup> Ibidem, point 67;

<sup>121</sup> Ibidem, point 64-66;

research in order to preserve the confidentiality of personal information, minimizing, as far as possible, the impact of the research on their physical and mental integrity.<sup>122</sup>

### 10.3.8. Refusal to provide medical assistance

The medical professional may refuse to perform a medical procedure:

- ▶ for sound professional reasons, justified by lack of sufficient knowledge and specific qualification, or limited technical and material possibilities to perform the requested assistance, except in the case of risk for a patient's life;
- ▶ when it becomes impossible to establish a therapeutic contact with the patient with a negative psycho-emotional involvement, in which case the patient shall be referred to another medical professional with similar qualification for the necessary medical assistance<sup>123</sup>.

## 10.4. Deontological requirements vis-a-vis the PHI and colleagues

Medical professionals shall refrain from any action or attitude that may bring prejudice to the image, prestige or legal interests of the institution in which they work or to the patient<sup>124</sup>. They shall have a conduct based on respect, fairness and courtesy in dealing with all colleagues<sup>125</sup>. The relationships between medical professionals shall be based on fairness, collaboration, mutual respect and solidarity. Relationships between medical professional and pharmacist shall be based on a spirit of collaboration, within the limits of specific competences, without subordination. A doctor shall have a respectful attitude towards medical staff from hierarchically lower positions.

<sup>122</sup> Ibidem, point 61-62;

<sup>123</sup> Ibidem, point 69-70;

<sup>124</sup> Republic of Moldova, *Medical Profession Law No.264 of 27.10.2005*, art.7, accessed in November 2018;

<sup>125</sup> Republic of Moldova, *Code of Medical Deontology, Government Decision 192 of 24.03.2017*, point 80, accessed in November 2018;

Only professional actions and deontological behaviour may be subject to criticism. A doctor cannot prevent the patient from choosing another treating doctor. The professional reputation of the doctor is based on the results of his/her work<sup>126</sup>. Blaming and defaming colleagues in the presence of patients, healthcare personnel or other persons, as well as any expression or act that may undermine the confidence in the treating medical professional and his/her status constitutes a violation of ethical and deontological rules.

Medical professionals will ask for a colleague's opinion or will recommend to the patient consultation with other colleagues if they consider their own abilities and knowledge to be insufficient. If the proposal for consultation comes from the patient or his/her relatives, the treating medical professional is obliged to organize the consultation. A medical professional who has previously followed the patient, at his/her proposal or the proposal of his/her relatives, during the current visit or hospitalization, will not examine the patient on his/her own initiative without the consent of the treating doctor, except in the case of emergency.

If the patient is treated by a group of specialists, they will withdraw to discuss the case, in an atmosphere of mutual respect and cooperation. Once the specialists have reached a consensus, the treating medical professional will inform the patient of the outcome of the consultation. The case and critical remarks will not be discussed in the presence of the patient or persons not involved in the case, even if they are subordinate medical or pharmaceutical workers. If, in consultation with a group of specialists, their opinion differs fundamentally from that of the treating doctor, the patient should be informed of this fact. The doctor is free to withdraw from treatment if the opinion of the other medical professionals who participated in the consultation prevails according to the patient or his or her relatives' will<sup>127</sup>.

<sup>126</sup> Republic of Moldova, *Medical Profession Law No.264 of 27.10.2005*, art.19 and 20, accessed in November 2018;

<sup>127</sup> Republic of Moldova, *Code of Medical Deontology, Government Decision 192 of 24.03.2017*, point 81-89, accessed in November 2018;

## 10.5. Medical error/Malpraxis<sup>128</sup>

The position taken by medical professionals towards medical error is an essential aspect for all patients' well-being<sup>129</sup>. In order to reduce medical errors, medical professionals must act with caution, objective scepticism, moderate vigilance and zeal, as well as show scientific scrupulosity<sup>130</sup>. They should consider and evaluate the smallest risks by displaying a prudent and accurate attitude, including more common risks susceptible to early evaluation, as well as uncommon risks, resulting for instance from emergency situations<sup>131</sup>.

Every medical professional is morally obliged to report to the specialists in the field any errors committed by him/her or errors found in the activity of other colleagues if the life, health and well-being of the patient can be affected<sup>132</sup>.

## 10.6. Maintaining professional competences

Medical professionals must continuously develop and improve their professional knowledge and skills throughout their entire activity, increase the prestige of the medical profession, in order to maintain patients and citizens' trust. Self-training is an important and permanent responsibility of the members of the medical and pharmaceutical community<sup>133</sup>. In the exercise of the medical profession, permanent professional improvement is achieved by:

- ▶ ongoing professional training, according to the curriculum developed and approved by the MHLSP;

<sup>128</sup> Republic of Moldova, *Criminal Code, No. 985 of 18.04.2002*, in Art. 213 (Negligent breach of the rules and methods of granting health care) establishes that "the violation by the doctor or other health care provider of the rules or methods of providing medical assistance if it has caused a) serious injury to body integrity or health or b) the patient's death, shall be punished by imprisonment for up to three years with (or without) deprivation of the right to occupy certain positions or to exercise a certain activity for a period of 2 to 5 years";

<sup>129</sup> Ibidem, point 90;

<sup>130</sup> Ibidem, point 93;

<sup>131</sup> Ibidem, point 92;

<sup>132</sup> Ibidem, point 91;

<sup>133</sup> Ibidem, point 15-16;



- ▶ regular improvement of knowledge and practical skills of medical professionals by participating in various types of training courses;
- ▶ attestation of the theoretical knowledge and practical skills of doctors and other medical professionals, with the appreciation of the degree of qualification, as established by the MHLSP, taking into account the opinion of the League of Doctors of the Republic of Moldova;
- ▶ promoting highly qualified medical activity;
- ▶ state support to medical professionals willing to improve their professional knowledge<sup>134</sup>.

## 11. ACCESS TO INFORMATION OF PUBLIC INTEREST

Pursuant to the provisions of the Integrity Law, access to information of public interest on the activity of public entities (including PHI) guarantees that citizens are kept informed and are able to exert public control over the activity of public entities. This shall boost active participation of the population in assessing services and, when foreseen by law, in decision making. To this end, the PHI manager shall ensure free access to official information, including by actively, properly and timely informing citizens on matters of public interest and on issues of personal interest to them, as the case may be<sup>135</sup>.

In this respect, the PHI is to ensure the examination of the requests for access to information and to observe the deadline of fifteen working days for the provision of information, with the possibility of extending this deadline by another 5 working days after the applicant has been informed of the extension. At the same time, the right to access to information is ensured by observing legal limitations in order to protect confidential information and private life of the person, as well as in other set cases (commercial, banking secrecy, etc.).

The management and the employees of PHI are entitled to urgently disseminate to the general public the information that has become known to them in the course of PHI activity if this information can prevent or mitigate the risk for the life and health of people or the risk of any harm, can stop the dissemination of false information or reduce possible negative consequences, or if this information is of a particular social importance.<sup>136</sup>

In the case of PHI, the implementation of national integrity policies on access to information of public interest is based on the special rules

<sup>135</sup> Republic of Moldova, *Integrity Law No.82 of 25.05.2017*, art.21, accessed in November 2018;

<sup>136</sup> *Ibidem*;

<sup>134</sup> Republic of Moldova, *Medical Profession Law No.264 of 27.10.2005*, art.13, accessed in November 2018;

applicable to healthcare, including the legal and ethical professional obligations of medical professionals. This does not mean PHIs and their managers should not comply with the general requirements of the Law on the Access to Information no.982 of 11.05.2000<sup>137</sup>. However, given the professional specificity, medical professionals are bound to observe the rules of professional secrecy<sup>138</sup> and confidentiality of the patient's information.

*Professional secrecy and personal information that cannot be disclosed* is information about the requesting medical assistance, health status, diagnosis and other data obtained by the medical professional in the examination and treatment of a patient. Information linked to professional secrecy cannot be disclosed even after the completion of treatment or death of the patient.

Information that constitutes professional secrecy may be passed on to other persons in the interest of examining and treating the patient, conducting scientific investigations, using such data in the course of a study and for other purposes only with the consent of the patient or his/her legal representative. The disclosure of information that constitutes professional secrecy to other persons without the consent of the patient or his/her legal representative is allowed in the following cases:

- ▶ for the purpose of examining and treating the patient who is unable, due to his/her health conditions, to express his/her wish;
- ▶ if there is a risk to spread contagious diseases, intoxications and other diseases presenting a mass threat;
- ▶ upon request of the criminal prosecution authorities, the prosecutor's office and the court in connection with criminal investigations or judicial inquiries;
- ▶ upon request of the Ombudsperson or that of the Ombudsperson for the child rights, in order to ensure the protection of persons

<sup>137</sup> Republic of Moldova, *Law No.982 of 11.05.2000 on Acces to Information*, accessed in November 2018;

<sup>138</sup> Republic of Moldova, *Medical Profession Law No.264 of 27.10.2005*, art.10, accessed in November 2018;

against torture and other cruel, inhuman or degrading treatment or punishment;

- ▶ upon request of the members of the Council for the Prevention of Torture, in the course of their visits and within the limits required for conducting visits;
- ▶ when providing health services to a person who lacks capacity to act and is unable to inform his/her parents or his/her legal representatives;
- ▶ in circumstances where it can be assumed that the damage to the health of the person is the consequence of an illegal action.

In all cases when the personal information of the patients is being legally conveyed, the persons to whom professional secrecy information is sent shall be liable for the disclosure of information provided, in accordance with relevant legal provisions<sup>139</sup>.

<sup>139</sup> Ibidem;

## 12. ADDITIONAL STANDARDS FOR THE MANAGERS OF THE PUBLIC HEALTHCARE INSTITUTIONS

The general legal framework regulating integrity in the public sector is not fully applicable to medical professionals, as they do not fall under the scope of the declaration of assets and personal interests. For these reasons, they are also not subjects to conflict of interest regulations, advertisement and post-employment limitations. Moreover, they are not covered by the legal provisions on transparency in the decision-making process and transparent management of PHI's financial and patrimonial resources, unless delegated certain duties in this regard by the PHI manager. The integrity standards applicable to medical professionals and PHI managers were described in Chapters 2-11 of the Guide.

Chapter 12 examines a range of integrity standards applicable specifically and only to the PHI managers (heads and deputy heads of the PHI), in addition to the rest of the standards presented in the previous chapters. Therefore, Chapter 12 covers the following integrity standards:

- ▶ assets and personal interests (12.1);
- ▶ conflicts of interest (12.2);
- ▶ advertisement limitation (12.3);
- ▶ transparency in the decision-making process (12.4);
- ▶ management of the PHI's financial and patrimonial resources (12.5);
- ▶ post-employment limitations of the former PHI managers ("revolving doors") (12.6).

### 12.1. Assets and personal interests

Compliance with the legal regime for the declaration of assets and personal interests by the PHI managers aims at preventing unjustified and unlawful enrichment and avoiding conflicts of interest in their work, as well as making them accountable for such actions and their consequences. The PHI managers are therefore obliged to submit the declaration of assets and personal interests in accordance with the provisions of the Law no.133 of 17.06.2016 on the Declaration of Assets and Personal Interests (Law on Declaration of Assets and Personal Interests)<sup>140</sup>.

In order to ensure the submission of declarations by PHI managers, the MHLSP shall designate persons in charge for maintaining and updating the information in the Electronic Register of the Subjects of the Declaration of assets and personal interest as well as ensuring disciplinary sanctioning for the failure to comply<sup>141</sup>.

The declaration of assets and personal interests is an individual act, filed on one's own responsibility, in electronic format, through the E-Integrity system, available on the webpage of the NIA (<http://ani.md>). The filling in and filing the assets and personal interest declaration shall be done according to the Regulation on completing the assets and personal interest declarations in electronic form, approved by NIA with Order nr. 15 of 27.02.2018<sup>142</sup>. The signature on the declarations is posed with the electronic signature system issued under applicable legislation. Detailed instructions on how to complete the online declarations is included in the Guide on the submission of online assets and personal interests declarations<sup>143</sup>. After the submission of the declarations, the subjects of declaration can download

<sup>140</sup> Republic of Moldova, *Integrity Law No.82 of 25.05.2017*, art.13, accessed in November 2018;

<sup>141</sup> Republic of Moldova, *Law on Assets and Personal Interest Declaration No.133 of 17.06.2016*, art. 23, and *Integrity Law No.82 of 25.05.2017*, art.13, both accessed in November 2018;

<sup>142</sup> Republic of Moldova, *Regulation on the completion of assets and personal interest declarations in electronic form, NIA Order nr. 15 of 27.02.2018*, accessed in November 2018;

<sup>143</sup> Republic of Moldova, *Guide on the submission of online assets and personal interest declarations*, accessed in November 2018;

an electronic confirmation confirming their submission. The text of this document is presented in Annex 12 of the present Guide.

The NIA adopts and publishes instructions for filling out declarations, ([www.ani.md](http://www.ani.md)). The obligation to file a declaration is applicable to:

- ▶ *appointed PHI managers* – within 30 days of appointment<sup>144</sup>;
- ▶ *PHI managers* – annually, until 31 March of each year<sup>145</sup>;
- ▶ *PHI managers who resumed their activity after a period of suspension* – within 30 days after resuming the position in the PHI, if the suspension period was more than one fiscal year<sup>146</sup>;
- ▶ *former PHI managers* – within 30 days after their dismissal/resignation<sup>147</sup>.

In accordance with art. 6 of the Law 133/2016, in case of changes within the same institution, by promotion or nomination to a higher position, the subject of declaration does not submit a new declaration. This rule applies only within the subdivisions of an entity (units, sections, departments and general directorates) or decentralized public services directly managed by a ministry and other central administrative entities, which do not hold the status of legal persons and do not have representation roles.

Therefore, in the case of promotion or transfer to another PHI, a new declaration of assets and personal interests shall be submitted by the head and deputy head<sup>148</sup>.

The consequence for failure to submit the declaration of assets and personal interests, the refusal to submit it, the irrevocable decision by the court (based on NIA's findings) on the confiscation of unjustified wealth – constitute disciplinary violations, punishable by disciplinary dismissal of the PHI manager<sup>149</sup> by the respective appointing body.

<sup>144</sup> Ibidem, art.6;

<sup>145</sup> Ibidem;

<sup>146</sup> Ibidem;

<sup>147</sup> Ibidem;

<sup>148</sup> Ibidem;

<sup>149</sup> Republic of Moldova, *Law No.132 of 17.06.2016 on the National Integrity Authority*, art.17, and *Law on Assets and Personal Interest Declaration No.133 of 17.06.2016*, art. 23, both accessed in November 2018;

At the same time, such violations entail, as the case may be, also administrative or criminal liability.

Unjustified wealth is **confiscated** based on NIA's ascertaining acts where a substantial difference between the income earned during the exercise of the public mandates, functions or dignity positions and the wealth acquired during the same period is discovered. As a result, the NIA addresses requests to the court to proceed with confiscation of unjustified wealth<sup>150</sup>.

Moreover, in 2013, the offence of illicit enrichment was introduced in the Criminal Code in Article 330<sup>2</sup>, which, in the case of persons holding a management position, incriminates the possession, in person or through third parties, of the assets if their value substantially exceeds the means obtained legally. Illicit enrichment is punished by a fine in the amount of 6000 to 8000 conventional units or by imprisonment from 3 to 7 years. In both cases, the ban to hold public offices and dignity positions for a period of 10 to 15 years applies.

In the same year, the **extended confiscation measure** was introduced in Article 106<sup>1</sup> of the Criminal Code, applicable to convictions for corruption offences, including offences of illicit enrichment. Thus, extended confiscation is ordered if the following conditions are met cumulatively:

- a) the value of the assets acquired by the convicted person in the previous 5 years and after the offence has been committed, up to the date of the sentence, exceeds substantially the legal incomes;
- b) the court finds, on the basis of the evidence presented in the case, that there was **intentional inclusion of incomplete or false data, as well as the deliberate omission in the declaration of assets and personal interests**<sup>151</sup>. This offence shall be punished by a fine in the amount of 400 to 600 conventional units or by imprisonment of up to one year. In both cases, the ban to hold public offices and dignity positions for a period of 2 to 5 years applies.

In view of the above, the PHI managers shall submit their declarations of assets and personal interests with utmost diligence and accuracy, as they

<sup>150</sup> Republic of Moldova, *Law No.132 of 17.06.2016 on the National Integrity Authority*, art. 7, accessed in November 2018;

<sup>151</sup> Republic of Moldova, *Criminal Code*, art.3521 para.(2), accessed in November 2018;

are subject to administrative control by the NIA, but also to public control. In this respect, declarations of assets and personal interests, after redaction of personal data, are published on the NIA website<sup>152</sup>.

The content of declarations may be analysed and commented by journalists. Under these circumstances, the society carries out public monitoring and control over the declarations. Incorrect or incomplete information, under-valued movable and immovable property in relation to market value is highly likely to be detected by citizens and journalists. If complaints are lodged with the NIA, an administrative control may be initiated and may end with sanctions. Moreover, journalists who are analysing declarations, including those of PHI managers will draw attention not only to the wealth, but also to their personal interests, as declared, to reveal the existence of potential conflicts of interest in their activity. For these reasons, PHI managers must pay particular attention to the process of filling out their declarations.

## 12.2. Conflicts of interests

In order to ensure that the public interest is served with impartiality and objectivity, PHI managers shall identify and deal with conflicts of interest that arise in their professional activity within the terms and in the manner provided for by the Law<sup>153</sup>.

For the purpose of this law, *the conflict of interest of the PHI manager* is the situation when he/she has a private interest that influences or could influence the impartial and objective exercise of his/her obligations and responsibilities under the law.

Personal interest means any material or non-material interest of the person concerned, resulting from his/her activities as a private person, from his/her relations with close persons or with legal persons and businesses, property, relationships or affiliations with non-commercial organizations, including political parties and international organizations.

<sup>152</sup> Republic of Moldova, *Law on Assets and Personal Interest Declaration No.133 of 17.06.2016*, art. 5 and 9, accessed in November 2018;

<sup>153</sup> Republic of Moldova, *Integrity Law No.82 of 25.05.2017*, art.21, accessed in November 2018;

At the same time, a *person close to the PHI manager* is considered to be the spouse, the child, the live-in partner<sup>154</sup> of the subject of declaration, the person under his/her care<sup>155</sup>, as well as the person related by blood or by adoption (such as parent, sibling, grandparent, grandchild, uncle/aunt) and other keens (brother-in-law, father-in-law, son-in-law)<sup>156</sup>.

### 12.2.1. Typology of conflicts of interests

The Law on Declaration of Assets and Personal Interests acknowledges the existence of the following **types of conflicts of interests**:

- ▶ *potential conflict of interest*: a situation where the private interests of the PHI manager may eventually lead to a real conflict of interests;
- ▶ *real conflict of interest*: when the PHI manager has to deal with a complaint, to issue an administrative act, to conclude a legal act directly or through a third person, to make a decision or to participate in a decision in which he/she has personal interests or persons close to him/her are involved. It may also concern the natural and legal persons with whom he/she has financial relations and which influence or may influence the impartial and objective exercise of position;
- ▶ *consumed conflict of interest*: situation in which the PHI manager allowed for a real conflict of interest to happen, without having respected the obligation to refrain before declaring and solving it and/or without even declaring it<sup>157</sup>.

<sup>154</sup> The live-in partner is defined in the Law Nr. 133, as amended in June 2018, as a person living with the subject of declarations for at least 183 days during the previous fiscal year;

<sup>155</sup> The Law No.133 establishes in Article 3 that a dependent is a person who cumulatively fulfills the following conditions: a) lives with the subject of a declaration or is taken care of by the latter, including under a lifetime caretaking contract; b) has an annual income not exceeding two monthly average monthly wages;

<sup>156</sup> Republic of Moldova, *Law on Assets and Personal Interest Declaration No.133 of 17.06.2016*, art. 3, accessed in November 2018;

<sup>157</sup> Ibidem, art.12;

### 12.2.2. Obligations to identify and treat conflicts of interests

PHI managers are to comply with the following obligations:

- a) to inform in writing, within 3 days, the MHLSP about the real conflict of interest arising from his/her professional activity, explaining the nature of the conflict of interest and how it affects or may affect the impartial and objective exercise of his/her duties;
- b) to avoid the conflict of interests to be consumed by refraining from exercising the duties jeopardised by the conflict of interest, until it has been resolved<sup>158</sup>.

PHI managers are therefore required to refrain from settling requests, issuing administrative acts, concluding, directly or through a third party, legal acts, making decisions or participating in decision-making processes until the conflict of interests has been resolved/handled<sup>159</sup>.

Information on the occurrence of a real conflict of interest shall be provided before the request has been settled, the administrative act was issued, the legal act was concluded, directly or through a third person, before the participation in making any decisions and will take the form of a written statement which should contain data on the nature of the conflict of interest and how it influences or may influence the manager's impartial and objective course of actions.<sup>160</sup> In this regard, the Guide contains in **Annex 9 a form for declaration of a real conflict of interest**. All declarations of conflicts of interest are recorded in a special register kept by the employer (in the case of PHI managers appointed by the MHLSP – by the MHLSP itself). The model **Register of declarations of conflicts of interests** is included in **Annex 10** to the Guide.

<sup>158</sup> Republic of Moldova, *Law on Assets and Personal Interest Declaration No.133 of 17.06.2016*, art. 12, and, *Integrity Law No.82 of 25.05.2017*, art.14, accessed in November 2018;

<sup>159</sup> Republic of Moldova, *Law on Assets and Personal Interest Declaration No.133 of 17.06.2016*, art. 12, accessed in November 2018;

<sup>160</sup> Ibidem;

### The Employer/MHLSP has the following obligations related to identification and handling of conflicts of interests:

- a) to prevent PHI managers from taking actions and making decisions in situations of real conflict of interest;
- b) to ensure declarations of conflicts of interest are recorded in the relevant Register<sup>161</sup> and the person in charge appointed (see *Annex 10* to the Guide *Register of conflicts of interests*);
- c) to resolve the declared conflict of interests within maximum 3 days from the date of notification, applying the possible solutions provided by the special legislation, taking into account the interests of the PHI, the public interest and the legitimate interests of the PHI managers, the level, type of position held by him/her, the nature of the conflict of interest and other circumstances;
- d) to address the NIA if the declared conflict of interest cannot be resolved;
- e) to quarterly inform the NIA in writing about the conflicts of interests identified and the measures taken<sup>162</sup>.

**Settlement of a real conflict of interest** is achieved by examining the conflict situation and by determining and applying the most appropriate resolution option. A real conflict of interest is settled jointly by the PHI managers, the appointing body (MHLSP or the local authorities) or if necessary, by requesting NIA's support to identify a solution. Before the actual conflict of interest has been resolved, the involved PHI manager is prevented from taking any action on the given case, except for refraining to act.

The PHI managers can handle the real conflict of interest by refraining from taking actions or making decisions and by informing all parties

<sup>161</sup> The sample Register of declarations on the conflicts of interests is provided in Annex No.4 to the *Law on declaration of personal property and interests*;

<sup>162</sup> Republic of Moldova, *Law on Assets and Personal Interest Declaration No.133 of 17.06.2016*, art. 12 and 13, and, *Integrity Law No.82 of 25.05.2017*, art.14, accessed in November 2018;

concerned about the measures taken to safeguard the correctness of the decision-making process<sup>163</sup>.

The PHI managers, appointing body (MHLSP or the local authorities), within 3 days from the date of being informed about the real conflict of interest have the obligation to resolve the conflict of interest by applying one of the following options, unless the special laws provide otherwise:

- ▶ restricting the access of the PHI managers affected by a conflict of interest, to certain information or restricting his/her participation in the examination of situations related to his or her private interest;
- ▶ transferring the PHI managers to another position, with his/her written consent;
- ▶ redistributing the tasks and responsibilities of the PHI managers when it is considered that the identified real conflict of interest will continue to exist (for example, vis-à-vis another deputy head of the PHI)<sup>164</sup>.

The Law provides expressly for the obligation of PHI managers who declared a real conflict of interest to comply with the decision regarding the settlement of such conflict<sup>165</sup>.

### 12.2.3. The effect of acts issued in conflict of interest situations

**The effect of the acts issued, passed or concluded in violation of conflict of interest provisions** is the absolute nullity, acknowledged by the court at the request of the NIA or of the persons who consider themselves damaged as a result of the conflict of interest. Absolute nullity does not intervene only when the cancellation of the act will harm the public interest. Besides dismissal, the acknowledgement of consumed conflicts of interests of PHI managers determines the introduction of his/her name in the **State Register of persons banned from holding public office or**

<sup>163</sup> Republic of Moldova, *Law on Assets and Personal Interest Declaration No.133 of 17.06.2016*, art. 14, accessed in November 2018;

<sup>164</sup> Ibidem;

<sup>165</sup> Ibidem;

**public dignity positions**<sup>166</sup>, maintained by the NIA. The persons included in this register cannot be employed in public office and public dignity positions for a period of 3 years<sup>167</sup>.

At the same time, violation of the legal provisions on the conflict of interest constitutes the grounds for administrative or criminal liability and for the contravention or criminal liability and for the revocation, dismissal or, as the case may be, termination of the mandate, of the employment or service relations of the subject concerned.<sup>168</sup> Thus, the failure to declare and settle the conflict of interest entails administrative liability, in accordance with the provisions of art. 313<sup>2</sup> of the Code of Administrative Offences, punished by a fine from 200 to 400 conventional units and with the ban to hold certain positions for a term up to one year.

Since June 2018, Article 326<sup>1</sup> of the Criminal Code incriminates the exercise of duties in the public sector in a situation of conflict of interest in order to obtain, directly or indirectly, a pecuniary advantage which exceeds 10.000 conventional units<sup>169</sup>, for him/herself or for a related party within the meaning of the Law on Declaration of Assets and Personal Interests, if the conflict of interest has not been declared and resolved. If the exercise of the duties in a situation of conflict of interest is committed in connection with the negotiation, management or execution of public funds or from external funds (e.g. foreign aid), the established sanction shall be a fine in the amount of 15.000 to 20.000 conventional units or imprisonment from 2 to 5 years, in both cases with the ban to hold public functions for a term of 5 to 10 years.

### 12.2.4. Refraining from promoting interests of pharmaceutical companies

Although not referring to them as such, the Code of Medical Deontology provides for a special form of conflict of interest, namely the exercise of the medical profession and promotion of the interests of pharmaceutical companies.

<sup>166</sup> Ibidem, art.23;

<sup>167</sup> Ibidem;

<sup>168</sup> Ibidem;

<sup>169</sup> The amount of a conventional unit is 50 lei;

In this respect, para. 20 of the Code of Medical Deontology prohibits medical professionals to prescribe medicines with the brand of specific pharmaceutical companies for the purpose of obtaining personal or institutional profits and the preparation, release, distribution and marketing of pharmaceutical and para-pharmaceutical products.

Such situation, which constitutes a special form of conflict of interest is confirmed following a different procedure than the general one described above, involving the appointing body (MHLSP or the local authorities). Since it is a deontological norm, this specific conflict of interest is confirmed by the ethics committee and is sanctioned by the PHI manager. These violations are punished by disciplinary sanctions, without prejudice to procedures which may include other types of legal liability (criminal, administrative, civil, material, as appropriate)<sup>170</sup>.

### 12.3. Limitations of advertisement

The PHI managers are also obliged to comply with advertisement limitations in order to avoid favouring any representatives of the private sector (including pharmaceutical companies). To this end, the law establishes the following prohibitions:

- ▶ to use the official symbols of the position held for private use;
- ▶ to allow use of his/her name, accompanied by the indication of the position, as well as use of his/her voice or signature in any form of advertisement for any company or of any national or foreign commercial product<sup>171</sup>.

In order to make sure this is respected in the PHIs, the appointing body (MHLSP or the local authorities) shall take the following measures:

- ▶ to inform the PHI managers at the beginning of their mandate about the legal regime of advertisement limitations;

<sup>170</sup> Republic of Moldova, *Code of Medical Deontology, Government Decision 192 of 24.03.2017*, point 116, accessed in November 2018;

<sup>171</sup> Republic of Moldova, *Law on Assets and Personal Interest Declaration No.133 of 17.06.2016*, art.21, and, *Integrity Law No.82 of 25.05.2017*, art.14, accessed in November 2018;

- ▶ to notify the NIA about any PHI managers who do not observe such limitations in their professional activity;
- ▶ to initiate disciplinary actions against PHI managers who have been found to be in violation of the legal regime of advertisement limitations<sup>172</sup>.

Administrative sanctions are foreseen for violations of the limitation in advertisement as per art. 313<sup>4</sup> of the Code of Administrative Offences<sup>173</sup>, as follows:

- ▶ a fee between 50 and 60 conventional units is applied to physical persons, rising to 120 to 200 units for managers, with or without the ban to perform specific activities and to hold public positions or dignity positions for a period from 6 months to one year, or a fee from 200 to 250 units for legal persons.

### 12.4. Transparency in the decision-making process

Transparency and accountability in the activity of the PHI in relation to citizens and involving citizens is ensured by creating opportunities for participation of citizens, associations formed in accordance with the law and other stakeholders in the decision-making process. The rules on transparency for decision-making processes in public entities and the derogations from them are stipulated in the Parliament's Regulation, Law No.239/2008 on transparency in the decision-making process and in the Government's normative acts<sup>174</sup>.

To transpose this policy, the PHI manager has the following obligations:

- ▶ to establish mechanisms for cooperation and partnership with the civil society by adopting internal rules on information, consultation and participation procedures in the process of drafting and making decisions, by drawing up the general list

<sup>172</sup> Republic of Moldova, *Integrity Law No.82 of 25.05.2017*, art.12, accessed in November 2018;

<sup>173</sup> Republic of Moldova, *Code of Administrative Offences Nr. 218 of 24.10.2008*, Art. 3134, accessed in November 2018;

<sup>174</sup> *Ibidem*, art.20;



of stakeholders, and designating an employee responsible for ensuring transparency in the decision-making process;

- ▶ to ensure that the public is informed about the organization of all relevant decision-making processes by:
  - publishing information on the annual activity plans of the PHI;
  - publishing information on the internal rules enacted, the general list of stakeholders as well as information on the employee designated to ensure transparency in the decision-making process;
  - informing the public, through written notices, about initiation of the decision making or, as the case may be, of withdrawing a draft decision from the drafting process;
  - making draft decisions and related materials available to interested parties;
  - publishing the annual report on ensuring transparency in the decision-making process within the public entity;
- ▶ to ensure receipt and review of stakeholders' recommendations to be considered in drafting decisions;
- ▶ to ensure that the stakeholders' opinion is consulted in the review of draft decisions;
- ▶ to ensure the public announcement and organization of public hearings where decisions are made;
- ▶ to ensure that the public is informed about the decisions taken both in ordinary and emergency regime, presenting justification in this regard;
- ▶ to apply disciplinary sanctions against employees who do not fulfil the obligations entrusted to him/her in accordance with the internal rules adopted and the special legislation in the field<sup>175</sup>.

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<sup>175</sup> Ibidem;

## 12.5. Management of the financial and patrimonial resources of the PHI

The PHI manager shall ensure that public resources, paid by taxpayers' contributions, as well as foreign funds are spent in a rational, efficient and sustainable manner. He/she shall manage the budgetary and extra-budgetary allocations, administer public funds based on the principles of good governance, guaranteeing the transparency of public procurement, the implementation of the financial management and control system and the organization of internal auditing in the public sector<sup>176</sup>.

In relation to the organization and **implementation of the financial management and control system**, the PHI manager has the following obligations:

- ▶ to organize the internal audit and provide the necessary resources for its effective implementation;
- ▶ to ensure organizational and functional independence to the internal audit unit, including by placing it directly under the manager's command;
- ▶ to ensure the independence of the internal audit unit in the performance and reporting of internal audit activities;
- ▶ to authorize the internal audit unit staff through an order to perform the internal audit mission;
- ▶ upon request of the head of the internal audit unit, to request in writing from third parties the information necessary to perform the internal audit;
- ▶ to approve the internal audit charter, the strategic plan and the annual plan of the internal audit activity;
- ▶ to evaluate, on a self-assessment basis, the organization of the financial management and control system and to issue on his/her own an annual declaration on good governance for the previous year.

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<sup>176</sup> Ibidem, art.22;

In order to guarantee **the transparency of procurement procedures**, the PHI manager who meets the conditions of a contracting authority has the following obligations:

- ▶ to set up a procurement working group comprising employees, including specialists with professional experience in the field of public procurement. The PHI manager may set up several working groups, depending on the subject of the procurement, as well as may bring consultants, experts and specialists in the given area of the procurement from outside the PHI, securing their right to vote in the working group;
- ▶ to ensure that civil society representatives are included in the working group for each procurement procedure if a written request has been made to this effect at least two days before the deadline for submission of bids;
- ▶ to provide the representatives of the civil society included in the working group with conditions for the exercise of consultative voting rights or the right to a separate opinion in the deliberation of the group;
- ▶ to ensure strict records of requests from civil society and, if several requests are made requiring a number of representatives of civil society to exceed one third of the number of members with deliberative vote, ensure their designation by drawing lots. At the same time, the PHI manager may decide to include civil society representatives in the working group without the envisaged capping;
- ▶ to ensure the autonomous, impartial and lawful exercise of the duties of the members of the working group and monitor possible undue influences and conflicts of interest;
- ▶ to hold disciplinarily liable the employees of the working group if they have not rejected and reported undue influences;
- ▶ to conclude the public procurement contracts with companies awarded by the working group;

- ▶ to assume responsibility for the execution and management of public procurement contracts within the terms and conditions set out therein.

Any public procurement working group established by the PHI shall ensure the efficiency of procedures, their objectivity and impartiality, publicity and transparency, and to transmit, at the request of the Public Procurement Agency, any information on the conclusion and execution of public procurement contracts. To this end, a procurement working group shall:

- ▶ draw up annual and quarterly procurement plans;
- ▶ make announcements and/or invitations in procurement procedures;
- ▶ prepare the awarding documentation and other documents applicable in procurement procedures;
- ▶ initiate and carry out procurement procedures;
- ▶ ensure the broad participation of economic operators in procurement procedures;
- ▶ examine, evaluate and compare the bids of economic operators submitted in the procurement procedures;
- ▶ award procurement contracts;
- ▶ draw up reports on the outcome of procurement procedures and submit them to the Public Procurement Agency;
- ▶ monitor public procurement contracts;
- ▶ keep track of all documents related to procurement procedures.

The detailed obligations concerning the management of PHI resources and finances are to be found in the Law no.229/2010 on the public internal financial control, the Law no.181/2014 on public finances<sup>177</sup> and the fiscal responsibility, the Law no.131/2015 on public procurement<sup>178</sup>, the

<sup>177</sup> Republic of Moldova, *Law on Public Finances No.229/2010*, accessed in November 2018;

<sup>178</sup> Republic of Moldova, *Law on Public Procurement No.131/2015*, accessed in November 2018;

provisions of the normative acts of the Government and departmental documents issued by the Ministry of Finance, shall apply to the PHI accordingly and set obligations for their managers and employees to the extent that they result from the laws and acts referred to above<sup>179</sup>.

## 12.6. Post-employment limitations of the former PHI managers (revolving doors)

In order to ensure the functioning of the PHI in the public interest and outside of conflicts of interest, the persons who have served as PHI managers and who migrated to the private sector are to ensure compliance with the regime of post-employment limitations (so-called “*revolving doors*”)<sup>180</sup>.

They are obliged to communicate to the appointing body (MHLSP or the local authorities) job offers they intend to accept if these jobs can generate a conflict of interest. The communication shall be made in writing, within 3 days of receiving the job offer. Former heads and deputy heads of PHI **shall not obtain benefits unforeseen by the law or the individual employment contract due to their former position**, including due to the service information obtained in the exercise of the respective position<sup>181</sup>. If they cease their mandate in any PHIs, the enterprise in which he/she or the related parties hold shares in the share capital, works in management or revision structures is not entitled for one year to conclude commercial contracts with PHI where they were employed. These restrictions shall not apply if the contract was concluded before they were employed in that enterprise.<sup>182</sup> PHI managers who have ceased their employment relationships may not represent, for one year, the interests of natural or legal persons before the PHI where they were employed or represent natural or legal persons in matters pertaining to their previously performed work duties<sup>183</sup>.

<sup>179</sup> Ibidem;

<sup>180</sup> Ibidem, art.24;

<sup>181</sup> Republic of Moldova, *Law on Assets and Personal Interest Declaration No.133 of 17.06.2016*, art.18, accessed in November 2018;

<sup>182</sup> Ibidem, art.19;

<sup>183</sup> Ibidem, art.20;

For its part, the MHLSP shall take the following measures to ensure the observance of the legal regime of post-employment limitations:

- a) to take the necessary administrative actions in order to avoid conflicts of interest within the PHI for one year after a head or a deputy head leave public service to join a commercial and non-commercial organization;
- b) to avoid for one year entering into commercial contracts with a commercial organization where a PHI's former manager or the persons related to him/her hold shares in the share capital or work in management or revision structures;
- c) to ensure the necessary administrative actions in order to refuse the representation by the former managers of PHI of the interests of natural and legal persons in front of the PHI where he/she worked<sup>184</sup>.

See the definition of *related person* in section 12.2 above, concerning the compliance with the conflict of interest provisions.

<sup>184</sup> Republic of Moldova, *Integrity Law No.82 of 25.05.2017*, art.24, accessed in November 2018;

## 13. ETHICS COMMITTEES OF THE PUBLIC HEALTHCARE INSTITUTIONS

The Code of Medical Deontology establishes that, in order to enforce the provisions thereof, ethics committees shall be established within each PHI carrying out activities based on a regulation approved by the MHLSP<sup>185</sup>.

This chapter examines the following relevant issues related to the activity of ethics committees:

- ▶ setting up of ethics committees and obligations of PHI management;
- ▶ the role of ethics committees;
- ▶ identification of deontological violations and drafting recommendations.

### 13.1. Establishing ethics committees and PHI managers' obligations

The management of healthcare institutions is required to ensure proper conditions for the activity of ethics committees. In this respect, expenditures related to the activity of the ethics committee are covered from the PHI account<sup>186</sup>.

The ethics committee is a collegiate body of competent people who are not paid and represent both medical and other fields<sup>187</sup>. It is important that members of ethics committees meet the criteria presented below.

<sup>185</sup> Republic of Moldova, *Code of Medical Deontology*, point 94, accessed in November 2018;

<sup>186</sup> Ibidem, point 97-98;

<sup>187</sup> Ibidem, point 99;

#### 13.1.1. Professionalism

It is important for the members appointed to ethics committees to **have relevant professional experience and reputation**: experience in the medical and pharmaceutical profession, scientific degrees and academic titles, training in medical ethics etc.

#### 13.1.2. Integrity

No any less important is that **members of ethics committees are persons the deontology and professional integrity of which is outside doubt**: they shall not have been investigated or prosecuted for corruption, subject of violation of assets and personal interests' regime, incompatibilities, etc., not have been involved in media scandals (e.g. for obscene language, journalistic investigations exposing reprehensible behaviour towards patients, the public and the press, etc.). Failure to comply with this criterion will compromise the very reason behind the establishment of these committees. The members of the committees must themselves be examples of ethics that are worthy to be followed by PHI employees.

#### 13.1.3. Diversity

The role of the ethics committees is to give recommendations to medical professionals, as well as to PHI managers on various aspects of ethics and medical deontology, which may be medical and non-medical (social, legal, etc.)<sup>188</sup>. It is therefore important that the composition of the committee is sufficiently diverse. For example, it would be relevant for the ethics committee to have among its members a legal practitioner in addition to people with medical background. This is particularly important when it comes to patients' complaints in the court regarding the recovery of damages, as well as the estimation of the chances of defending the PHI interests, in accordance with the legislation of the Republic of Moldova. It would also be relevant to include members with background in **human resources, communication and/or civil society representatives**, as it would be necessary to assess the risks to

<sup>188</sup> Ibidem, point 51;

the reputation of the PHI in the case of media coverage of the failure to take the proper position within the PHI in relation to violations of medical deontology, etc.

### 13.2. Role of the ethics committees

The function of the ethics committees is to promote and monitor the implementation of the values and norms of the Code of Medical Deontology<sup>189</sup>. The ethics committee is expected to convene at the request of a patient or his/her relatives, a doctor, a group of doctors, hospital administration or non-governmental organizations, trade unions and other interested parties<sup>190</sup>.

Ethics committees are advisory bodies<sup>191</sup>, established within the PHIs to prevent and solve complicated moral issues arising in contemporary biomedical scientific work and clinical practice<sup>192</sup>. When problems arise regarding the application of the provisions of the Code of Medical Deontology or in case of uncertainty in decision-making, the members of the medical community should consult the ethics committees<sup>193</sup>. In this regard, the Code of Medical Deontology recommends that medical professionals consult the ethics committee at the institution's level if there are any uncertainties that exceed professional competence, related to social, legal or other non-medical aspects. In these cases, the ethics committee may issue recommendations accordingly<sup>194</sup>.

### 13.3. Findings of deontological breaches and formulation of recommendations

In case of a violation of the Code of Medical Deontology, as well as other regulations in the area, the ethics committee shall submit to the management of the PHI a report on the examination of the violation,

<sup>189</sup> Ibidem, point 96;

<sup>190</sup> Ibidem, point 100;

<sup>191</sup> Ibidem, point 101;

<sup>192</sup> Ibidem, point 95;

<sup>193</sup> Ibidem, point 111;

<sup>194</sup> Ibidem, point 51;

which will contain recommendations and suggestions to address them. The PHI manager, namely the head of the institution will take the final decision and apply sanctions, which will be communicated to the persons concerned.

The ethics committee report must comply with the provisions of the legislation in force in the Republic of Moldova and international treaties<sup>195</sup>. The medical professionals who violate the doctor's oath, the provisions of the Code of Medical Deontology, as well as the provisions of other normative acts are subject to disciplinary liability. Depending on the degree of severity of the violation, the following sanctions may be applied:

- ▶ warning;
- ▶ reprimand;
- ▶ harsh reprimand<sup>196</sup>.

The managers of the PHI are obliged to provide to the persons in charge of investigating the disciplinary violation any requested documents, as well as any other data and information required for solving the case. The disciplinary liability of a medical professional does not exclude his/her criminal, administrative, civil or material liability<sup>197</sup>.

<sup>195</sup> Ibidem, point 101-103;

<sup>196</sup> Ibidem, point 112-113;

<sup>197</sup> Ibidem, point 115-116;

## 14. BIBLIOGRAPHY:

### National legislation on integrity and anti-corruption

1. Law no.122 of 12.07.2018 on whistle-blowers;
2. Law No. 82 of 25.05.2017 on integrity;
3. Law no.133 of 17.06.2016 on the declaration of assets and personal interest;
4. Law no.132 of 17.06.2016 on the National Integrity Authority;
5. Law no.131 of 3.07.2015 on public procurement;
6. Government Decision no.767 of 19.09.2014 on the implementation of the Law no. 325 of 23 December 2013 on professional integrity testing;
7. Law no.181 of 25.07.2014 on public finances and budgetary-fiscal responsibility;
8. Law No.325 of 23.12.2013 on the assessment of institutional integrity (formerly called “on professional integrity testing”);
9. Government Decision no.134 of 22.02.2013 on the establishment of the admitted value of symbolic gifts, of courtesy or certain protocol actions and the approval of the Regulation on the recording, evaluation, preservation, use and redemption of symbolic gifts, those offered out of courtesy or on the occasion of certain protocol actions;
10. Law no.229 of 23.09.2010 on public internal financial control;
11. Law no.239 of 13.11.2008 on transparency in the decision-making process;
12. Law no.982 of 11.05.2000 on access to information.

### National legislation applicable in the public health sector

13. Government Decision no.192 of 24.03.2017 on the approval of the deontological code of the medical professional and pharmacist;
14. Law no.264 of 27.10.2005 on the medical profession;
15. Law no. 411 of 28 March 1995 on health protection;
16. Order of the MHLSP no.139 PŞ3 of 15.10.2015 regarding the approval of the Regulation on the contest-based employment of medical personnel in the healthcare system;
17. Government Decision no. 1016 of 1.09.2016 for the approval of the Regulation on the contest-based appointment of managers of the public medical and sanitary institutions and the institution’s management contract template.

## 15. LIST OF ANNEXES:

- ▶ **Annex 1:** Form of requesting the professional integrity record
- ▶ **Annex 2:** Form of requesting the integrity certificate
- ▶ **Annex 3:** Form of reporting undue influences
- ▶ **Annex 4:** Form of declaring admissible and inadmissible gifts
- ▶ **Annex 5:** Forms of recording admissible and inadmissible gifts
- ▶ **Annex 6:** Form of reporting a corruption act
- ▶ **Annex 7:** Forms of internal and external disclosures of an illegal practice
- ▶ **Annex 7:** Register of illegal practices' disclosures and of whistle-blowers' reports
- ▶ **Annex 9:** Form of declaring a real conflict of interest
- ▶ **Annex 10:** Register of conflict of interest declarations
- ▶ **Annex 11:** Form of declaring assets and personal interests
- ▶ **Annex 12:** Electronic receipt confirming the submission of the assets and personal interest declaration

## ANNEX 1: Form of requesting the professional integrity record<sup>198</sup>

**National Anti-Corruption Centre or, as appropriate,  
Information and Security Service (ISS)**

### **APPLICATION for professional integrity record certificate**

Surname, first name of the candidate \_\_\_\_\_

Date of birth \_\_\_\_\_ Identification number \_\_\_\_\_

Prospective position \_\_\_\_\_

*Reason for the request (check as applicable):*

appointment (by a competent authority)

competition based

requested transfer from an institution of the same level  
or a lower level institution

*Note on the previous work with the NAC and/or the ISS, as in the  
employment record book (check):*

activity within the NAC during the period \_\_\_\_\_

activity within the ISS during the period \_\_\_\_\_

<sup>198</sup> Adjusted based on the template included in the Regulation on keeping and use of public agents' professional integrity records, included in the Annex no. 2 to Government Decision no. 767 of September 19, 2014 (annex no. 1 to the Regulation);

**ANNEX 2:**  
**Form for requesting the issuance of the**  
**integrity certificate**<sup>199</sup>

no work experience for NAC or ISS \_\_\_\_\_

Surname, first name of the applicant \_\_\_\_\_

*Position held by the applicant:*

Head of the PHI \_\_\_\_\_  
(name of the PHI)

Person authorized by decision of the Ministry of Health,  
Labour and Social Protection

no. \_\_\_\_\_ dated " \_\_\_\_ " \_\_\_\_\_ 20 \_\_\_\_

Signature \_\_\_\_\_ Stamp Date " \_\_\_\_ " \_\_\_\_\_ 20 \_\_\_\_

*Letter head of the requesting PHI*

**National Integrity Authority**

**Application**

For issuance of the integrity certificate

Name, surname \_\_\_\_\_

Date / month / year of birth \_\_\_\_\_ personal ID number \_\_\_\_\_

Residence \_\_\_\_\_

*Reason for request:*

Hiring in a

public position of \_\_\_\_\_;

public position of special status \_\_\_\_\_;

public dignity position \_\_\_\_\_.

*Note on previous activities in public positions, public positions of special status, public dignity positions, public elective positions:*

did not hold public position(s);

held position(s) of:

<sup>199</sup> According to Annex No.1 to the Regulation on the issuance of integrity certificates, NIA Order No.90/653/07 from 09.10.2018;



\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
*(title of position(s) / period of holding the position(s))*

Annexes:

Copy of ID Card of the requestors, series and date \_\_\_\_\_

Copy of ID Card of the representative, series and date \_\_\_\_\_

Delegation no. and date \_\_\_\_\_

\_\_\_\_\_  
*(name / surname / position of the requesting PHI manager / MHLSP)*

\_\_\_\_\_  
*(advanced qualified electronic signature)*

This document contains personal data, the disclosure of which may entail civil, administrative or criminal liability. Further processing of these data is possible inly in accordance with the provisions of the Law no. 133 from 08.07.2011 on personal data protection.

Operators: "Public Service Agency", IO 0000059;  
National Integrity Authority, nr. 0000069003.

**UNDUE INFLUENCE REPORT**  
**to the management of public medical-sanitary institution**

Hereby, the undersigned \_\_\_\_\_  
*(surname, first name of the medical professional)*

position held \_\_\_\_\_  
*(medical professional in the PHI)*

within \_\_\_\_\_  
*(name of the PHI, place)*

hereby inform you that on \_\_\_\_\_  
*(date and time)*

an attempt to influence me was made by \_\_\_\_\_

\_\_\_\_\_  
*(identification data of the person who attempted to exercise undue influence, if such data is known)*

Circumstances of the undue influence \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

<sup>200</sup> According to the Framework Regulation on the recording of cases of undue influence, included in Annex no. 1 to the Government Decision no.767 of 19 September 2014 (annex no. 3 to the framework regulation);

The undue influence can be confirmed by/through \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

I have discussed/have not discussed about the undue influence with other persons.

*(underline)*

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

*(surname, name of the medical professional)*

*(signature)*

*(date)*

-----

### PROOF

The report is received by \_\_\_\_\_  
*(name, surname and signature of the person in charge who receives the report)*

No. order in the Register: \_\_\_\_\_ The date of filing the report \_\_\_\_\_

## UNDUE INFLUENCE REPORT

**to the Ministry of Health, Labour and Social Protection/  
Local Public Administration**

Hereby, the undersigned \_\_\_\_\_  
*(surname, first name of the PHI manager)*

position held \_\_\_\_\_  
*(PHI manager)*

within \_\_\_\_\_  
*(name of the PHI, place)*

hereby inform you that on \_\_\_\_\_  
*(date and time)*

an attempt to influence me was made by \_\_\_\_\_

\_\_\_\_\_  
*(identification data of the person who attempted to exercise undue influence, if such data are known)*

Circumstances of undue influence \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

The undue influence can be confirmed by/through \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

I have discussed/have not discussed about the undue influence with other persons.

(underline)

\_\_\_\_\_  
(surname, first name of the PHI manager)      (signature)      (date)

-----

**PROOF**

The report is received by \_\_\_\_\_  
(name, surname and signature of the person in charge who receives the report)

No. order in the Register: \_\_\_\_\_      The date of this report \_\_\_\_\_

**UNDUE INFLUENCE REPORT  
to the National Anticorruption Centre**

Hereby, the undersigned \_\_\_\_\_  
(surname, first name of the medical professional, including PHI manager)

position held \_\_\_\_\_  
(PHI manager)

within \_\_\_\_\_  
(name of the PHI, place)

hereby inform you that on \_\_\_\_\_  
(date and time)

an attempt to influence me was made by \_\_\_\_\_

\_\_\_\_\_  
(identification data of the person who attempted to exercise undue influence, if such data are known)

Circumstances of undue influence \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**ANNEX 4:**  
**Form of declaring admissible  
and inadmissible gifts**

The undue influence can be confirmed by/through \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

I have discussed/have not discussed about the undue influence with  
other persons.

*(underline)*

\_\_\_\_\_

*(surname, first name of the PHI manager)*

*(signature)*

*(date)*

-----

**PROOF**

The report is received by \_\_\_\_\_  
*(name, surname and signature of the person in charge who receives the report)*

No. order in the Register: \_\_\_\_\_ The date of this report \_\_\_\_\_

**DECLARATION OF INADMISSIBLE GIFTS RECEIVED  
to the Gifts' Records and Assessment Commission**

from \_\_\_\_\_  
*(name of the PHI)*

Hereby, the undersigned \_\_\_\_\_  
*(surname, first name of the denouncer)*

position held \_\_\_\_\_  
*(position of medical professional and/or another position in the PHI)*

within \_\_\_\_\_ I declare that on the day of \_\_\_\_\_  
*(name of the PHI)*

I received the following gift(s):

1. \_\_\_\_\_  
*(type and description of the gift)*

2. \_\_\_\_\_  
*(type and description of the gift)*

3. \_\_\_\_\_  
*(type and description of the gift)*

by virtue of:

protocol: \_\_\_\_\_  
*(circumstances of receiving the gift)*

\_\_\_\_\_

courtesy,

on the occasion of \_\_\_\_\_  
*(circumstances of receiving the gift, who offered it)*

\_\_\_\_\_

Regarding the gifts received, I intend to:

keep the following gifts: \_\_\_\_\_  
*(list the gifts)*

transmit to the institution the following gifts: \_\_\_\_\_  
\_\_\_\_\_  
*(list the gifts)*

\_\_\_\_\_  
*(name, surname of the declarant)*      *(signature)*      *(date)*

-----

**STATEMENT ON HANDING OVER INADMISSIBLE GIFTS  
to the manager of the Public Health Institution**

\_\_\_\_\_  
*(name of the PHI)*

Hereby, the undersigned \_\_\_\_\_  
*(surname, first name of the denouncer)*

position held \_\_\_\_\_  
*(position of medical professional/pharmacist and/or another position in the PHI)*

within \_\_\_\_\_ I declare that on the day of \_\_\_\_\_  
*(name of the PHI)*

the following inadmissible gift/gifts was/were transmitted/left for me:

\_\_\_\_\_  
*(description of the unacceptable gift/gifts)*

by: \_\_\_\_\_  
*(name of the person, if known or an express indication that the gift was left  
by an unknown person)*

The circumstances of transmitting the inadmissible gift:

\_\_\_\_\_  
\_\_\_\_\_

Circumstances of transmitting the inadmissible gift:  
can be confirmed by the following members:

\_\_\_\_\_  
*(list the witnesses)*

cannot be confirmed by witnesses, for the following reasons:

\_\_\_\_\_  
*(explain the reason)*

\_\_\_\_\_  
*(name, surname of the declarant)*      *(signature)*      *(date)*

**ANNEX 5:**  
**Form for recording admissible**  
**and inadmissible gifts**

**REGISTER OF ADMISSIBLE GIFTS**

FOR THE YEAR 20 \_\_\_\_

<b>No.</b>	<b>The date of the hand-over the gift:</b>	<b>Name, position of the declarant:</b>	<b>Name, position of persons or name of the institution that offered the gift:</b>
<b>Circumstances of receiving the gift:</b>			
<input type="checkbox"/> protocol, describe _____ <input type="checkbox"/> courtesy, describe _____			
<b>Description of the gift/gifts:</b>			<b>Value of the gift estimated in MDL by the evaluation committee:</b>
<b>The outcome of the gift:</b>			<b>Signature of the declarant:</b>
<input type="checkbox"/> handed over to the PHI  <input type="checkbox"/> returned to the declarant  If the gift is redeemed, indicate the difference paid for the redeemed gift, the value of which exceeds the limit: _____MDL			

**REGISTER OF ADMISSIBLE GIFTS**

FOR THE YEAR 20 \_\_\_\_

<b>No.</b>	<b>The date of hand-over of the gift:</b>	<b>The manager requesting the registration of the inadmissible gift:</b>	<b>Name, position of the employee to which the gift was transmitted, against the will:</b>
<b>Description of the inadmissible gift/gifts:</b>			
<b>Circumstances of receiving the gift (according to employers' description):</b>			
<b>Information about the person to whom the inadmissible gift was handed over:</b>			
<b>Name, position of witnesses, other evidence confirming the circumstances of transmission of the inadmissible gift:</b>			
<b>Outcome of the gift:</b> <input type="checkbox"/> handed over as evidence for investigations to			<b>Signature of the manager requesting gift registration:</b>
Investigating authority: _____			
Person, position in the investigating authority to which the gift was handed over:			<b>Signature of the person to which the gift was handed over:</b>
_____			
_____			

**ANNEX 6:  
Form for reporting  
a corruption act**

Anticorruption Prosecutor's Office  
National Anticorruption Centre  
MD 2004, 198 Stefan cel Mare Avenue,  
Chisinau municipality

**COMPLAINT**

The undersigned \_\_\_\_\_, domiciled in (place) \_\_\_\_\_,  
street \_\_\_\_\_, no. \_\_\_\_\_, bl. \_\_\_\_\_, ap. \_\_\_\_\_, personal ID number \_\_\_\_\_,  
in accordance with art. 263 of the Criminal Procedure Code, file this  
complaint against the said\*\* \_\_\_\_\_,  
domiciled in (place) \_\_\_\_\_, street \_\_\_\_\_,  
no. \_\_\_\_\_, bl. \_\_\_\_\_, ap. \_\_\_\_\_,  
who on the day of (describe the facts and circumstances) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The offence can be proven by the following witnesses/evidence materials:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ (last name, first name)      \_\_\_\_\_ (signature)      \_\_\_\_\_ (date)

\* Anonymous complaints shall not be examined.  
\*\* If the offender's identity is unknown, facts and circumstances only shall be described.

**ANNEX 7:  
Form for internal and external disclosures  
of an illegal practice<sup>201</sup>**

**FORMS FOR INTERNAL DISCLOSURE OF ILLEGAL PRACTICE**

<b>I. General data about the employee</b>	
<b>To be filled out by the employee</b>	<b>To be filled out by the employer (person in charge of examining the disclosure)*</b>
1. Employment, subdivision where he/she is employed, position _____ _____ _____	1. _____ _____ _____
2. Type of relationship with the employer (individual employment contract or contract based, civil relationship) _____ _____ _____	2. _____ _____ _____
<b>II: Data about the illegal practice</b>	
1. Description of the disclosed illegal practice _____ _____ _____ _____ _____ _____ _____	1. _____ _____ _____ _____ _____ _____ _____

<sup>201</sup> According to Annexes no. 1 and no. 2 to the Law no.122 of 12.07.2018 on whistleblowers;

<p>2. Threat/damage to the public interest by the illegal practice (how is the damage caused)</p>	<p>2.</p>
<p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p>	<p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p>
<p>3. Presentation of evidence/information confirming the disclosed illegal practice or indication of ways to check the disclosed information</p>	<p>3.</p>
<p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p>	<p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p>
<p>4. With reference to this illegal practice, did you make a public disclosure or prior disclosure (to other authorities, other natural and/or legal persons or representatives of civil society and/or the media)? <i>(Indicate the day, month, year and to whom was this disclosure made)</i></p>	
<p>_____</p> <p>_____</p> <p>_____</p>	
<p><b>III. Recognition as a whistleblower**</b></p>	
<p>Decision: _____</p>	
<p>_____</p> <p>_____</p> <p>_____</p>	
<p>_____</p> <p><i>(Date)</i></p>	<p>_____</p> <p><i>(Signature of the person in charge of examining the disclosed illegal practice)</i></p>

**CONFIRMATION OF RECEPTION**

Internal disclosure of illegal practice is received by \_\_\_\_\_  
*(Surname, first name of the person in charge who receives the disclosure)*

Registration number in the Register of disclosures of illegal practices and whistleblowers \_\_\_\_\_

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**\* To be checked only if the disclosure meets the conditions of the law set forth in art. 11 para.(1):**

- a) made by an employee of a public or private entity;
- b) is related to the activity of the entity whose employee he/she is;
- c) contains information/evidence about illegal practices and the actual, imminent or potential harm to the public interest;
- d) the person making the disclosure must identify himself/herself (last name, first name, place of work, contact details, and in case of a written integrity alert - the signature).

**\*\* To be filled in by the employer (the person responsible for examining the disclosure), mentioning whether the disclosure meets the conditions set out in Article 11 para. (1) and the employee is recognized as a whistleblower.**

**Note:** Last name, first name, contact details, and if the disclosure is made in writing, and the employee's signature are indicated on the reverse side of the form.



**FORM FOR EXTERNAL DISCLOSURE OF ILLEGAL PRACTICE**

I. General data about the employee	
To be filled out by the employee	To be filled out by the NAC*
1. Employment, subdivision where he/she is employed, position _____ _____ _____	1. _____ _____ _____
2. Type of relationship with the employer (individual employment contractor contract based, civil relationship) _____ _____ _____	2. _____ _____ _____
II: Data about the illegal practice	
1. Description of the disclosed illegal practice _____ _____ _____ _____ _____ _____ _____	1. _____ _____ _____ _____ _____ _____ _____
2. Threat/damage to the public interest by the illegal practice (how is the damage caused) _____ _____ _____ _____ _____ _____	2. _____ _____ _____ _____ _____ _____

3. Presentation of evidence/ information confirming the disclosed illegal practice or indication of ways to check the disclosed information _____ _____ _____ _____ _____	3. _____ _____ _____ _____ _____
4. Have you made any internal disclosure (for the employer) concerning this illegal practice? <input type="checkbox"/> Yes <input type="checkbox"/> No If "Yes", please indicate the day, month and year of disclosure _____ What was the outcome of illegal practice disclosure examination by the employer: a) Have you been recognized as a whistleblower? <input type="checkbox"/> Yes <input type="checkbox"/> No b) Have you been subject to retaliation (through actions, inactions or threats) by the employer or another person from the public or private entity where you are employed? ( <i>Indicate the forms of retaliation and the names of persons committing retaliation</i> ) _____ _____ _____ c) Have your employment conditions worsened after you filed the integrity disclosure? <input type="checkbox"/> No <input type="checkbox"/> Yes, please provide the details _____ _____ _____	

5. With reference to this illegal practice, did you make a public disclosure or prior disclosure (to other authorities, other natural and/or legal persons or representatives of civil society and/or the media)? *(Indicate the day, month, year and to whom was this disclosure made)*

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**III. Recognition as a whistleblower\*\***

Decision: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

*(Date)*

\_\_\_\_\_

*(Signature of the person in charge of examining the disclosed illegal practice)*

**CONFIRMATION OF RECEPTION**

Internal disclosure of illegal practice is received by \_\_\_\_\_

*(Surname, first name of the person in charge who receives the disclosure)*

No. of registration in the Register of illegal practices disclosures and integrity alerts \_\_\_\_\_

**\* To be checked only if the disclosure meets the conditions of the law set forth in art. 11 para.(1):**

- a) made by an employee of a public or private entity;
- b) is related to the activity of the entity whose employee he/she is;
- c) contains information/evidence about illegal practices and the actual, imminent or potential harm to the public interest;
- d) the person making the disclosure must identify himself/herself (last name, first name, place of work, contact details, and in case of a written integrity alert - the signature).

**\*\* To be filled in by the employer (the person responsible for examining the disclosure), mentioning whether the disclosure meets the conditions set out in Article 11 para. (1) and the employee is recognized as a whistleblower.**

**Note:** Last name, first name, contact details, and if the disclosure is made in writing, and the employee's signature are indicated on the reverse side of the form.

**REGISTER OF ILLEGAL PRACTICES AND WHISTLEBLOWERS for the year 20\_\_**

No.	Date of registration:	The person who registered the disclosure, the subdivision where he/she is employed:	
	Description of illegal practice and harm to the public interest:	The entity where the alleged illegal practice took place:	
	Retaliation actions as a result of disclosure of illegal practice:	The persons committing retaliation:	
	Has the discloser been recognized as a whistleblower? <input type="checkbox"/> yes <input type="checkbox"/> no	Protective measures against retaliation: - transfer to another subdivision in order to prevent retaliation: <input type="checkbox"/> requested <input type="checkbox"/> granted, date _____ - sanctioning of the person committing retaliation: <input type="checkbox"/> requested <input type="checkbox"/> granted, date _____	
	Have protection measures been requested? <input type="checkbox"/> yes <input type="checkbox"/> no	- sanctioning of the manager for failure to ensure protection: <input type="checkbox"/> requested <input type="checkbox"/> granted, date _____ - annulment of the disciplinary sanction: <input type="checkbox"/> requested <input type="checkbox"/> granted, date _____ - compensation for material and moral damages incurred as a result of retaliation: <input type="checkbox"/> requested <input type="checkbox"/> granted, date _____	
	If the disclosure was sent to other authorities for examination, according to competence, please indicate: authority _____ date of transmission _____		
	If the criminal prosecution was initiated as a result of disclosure, indicate whether the employee who had made the disclose was granted a status in the proceedings: <input type="checkbox"/> no <input type="checkbox"/> yes, the status of _____		

<sup>202</sup> According to Annex no. 3 to the Law no.122 of 12.07.2018 on whistleblowers;

**ANNEX 9:**  
**Form for declaring a real  
conflict of interest**

**DECLARATION OF CONFLICT OF INTERESTS**  
**to the Ministry of Health, Labor and Social Protection /**  
**local public administration**

Hereby, the undersigned \_\_\_\_\_  
*(surname, first name of the declarant)*

position held \_\_\_\_\_  
*(position of head or deputy head in the PHI)*

within \_\_\_\_\_ I declare that on the day of \_\_\_\_\_  
*(name of the PHI)*

I have found I am in situation of conflict of interest in relation to:  
*(check and complete one of the options)*

settlement of the following request/statement:  
\_\_\_\_\_  
*(last name, first name of the person who submitted the request/statement)*

issuance of the following administrative act  
\_\_\_\_\_  
*(name of the administrative act)*

drawing up, directly or through a third party, of the following legal document: \_\_\_\_\_  
*(name of the legal document)*

the following decision made  
*(name of the administrative act)*

participation in taking the following decision:  
\_\_\_\_\_  
*(name of the decision and name of the body you are part of in decision-making)*

I declare that the given situation generates for me a real conflict of interests that influences or could influence the impartial and objective fulfillment of my position for the following reasons:

\_\_\_\_\_  
*(Information on the nature of the conflict of interest and how it influences or may influence the exercise of the job functions)*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Understanding that my opinion in this respect does not prevail over the opinion of the Ministry of Health, Labor and Social Protection, I propose to identify the following solution for the conflict of interest situation:

restricted access of the declarant to the following information:  
\_\_\_\_\_  
\_\_\_\_\_

restricted participation of the declarant in examining the following situations related to his/her personal interest  
\_\_\_\_\_  
\_\_\_\_\_

transfer of the declarant, with his/her written consent to the following position:  
\_\_\_\_\_  
\_\_\_\_\_

redistribution of the following responsibilities and tasks of the declarant, because the conflict of interests will continue  
\_\_\_\_\_  
\_\_\_\_\_

the following solution, provided for by special legislation  
\_\_\_\_\_  
\_\_\_\_\_

I declare that until the submission of this statement, I have abstained from exercising my duties in relation to the situation that generates a conflict of interest for me.

Regarding the submitted statement, I kindly ask the Ministry of Health, Labor and Social Protection to identify within 3 days the best solution to resolve the reported situation, considering the best interests of the health care system and patients, the public interest, the legitimate interests of medical and pharmaceutical professionals and other employees of the institution, the nature of the conflict of interests I have declared, and other relevant factors.

Please inform me about the solution identified concerning this declaration.

\_\_\_\_\_

*(last name, first name of the declarant)* *(signature)* *(date)*

CONFIRMATION OF RECEIPT OF THE DECLARATION

The declaration was received by

\_\_\_\_\_

*(surname, name and signature of the person in charge who receives the declaration)*

No. order in the Register of declarations

of conflict of interests: \_\_\_\_\_ Date of receipt of the declaration \_\_\_\_\_

REPUBLIC OF MOLDOVA

\_\_\_\_\_

*(name of the PHI)*

REGISTER  
OF DECLARATIONS OF CONFLICTS OF INTERESTS

No. \_\_\_\_\_

Number of registration of the declaration	Date of submission:		Last name, first name of the subject of declaration	Position held	Number of sheets	Signature of the subject of declaration	Solution applied for the settlement of the conflict of interests
	year	month					

<sup>203</sup> According to Annex no. 4 to the Law no.133 of 17.06.2016 on assets and personal interest declarations;

**ANNEX 11:**  
**Declaration of assets**  
**and personal interests form**<sup>204</sup>

**DECLARATION OF ASSETS AND PERSONAL INTERESTS**

I. GENERAL INFORMATION ABOUT THE SUBJECT OF DECLARATION
<b>1.</b> Last name, first name, middle name and identification number: _____ _____
<b>2.</b> Home address and telephone number: _____ _____
<b>3.</b> Position held (public organization where the subject is employed, the type and the number of the act of appointment/employment/dismissal): _____ _____
<b>4.</b> Type of declaration: Annual <input type="checkbox"/> Upon employment/appointment <input type="checkbox"/> Upon dismissal/termination <input type="checkbox"/>
<b>5.</b> Last name, first name, middle name and identification number of the spouse or the live-in partner: _____ _____
<b>6.</b> Last name, first name, middle name, year of birth and identification number of minor children: _____ _____ _____
<b>7.</b> Last name, first name, middle name, year of birth and identification number of dependent persons: _____ _____

<sup>204</sup> According to Annex no. 2 to the Law no.133 of 17.06.2016 on assets and personal interest declarations;

<b>II: INCOMES OBTAINED BY THE SUBJECT OF DECLARATION, BY MEMBERS OF HIS/HER FAMILY AND THE LIVE-IN PARTNER, BOTH IN THE COUNTRY AND ABROAD, IN 20__</b>				
No.	The person who earned the income	Source of income: (name of the individual/legal entity)	Provided service/income generating activity	Amount of income
<b>1. Income obtained at the main place of employment</b>				
1.1	Subject of declaration			
1.2	Spouse/live-in partner			
1.3	Minor children			
1.4	Dependents			
<b>2. Income from teaching, scientific and artistic activities</b>				
2.1	Subject of declaration			
2.2	Spouse/live-in partner			
2.3	Minor children			
2.4	Dependents			
<b>3. Income from deposits with financial institutions</b>				
3.1	Subject of declaration			
3.2	Spouse/live-in partner			
3.3	Minor children			
3.4	Dependents			
<b>4. Income from the activity as representative of the state in commercial companies</b>				
4.1	Subject of declaration			
4.2	Spouse/live-in partner			
4.3	Minor children			
4.4	Dependents			
<b>5. Income obtained from donations and succession</b>				
5.1	Subject of declaration			
5.2	Spouse/live-in partner			
5.3	Minor children			
5.4	Dependents			

6. Income derived from the alienation and/or holding of securities and/or shares in the share capital of commercial companies											
6.1	Subject of declaration										
6.2	Spouse/live-in partner										
6.3	Minor children										
6.4	Dependents										
7. Income from disposal of movable or immovable assets											
7.1	Subject of declaration										
7.2	Spouse/live-in partner										
7.3	Minor children										
7.4	Dependents										
8. Income obtained from other legal sources (pension, scholarship, allowances, awards, copyright etc.)											
8.1	Subject of declaration										
8.2	Spouse/live-in partner										
8.3	Minor children										
8.4	Dependents										
III. IMMOVABLE PROPERTY IN THE COUNTRY AND/OR ABROAD											
A. Land											
Name of the beneficial owner	Cadaster number/ place	Category	How was the property acquired	The year when the property was acquired	Area	Share	Document confirming the origin of property	Property value	Owner of the property	Type of owner	Identification information for the holder other than the beneficial owner
<p><b>Name of the beneficial owner:</b> name of the subject of declaration, of the family member or the live-in partner.</p> <p><b>Category:</b> (1) agriculture; (2) forestry; (3) within the territory of the administrative unit; (4) outside the territory of the administrative unit; (5) other categories of land in the civil circuit.</p> <p><b>How was the property acquired:</b> (1) ownership; (2) possession; (3) other contracts transferring possession and the right to use.</p>											

**Property value:** (1) cadastre value or (2) value of land according to the document confirming its origin, only if the land has not been evaluated by cadastral bodies.

**Holder of the asset:** name of the individual or the legal entity possessing the asset.

**Type of holder:** (1) resident natural person; (2) non-resident natural person; (3) resident legal person; (4) non-resident legal person. This field shall only be filled if the holder is other than the beneficial owner.

**Identification information for the holder other than the beneficial owner:** for individuals residing in the Republic of Moldova, the personal identification number shall be indicated. For non-resident individuals, indicate the country of residence and the national identification number (if the identification number is not applicable, indicate the fiscal identification number).

For resident legal entities, indicate the identification code. For non-resident legal entity, indicate the country or the jurisdiction where the legal entity is registered and the number of entry in the register of trade of the country/ jurisdiction in question.

The subjects of declaration who do not own property will indicate the following information: the place (without cadastral number); category of property; the way of acquisition; the year of acquisition; the surface and the holder of the good.

B. Buildings and constructions											
Name of the beneficial owner	Address/ cadastral number	Category	Way of acquisition	Year of acquisition	Surface	Share	Document confirming the origin of property	Value of the property	Holder of the property	Type of holder	Identification information for the holder other than the beneficial owner
<p><b>Name of the beneficial owner:</b> name of the subject of declaration, of the family member or the live-in partner.</p> <p><b>Category:</b> (1) apartment; (2) dwelling house; (3) villa; (4) commercial or production space; (5) garage; (6) other immovable property, including unfinished property.</p>											

**How was the property acquired:** (1) ownership; (2) possession; (3) usufruct; (4) use; (5) habitation; (6) other contracts transferring possession and the right to use.

**Property value:** (1) cadastre value or (2) value of property according to the document confirming its origin, only if the property has not been evaluated by cadastral bodies.

**Holder of the asset:** name of the individual or the legal entity possessing the asset.

**Type of holder:** (1) resident natural person; (2) non-resident natural person; (3) resident legal person; (4) non-resident legal person. This field shall only be filled if the holder is other than the beneficial owner.

**Identification information for the holder other than the beneficial owner:** for individuals residing in the Republic of Moldova, the personal identification number shall be indicated. For non-resident individuals, indicate the country of residence and the national identification number (if the identification number is not applicable, indicate the fiscal identification number).

For resident legal entities, indicate the identification code. For non-resident legal entity, indicate the country or the jurisdiction where the legal entity is registered and the number of entry in the register of trade of the country/ jurisdiction in question.

The subjects of declaration who do not own property will indicate the following information: the address (without cadastral number); category of property; the way of acquisition; the year of acquisition; the surface and the holder of the good.

#### IV. MOVABLE PROPERTY IN THE COUNTRY AND/OR ABROAD

##### A. Cars, lorries, trailers, motor vehicles, agricultural machinery, naval/air transport, other means of transport subject to registration

Name of the beneficial owner	Type/model	Year of manufacture	Place of registration/ registration number	Year of acquisition	Way of acquisition	Value of the asset according to the document confirming its origin	Holder of the asset	Type of owner	Identification information for the holder other than the beneficial owner

**Name of the beneficial owner:** name of the subject of declaration, of the family member or the live-in partner.

**How was the property acquired:** (1) ownership; (2) possession; (3) other contracts transferring possession and the right to use.

**Holder:** name of the individual or the legal entity possessing the asset.

**Type of holder:** (1) resident natural person; (2) non-resident natural person; (3) resident legal person; (4) non-resident legal person. This field shall only be filled if the holder is other than the beneficial owner.

**Identification information for the holder other than the beneficial owner:** for individuals residing in the Republic of Moldova, the personal identification number shall be indicated. For non-resident individuals, indicate the country of residence and the national identification number (if the identification number is not applicable, indicate the fiscal identification number).

For resident legal entities, indicate the identification code. For non-resident legal entity, indicate the country or the jurisdiction where the legal entity is registered and the number of entry in the register of trade of the country/ jurisdiction in question.

**B. Assets in the form of metals and/or precious stones, objects of art and worship, objects forming part of the national or universal cultural heritage, the unit value of which exceeds the sum of 15 average salaries in the economy**

No.	Name of the beneficial owner	Summary description	The year when the property was acquired	Estimated value of the asset	Holder of the asset	Type of holder	Identification information for the holder other than the beneficial owner
1							
2							
3							

**Name of the beneficial owner:** name of the subject of declaration, of the family member or the live-in partner.

**Holder of the asset:** name of the subject of declaration, of the family member or the live-in partner.

**Type of holder:** (1) resident natural person; (2) non-resident natural person; (3) resident legal person; (4) non-resident legal person. This field shall only be filled if the holder is other than the beneficial owner.

**Identification information for the holder other than the beneficial owner:** for individuals residing in the Republic of Moldova, the personal identification number shall be indicated. For non-resident individuals, indicate the country of residence and the national identification number (if the identification number is not applicable, indicate the fiscal identification number).

For resident legal entities, indicate the identification code. For non-resident legal entity, indicate the country or the jurisdiction where the legal entity is registered and the number of entry in the register of trade of the country/ jurisdiction in question.

**C. Art collections, numismatics, philately, weapons or other goods, the value of which exceeds 20 average salaries per economy**

No.	Name of the beneficial owner	Summary description	The year when the property was acquired	Estimated value of the asset	Holder of the asset	Type of holder	Identification information for the holder other than the beneficial owner
1							
2							
3							

**Name of the beneficial owner:** name of the subject of declaration, of the family member or the live-in partner.

**Holder of the asset:** name of the individual or the legal entity possessing the asset.

**Type of holder:** (1) resident natural person; (2) non-resident natural person; (3) resident legal person; (4) non-resident legal person. This field shall only be filled if the holder is other than the beneficial owner.

**Identification information for the holder other than the beneficial owner:** for individuals residing in the Republic of Moldova, the personal identification number shall be indicated. For non-resident individuals, indicate the country of residence and the national identification number (if the identification number is not applicable, indicate the fiscal identification number).

For resident legal entities, indicate the identification code. For non-resident legal entity, indicate the country or the jurisdiction where the legal entity is registered and the number of entry in the register of trade of the country/ jurisdiction in question.

**D. Assets received free of charge, either personally or by family members, live-in partner, to natural or legal persons at the time of the declaration, if the value of each item exceeds the amount of 10 average salaries per economy**

No.	Name of the beneficial owner	Way of acquisition	Date of transmission	The person to whom the asset has been transmitted	Property value	Holder of the asset
1						
2						
3						

**Holder of the asset:** name of the subject of declaration, of the family member or the live-in partner.

**E. Other movable assets the unit value of which exceeds the sum of 10 average salaries per economy**

No.	Name of the beneficial owner	Description of the asset	Way of acquisition	Date of acquisition	Estimated value of the asset	Holder of the asset	Type of holder	Identification information for the holder other than the beneficial owner
1								
2								
3								

**Name of the beneficial owner:** name of the subject of declaration, of the family member or the live-in partner.



**Holder of the asset:** name of the subject of declaration, of the family member or the live-in partner.

**Type of holder:** (1) resident natural person; (2) non-resident natural person; (3) resident legal person; (4) non-resident legal person. This field shall only be filled if the holder is other than the beneficial owner.

**Identification information for the holder other than the beneficial owner:** for individuals residing in the Republic of Moldova, the personal identification number shall be indicated. For non-resident individuals, indicate the country of residence and the national identification number (if the identification number is not applicable, indicate the fiscal identification number).

For resident legal entities, indicate the identification code. For non-resident legal entity, indicate the country or the jurisdiction where the legal entity is registered and the number of entry in the register of trade of the country/ jurisdiction in question.

## V. FINANCIAL ASSETS IN THE COUNTRY AND/OR ABROAD

### A. Bank accounts, placements in investment funds and/or other equivalent forms of saving and investing in the country and/or abroad

No.	Name of the beneficial owner	Name of the institution managing the bank account, the investment fund	Bank account number/data about the investment fund/other saving	Category	Amount and currency	Interest/dividends	Holder of the asset	Type of holder	Identification information for the holder other than the beneficial
1									
2									
3									

**Name of the beneficial owner:** name of the subject of declaration, of the family member or the live-in partner.

**Category:** (1) current account or equivalent (including credit card, mentioning its type); (2) bank deposit or equivalent forms; (3) investment fund or equivalent, including private pension funds or other saving schemes.

**Holder of the asset:** name of the individual or the legal entity possessing the asset.

**Type of holder:** (1) resident natural person; (2) non-resident natural person; (3) resident legal person; (4) non-resident legal person. This field shall only be filled if the holder is other than the beneficial owner.

**Identification information for the holder other than the beneficial owner:** for individuals residing in the Republic of Moldova, the personal identification number shall be indicated. For non-resident individuals, indicate the country of residence and the national identification number (if the identification number is not applicable, indicate the fiscal identification number).

For resident legal entities, indicate the identification code. For non-resident legal entity, indicate the country or the jurisdiction where the legal entity is registered and the number of entry in the register of trade of the country/ jurisdiction in question.

### B. Placements, bonds, checks, bills, loan certificates, direct investment in national currency or in foreign currency

No.	Name of the beneficial owner	Issuer of the title/company where the individual is a shareholder, founder or associate/borrower	Category	Number of titles/ interest share	Interest	Holder of the property	Type of owner	Identification information for the holder other than the beneficial owner
1								
2								
3								

**Name of the beneficial owner:** name of the subject of declaration, of the family member or the live-in partner.

**Category:** (1) securities (government securities, certificates, bonds); (2) checks; (3) promissory notes; (4) loan certificates; (5) other forms of direct investment.

**Holder of the asset:** name of the individual or the legal entity possessing the asset.

**Type of holder:** (1) resident natural person; (2) non-resident natural person; (3) resident legal person; (4) non-resident legal person. This field shall only be filled if the holder is other than the beneficial owner.

**Identification information for the holder other than the beneficial owner:** for individuals residing in the Republic of Moldova, the personal identification number shall be indicated. For non-resident individuals, indicate the country of residence and the national identification number (if the identification number is not applicable, indicate the fiscal identification number).

For resident legal entities, indicate the identification code. For non-resident legal entity, indicate the country or the jurisdiction where the legal entity is registered and the number of entry in the register of trade of the country/ jurisdiction in question.

**C. Cash in national currency and/or foreign currency exceeding 15 average salaries and not subject to deposits in financial institutions and other documents incorporating patrimonial rights.**

No.	Name of the beneficial owner	Amount	Currency	Holder of the asset	Type of holder	Identification information for the holder other than the beneficial owner
1						
2						
3						

**Name of the beneficial owner:** name of the subject of declaration, of the family member or the live-in partner.

**Holder of the asset:** name of the individual or the legal entity possessing the asset.

**Type of holder:** (1) resident natural person; (2) non-resident natural person; (3) resident legal person; (4) non-resident legal person. This field shall only be filled if the holder is other than the beneficial owner.

**Identification information for the holder other than the beneficial owner:** for individuals residing in the Republic of Moldova, the personal identification number shall be indicated. For non-resident individuals, indicate the country of residence and the national identification number (if the identification number is not applicable, indicate the fiscal identification number).

For resident legal entities, indicate the identification code. For non-resident legal entity, indicate the country or the jurisdiction where the legal entity is registered and the number of entry in the register of trade of the country/ jurisdiction in question.

**VI. SHARES/INTERESTS IN THE SHARE CAPITAL OF AN ECONOMIC OPERATOR**

Name of the beneficial owner	Name of the economic agent	Office, legal address	Activity Plan	Purchase value	Share	Holder of the property	Type of holder	Identification information for the holder other than the beneficial owner

**Name of the beneficial owner:** name of the subject of declaration, of the family member or the live-in partner.

**Holder of the asset:** name of the individual or the legal entity possessing the cash.

**Type of holder:** (1) resident natural person; (2) non-resident natural person; (3) resident legal person; (4) non-resident legal person. This field shall only be filled if the holder is other than the beneficial owner.

**Identification information for the holder other than the beneficial owner:** for individuals residing in the Republic of Moldova, the personal identification number shall be indicated. For non-resident individuals, indicate the country of residence and the national identification number (if the identification number is not applicable, indicate the fiscal identification number).

For resident legal entities, indicate the identification code. For non-resident legal entity, indicate the country or the jurisdiction where the legal entity is registered and the number of entry in the register of trade of the country/ jurisdiction in question.

**VII. DEBTS**

Unpaid debts (including taxes), mortgages, guarantees issued to third parties, loans and credits

Lender	Year when the debt was initiated	Maturity	Rate of interest	Initial amount	Currency	Lender

**ANNEX 12:**  
**Electronic receipt confirming  
the submission of the assets  
and personal interest declaration**

<b>VIII. PERSONAL INTERESTS</b>						
<b>A. The quality of associate, shareholder or member of an economic agent, member of management, administration, review or control bodies in non-profit organizations or commercial companies or membership of non-commercial or international organizations.</b>						
<b>Name and address of the organization/company</b>	<b>Capacity</b>	<b>Document certifying the capacity</b>				
<b>B. Contracts entered into or in progress by the subject of the declaration, the spouse or live-in partner, including the legal entities in which they are actual beneficiaries, which are financed from the state budget, from the local budget and/or from external funds, or entered into with commercial state-owned companies</b>						
No.	Contract beneficiary	Institution/ organization	Type of the contract	Date of the contract	Duration of the contract	Total amount of the contract
Subject of declaration						
1						
2						
Spouse/live-in partner of the subject of declaration						
1						
2						
Legal entities where the declarant or spouse/live-in partner are beneficial owners						
1						
2						
This declaration is a public document and I am aware of the liability for the presentation of inaccurate or incomplete data.						
<b>Date of completion</b> _____ <b>Signature</b> _____						

**MODEL**

Electronic receipt confirming the submission of the assets and personal interest declaration

**With the present document,** the National Integrity Authority confirms that

Mr/Mrs\_\_\_\_\_submitted the assets and personal interest declaration.

No. registered\_\_\_\_\_.

Date of submission\_\_\_\_\_.

Period of submission\_\_\_\_\_.



This guide assists medical professionals and managers of public healthcare institutions in the Republic of Moldova in building and maintaining a climate of institutional integrity.

Note that the guide examines a wide range of obligations. However, when resolving concrete situations, you must always consult the law.

The integrity guide for medical professionals is based on the anti-corruption and integrity legislative framework of the Republic of Moldova, but also on the national legislation applicable in the public health sector.

[www.coe.int/clep](http://www.coe.int/clep)

ENG

The Council of Europe is the continent's leading human rights organization. It comprises 47 member states, 28 of which are members of the European Union. All Council of Europe member states have signed up to the European Convention on Human Rights, a treaty designed to protect human rights, democracy and the rule of law. The European Court of Human Rights oversees the implementation of the Convention in the member states.

[www.coe.int](http://www.coe.int)

The European Union is a unique economic and political partnership between 28 democratic European countries. Its aims are peace, prosperity and freedom for its 500 million citizens – in a fairer, safer world. To make things happen, EU countries set up bodies to run the EU and adopt its legislation.

The main ones are the European Parliament (representing the people of Europe), the Council of the European Union (representing national governments) and the European Commission (representing the common EU interest).

<http://europa.eu>



EUROPEAN UNION

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE