

PROTECTION OF PRIVACY AND TRANSPARENCY OF THE STATE Tatari tn 39/10134 Tallinn / 627 4135 / info@aki.ee / www.aki.ee Registry code 70004235 PRECAUTIONS WARNING in personal data protection matter no. 2.1.-6/20 Preceptor Data Protection Inspector of the Data Protection Inspectorate Kaspar Uusnurm Time and place of precept 19.03.2020, Tallinn Addressee of the precept Marienthali Kliinik OÜ (14041178) Kotka tn 12, Tallinn 11315 marienthali.kliinik.oy@eesti.ee Addressee responsible person Member of the Management Board Xxxx Xxxxxx RESOLUTION: § 56 (1) of the Personal Data Protection Act , § 2 (8), § 58 (1) and Article 58 (2) (c) of the General Regulation on the Protection of Personal Data, we issue a mandatory injunction: 2. According to the instructions given by the representative of Xxxxxx Xxxxxxxx, send the information specified in clause 1 either by courier or by registered mail to the address P.Süda 11, 10118 Tallinn, Law Office Mets & Co OÜ or in encrypted form by e-mail to Xxxxx Xxxx (ik xxxxxxxxxxxx) xxxxx @ lawmets .ee. We set the deadline for compliance with the precept as 02.04.2020. Notify the Data Protection Inspectorate to the e-mail address info@aki.ee of the fulfillment of the precept by the deadline. CONTEST REFERENCE: This precept can be challenged within 30 days by submitting either: - a challenge under the Administrative Procedure Act to the Data Protection Inspectorate, or - an appeal under the Code of Administrative Court Procedure to the Tallinn Administrative Court (in which case the challenge can no longer be heard). Contestation of a precept does not suspend the obligation to comply with the precept or the application of the measures necessary for compliance Tatari tn 39/10134 Tallinn / 627 4135 / info@aki.ee / www.aki.ee Registry code 70004235. PENALTY OF WARRANTY: If a precept is not complied with by the specified term, the Data Protection Inspectorate shall impose a penalty payment of 2000 euros on the addressee of the precept on the basis of § 60 of the Personal Data Protection Act. The penalty payment may be imposed repeatedly - until the precept is complied with. If the addressee does not pay the penalty payment, it is forwarded to the bailiff to start enforcement proceedings. In this case, the bailiff's fee and other enforcement costs are added to the penalty payment. WARRANTY PENALTY WARNING: Failure to comply with a precept pursuant to Article 58 (1) of the General Data Protection Regulation may result in misdemeanor proceedings pursuant to § 70 of the Personal Data Protection Act. A natural person may be fined up to EUR 20 000 000 for this act and a legal person may be fined up to EUR 20 000 000 or up to 4% of its total annual worldwide turnover, whichever is greater. The Data Protection Inspectorate conducts extra-judicial proceedings against misdemeanors. FACTUAL FACTS: Xxxxx Xxxxxxx has a complaint filed through its contractual representative Xxxxx Xxxxx in the proceedings of the Data Protection Inspectorate. According to the complaint, Xxxxxx Xxxxxxxx submitted an application to Marienthali Kliinik OÜ on 24.04.2019, in which it wanted to

receive the information collected about his son. As the data was not released on the basis of the person's request, Xxxxxx Xxxxxxxx's contractual representative Xxxxx Xxxx submitted an additional request on 24.05.2019 requesting the issuance of documentation concerning the health care services provided to the represented son Xxxxxx Xxxxxxxx. By letter dated 29.05.2019, the release of a special type of personal data was refused due to the fact that the transmitted power of attorney does not include the authorization to release them. On 18.09.2019, the Inspectorate made a proposal to Mariehtali Kliinik OÜ with the following content: to issue information to Xxxxxx Xxxxxxxx to the representative of Xxxxx Xxxxxx regarding the provision of health care services to the son of Xxxxxx Xxxxxxxx. Send this information according to the instructions given by the representative of Xxxxxx Xxxxxxxx either by courier or by registered mail to the address P.Süda 11 Tallinn 10119 Download Office Mets & Co OÜ or by encrypted email to Xxxxx Xxxxx (ik xxxxxxxxxxxx) xxxxx@lawmets.ee. As the data processor did not respond to the proposal, on 1 November 2019 the Inspectorate made a repeated proposal in which the Inspectorate drew attention to the possibility of a precept and a penalty payment. Despite repeated explanations from the Inspectorate, Marienthali Kliinik OÜ refused to release the data on the grounds that the clinic had not been given the explicit consent of the child's legal representative Xxxxxx Xxxxxxxx to release the child's personal health data to Xxxxx Xxxxxx. 2. Information relating to psychiatric treatment and diagnosis in accordance with that provision shall be covered by the obligation of professional secrecy and shall not be disclosed outside the medical treatment without the written consent of the person concerned or his or her legal representative. According to the explanations of Marienthali Kliinik OÜ, they have not been given the explicit consent of the child's legal representative Xxxxxx Xxxxxxxx to release the child's health data Xxxxx Xxxxxx The lack of such consent does not allow Marienthali Kliinik OÜ to accept the proposal 4135 / info@aki.ee / www.aki.ee Documents containing registry code 70004235 to a third party, as compliance with the proposal would automatically lead to our violation of the law. GROUNDS FOR THE DATA PROTECTION INSPECTORATE: The Data Protection Inspectorate does not agree with the position presented in the response of Marienthali Kliinik OÜ to the proposal. As can be seen from the materials of the case, both Xxxxxx Xxxxxxxx have personally requested the transmission of information collected from Marienthal Clinic OÜ about the son of Xxxxxx Xxxxxxxx on 24.05.2019 through the contractual representative Xxxxx Xxxxx on 24.05.2019. Under Article 15 of the General Regulation on the Protection of Personal Data (EDPS), everyone has the right of access to data which has been collected concerning him or her. With regard to children's data, this right is vested in the parent. According to Article 12 (3) of the CISA, the controller must reply to the data subject without undue delay, but not later than within one month. In order

to obtain information and personal data about another person, there must be a corresponding authorization or the right of representation arising from law. According to the definition of § 117 of the General Part of the Civil Code Act, the right of representation is a set of rights within the limits of which a representative may act on behalf of the principal; In addition, if there is an authorization, it is not necessary to ask for consent, because in such a case the representative has the same rights to the extent of the authorization as the represented person. Therefore, the contractual representative of Xxxxxx Xxxxxxxx is not a third party, as in the case of an agency relationship Xxxxx Xxxx does not exercise its rights only by the person it represents. Thus, in a situation where Xxxxxx Xxxxxxxx has the right to receive information about its child and a valid power of attorney certifying the right of representation has been submitted to the data controller, Xxxxx Xxxxx Inspectorate also points out that Marienthal Clinic has refused to comply with the proposal repeatedly explained to the data controller in the recurring proposal. Pursuant to § 58 (1) of the Personal Data Protection Act and Article 58 (2) (c) of the General Data Protection Regulation, the Supervision Authority has the right to order the controller or processor to satisfy the data subject's requests regarding the exercise of his or her rights under this Regulation. Based on the above, the Inspectorate finds that it is necessary to issue a mandatory precept to Marienthali Klinik OÜ in order to eliminate the violation in the given matter. / digitally signed / Kaspar Uusnurm on behalf of the Director General of Data Security Inspector