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OPINION OF THE PERSONAL DATA Reg. EOOD Commission for Personal Data Protection (CPDP)

composed of: Chairman: Ventsislav Karadzhov and Members: Tsvetelin Sofroniev and Veselin Tselkov, at a meeting held on 19.06.2019, considered a request for an opinion with ent. № NDMSPO-01-230 / 05.06.2019 by Ms. DT, Data Protection Officer in the Municipality of K., in connection with received from the "Center for Mental Health - P." Ltd. notice. The latter is related to the need for contact of the medical institution with relatives of the patients undergoing treatment. The manager of "CPZ P." Ltd., Ms. MG, describes the procedures and stages of treatment of patients in which the above need is determined. The required amount of data of relatives of patients is as follows: three names, PIN, address and contact phone number. The processing of personal data by CPC P. EOOD is necessary in order to protect the vital interests of personal data subjects (Article 6, paragraph 1, letter "d" of Regulation (EU) 2016/679). It is in view of the fulfillment of the main purpose of the medical institution - the provision of hospital care and is an activity in the public interest. The data that are collected and stored are in order to ensure the health insurance rights of patients. Mrs. M.G. explains that an encryption and DLP system for personal data protection has been implemented in the medical institution. Internal rules and policies, models and procedures have been developed. Based on the above factual situation, the data protection officer of the municipality of K. asks the following questions: 1. Is there a reason for the municipality of K., being a personal data administrator, to provide personal data to relatives of patients of the medical institution volume three names, PIN, address and contact phone number; 2. If justified, is it necessary to seek the consent of relatives before providing the data.

Legal analysis The Medical Establishments Act (PHA) is the normative act regulating the structure and activity of medical establishments in the Republic of Bulgaria. The same in Art. 26 describes in detail what activities the mental health centers perform and what their units are. According to the norm of art. 6, para. 1 of the Health Insurance Act, the activity of the medical establishments and of the medical and other specialists working in them shall be carried out in compliance with the medical standards for quality of the rendered medical care and ensuring protection of the patient's rights. Medical standards are approved by an ordinance of the Minister of Health. In view of the specific case, the corresponding bylaw is Ordinance № 24 of 07.07.2004 on the approval of the medical standard "Psychiatry", containing the various types of procedures and activities performed on patients. The main principles in the treatment of persons with mental disorders are minimal restriction of personal freedom and respect for their rights; reducing their

institutional dependence; integration and equality of psychiatric care with other medical fields; observance of the humanitarian principles and norms in the implementation of the healing process, as well as social adaptation and stimulation of self-help and provision of active professional support. It is an indisputable fact that in view of the exceptional specificity of the prescribed treatment and the performed procedures, the necessity of the consent of the patient, respectively of his relatives is determined in case of objective inability on his part to give it personally. The legal grounds relied on by the medical institution to justify the need to obtain data on relatives of its patients include situations in which the objectively informed consent of the patient (within the meaning of the Health Act) cannot be obtained. For example, according to item 2.3.2 of Ordinance № 24 of 07.07.2004, during the initial assessment of a person admitted for treatment in the respective medical institution, meetings with relatives are provided. The letter "c" of the same point emphasizes the need for an interview with a relative in order to take into account the nature of his relationship with the patient and his inclusion in the treatment plan. In addition to the above, the ordinance explicitly stipulates that when performing electroconvulsive therapy (item 3.8) the consent of the patient is required, and in case of impossibility on his part - to his close or legal representative, as it is documented. The results of the treatment are discussed with the relatives of the patient. The cases are similar in the neuropsychological assessment (item 3.10.1 of the ordinance), which is performed in cognitive and behavioral disorders, as well as in the care of at-risk patients, which is carried out in a psychiatric hospital, in which case doctors could conduct treatment only after obtaining the informed consent of the patient (item 5 of the ordinance). The above shows that the legislator has explicitly provided for the involvement of relatives / family of the patient in the overall process of his treatment - from his admission to his discharge. This has a therapeutic purpose, helps to facilitate the treatment and healing process of the patient. Not insignificant are the different forms of consultations with the patient's relatives (for example in schizophrenic disorders - item 3.10.3 of the ordinance) or the stage of planning his discharge and preparation, which is carried out exclusively with their assistance (item 3.13 of the ordinance).).

Regulation (EU) 2016/679 (General Regulation on Data Protection), which has been in force since 25 May 2018, is the normative act laying down the rules related to the protection of personal data of individuals during their processing. The General Regulation builds on the previous data protection regime introduced by Directive 95/46 / EC, transposed into the Bulgarian Personal Data Protection Act of 2002, while taking into account the dynamics of the development of new technologies and data processing activities. personal data. Within the meaning of Art. 4, item 1 of the General Regulation "personal data" is any information related to an identified natural person or a natural person who can be identified directly or

indirectly. The provision of the information required by the CPC - P. EOOD, on behalf of the municipality of K., constitutes an action for processing personal data within the meaning of the legal definition specified in Art. 4, item 2 of the General Regulation. The lawful processing of personal data for a specific purpose requires the existence of at least one of the exhaustively listed alternative grounds in Art. 6, para. 1, as well as the observance of the principles for processing of personal data, referred to in art. 5 of the ORZD. Ordinance № 24 of 07.07.2004 is by its nature a by-law, which is issued for the application of individual provisions or subdivisions of a normative act of a higher degree, which has effect throughout the country. As can be seen from the above, a reasonable conclusion can be made for the existence of compliance with the statutory obligation for medical institutions, in particular "CPC P." EOOD, as the same is a ground for legality of the processing in the sense of art. 6, para. 1 (c) of the General Regulation. In view of the specific case, the hypothesis of Art. 6, para. 1, letter "d" of the regulation, namely - the processing is necessary in order to protect the vital interests of the data subject or another natural person. Undoubtedly, in view of the specifics of the prescribed treatment, the performed procedures and the healing process, the contact with the relatives of the patient is not only recommended, but also obligatory in some cases, as there is the hypothesis of impossibility to of the patient. It should be emphasized that the controller of personal data processes data in the appropriate volume, depending on the special legislation governing its activities. When this is not regulated, the assessment is made by him, taking into account the specifics of the activity he performs and the obligations imposed on him by law. In the specific case, "CPZ P." Ltd. wishes to receive from the municipality of K. data of relatives of patients of the medical institution in the following volume: three names, PIN, address and contact phone number. We believe that in order to achieve these goals, it is sufficient to submit data in the following volume three names, address and contact phone. The latter will be in accordance with the principle of minimizing the data referred to in Art. 5, para. 1 (c) of the General Regulation. In all cases, the controller must take appropriate technical and organizational measures, taking into account technical progress, the scope, context and objectives of the processing, as well as the risks that may arise. "CPZ P." EOOD claims that a system for protection during the processing of personal data has been introduced within the medical institution. The controller should also be able to demonstrate that the processing complies with the General Regulation. In view of the above and on the grounds of Art. 58 (3) (b) of Regulation (EU) 2016/679, the Commission for Personal Data Protection adopted the following OPINION 1. On the basis of Art. 6, paragraph 1, letters "c" and "d" of Regulation (EU) 2016/679, in connection with Art. 6, para. 1 of the Medical Establishments Act and Ordinance № 24 of 07.07.2004 on the approval of the medical standard "Psychiatry",

Municipality of K., in its capacity as administrator of personal data, may provide the Center for Mental Health - P. " personal data of relatives of patients of the medical institution.2. The data may be provided in the following volume: three names, address and contact telephone number, according to the principle of "minimizing data", referred to in Art. 5, para. 1, letter "c" of Regulation (EU) 2016/679.

THE CHAIRMAN:

MEMBERS:

Ventsislav Karadzhov

Tsvetelin Sofroniev / p /

Veselin Tselkov / p /

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