

# Are the Global Cosmetic Surgery Legal Issues Bypassing Lithuania?

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The article deals with an empirical study of certain legal issues of cosmetic surgery and their manifestations in legal articles abroad and in Lithuania. It examines whether the cosmetic surgery-related legal issues analysed in the authoritative databases Scopus and Clarivate analytics and the articles found therein resemble the cosmetic surgery-related legal issues analysed in authoritative Lithuanian legal journals and the Lithuanian Digital Academic Library database (eLABa) articles.

**Keywords:** cosmetic surgery, aesthetic surgery, plastic surgery, cosmetic surgery tourism, legal issues.

## Ar pasaulinės kosmetinės chirurgijos teisinės problemos aplenkia Lietuvą?

Šiame straipsnyje atliekamas kai kurių kosmetinės chirurgijos teisinių problemų ir jų apraiškų teisės mokslo straipsniuose empirinis tyrimas užsienyje ir Lietuvoje. Straipsnyje analizuojama, ar kosmetinės chirurgijos teisinės problemos, kurios yra analizuojamos autoritetingų duomenų bazių *Scopus* ir *Clarivate analytics* mokslo straipsniuose, yra susijusios su kosmetinės chirurgijos teisinėmis problemomis, kurios yra analizuojamos autoritetinguose Lietuvos teisės mokslo žurnaluose ir Lietuvos akademinėje elektroninėje bibliotekoje (eLABa) esančiuose mokslo straipsniuose.

**Pagrindiniai žodžiai:** kosmetinė chirurgija, estetinė chirurgija, plastinė chirurgija, kosmetinės chirurgijos turizmas, teisinės problemos.

**Received:** 04/01/2021. **Accepted:** 17/03/2021

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## Introduction

**Relevance of the topic.** Health industry services are becoming increasingly globalised, claims G. Cohen, a scientist at the Harvard School of Law (Cohen, 2017, p. 201). Medical tourism is one of the most popular service niches that attracts many emerging markets (Enderwick, Nagar, 2011).

Reading scientific literature, one comes across the opinion that travelling abroad for medical reasons is not a new phenomenon. In particular, Victorian era travellers who pursued fresh seaside or mountain air for medical reasons laid grounds for modern medical tourism (Griffiths, Mullock, 2018, p. 221).

Some claim that the phenomenon of cosmetic surgery is neither an entirely internal nor an external process. It is an intersubjective process taking place in a consumerist habitat. This point of view treats cosmetic surgery as a purchased good, which has its own fashion, consumption and self-presence rhetoric, rather than being a medical or psychological necessity (Pitts-Taylor, 2005, p. 122).

Currently, some authors take the view that the economic downturn following the COVID-19 pandemic is likely to have an even more adverse effect on cosmetic plastic surgery than the 2008 economic recession had, in particular due to the indefinite ban on elective surgeries and current strain on hospitals (Arnautovic, Jahromi, Konofaos, 2020). On the other hand, others notice that during the pandemic, some cosmetic surgery clinics report surges in people getting treatments, since they can hide the effects of the treatment behind masks or while working from home. Whilst cosmetic clinics have seen a decline in foreign visitors, the locals do continue to come for treatments. In addition, the number of online inquiries has also increased significantly, with the aim of having online consultation prior to a trip once travelling restrictions are lifted (Williams, 2020).

Some authors point out that the global pandemic, which has seen a massive shift towards remote work and living, with people spending record amounts of time online, contributed to peoples' increased interest in cosmetic treatments. These authors have noted a surge in patients' curiosity to seek treatment citing their appearance on remote work platforms (such as Zoom) as a reason to seek care, particularly when it comes to acne and wrinkles. Furthermore, increased engagement on social media platforms has shown to correlate with increased dissatisfaction with one's body, with a specific term coined for the phenomenon – "Zoom Dysmorphia." These authors also state that the increase in patients seeking cosmetic treatments may be caused by them seeing their imperfections on camera daily, or because the wrinkles they see on screens make them look and feel more depressed to others (Rice, Graber, Kourosh, 2020).

Plastic surgery is the general definition describing surgical intervention aiming at eliminating negative effects of trauma, illness or another surgery or create a more pleasant appearance for whatever reason (Atiyeh *et al.*, 2008, p. 829). There are two sub-divisions of plastic surgery – cosmetic (aesthetic) and reconstructive surgery. Cosmetic surgery is understood as entirely elective work aiming exclusively at improving the patient's appearance<sup>1</sup>. Cosmetic surgeries and other procedures are often defined as interventions improving or changing patient's appearance, colour, structure, texture or position of the distinctive parts of the body (Atiyeh *et al.*, 2008, p. 829).

While the beauty services market is growing and cosmetic tourism is ever expanding, it is inevitable that new legal disputes arise. For example, although gender should not be a material circumstance when establishing the price of services, some service providers in Lithuania still establish prices depending on a client's gender. In 2018, Lithuania celebrated its 20<sup>th</sup> anniversary of the adoption of the Law on equal opportunities of women and men. The Office of Equal Opportunities Ombudsperson's

<sup>1</sup> Reconstructive surgery is defined as interventions aiming at correcting congenital defects, adverse effects of traumas, cancer or obtained otherwise and is considered a reconstruction of the damaged appearance (Griffiths, Mullock, 2018, p. 222).

(hereinafter – Equal Opportunities Ombudsperson; the Ombudsperson) activity report found (Equal Opportunities Ombudsperson Activity Report, 2018, p. 4) that Lithuania’s gender equality is regarded as below average in the EU context. This tendency is also widespread in the beauty services industry in Lithuania. It was established that often women and men pay different prices for the same beauty treatments. For example, it was established that for some services men pay more. In 2018 the Equal Opportunities Ombudsperson launched a new social campaign called “Price has no gender” (Equal Opportunities Ombudsperson Activity Report, 2018, p. 66), aiming at drawing attention to the fact that women and men are still paying different prices for the same hairdresser, beauty and leisure services.

The Equal Opportunities Ombudsperson is not the only institution concerned with the legal aspects of beauty services. Consequently, it is worth noting that the pursuit of beauty also moves into the courtrooms. Administrative, civil and even criminal cases related to performing beauty treatments can be found.

The examples of legal problems in cosmetic surgery and their tendencies in academic articles in law in Lithuania and abroad are the **object** of this article. We have set an **aim** to identify whether the cosmetic surgery-related legal issues analysed in the authoritative Scopus and Clarivate analytics databases and articles found therein resemble the cosmetic surgery-related legal issues analysed in authoritative Lithuanian legal journals.

The study has been conducted in stages raising the following **objectives**:

To identify whether the legal problems in relation to informed consent to perform beauty treatment are relevant in legal articles in Lithuania and in the articles in the authoritative Scopus and Clarivate analytics databases.

1. To establish whether the legal matters in relation to cosmetic surgery tourism are relevant in legal articles in Lithuania and in articles in the authoritative Scopus and Clarivate analytics databases.

2. To identify what legal matters in relation to cosmetic surgery are analysed in the most recent and most cited articles in the Scopus and Clarivate analytics databases.

**Methods.** The following methods have been used in conducting the study: conceptual and systemic analysis of the academic literature, comparison, and generalisation. The quantitative and qualitative empirical<sup>2</sup> study of the academic articles consisted of the following parts:

1. In order to establish whether and how often in the academic articles in the most representative databases thereof – Scopus and Clarivate analytics (Scopus, 2020; Clarivate analytics, 2020) – the terms “cosmetic surgery,” “aesthetic surgery,” “plastic surgery” are utilised and in which area of journals does that happen, a thirty-year period has been analysed, i.e., from 1990 to 2020 (October). We established five most popular areas of scientific study<sup>3</sup> where the said terms are discussed. Having

<sup>2</sup> Authors have chosen to conduct an empirical study to demonstrate the tendencies of a chosen topic present in academic articles. There is an increasing body of articles of empirical studies with keywords’ analysis (demonstrating particular tendencies of a specific area) in other areas of science, for example, Aleixandre-Tudó, J.L., Castelló-Cogollos, L., Aleixandre, J.L. et al. (2020). Tendencies and Challenges in Worldwide Scientific Research on Probiotics. *Probiotics & Antimicro. Prot.* 12, 785–797.

Empirical studies are increasingly valued in legal articles as well, for example, Epstein, L., King, G. (2003). Building an Infrastructure for Empirical Research in the Law. *Journal of Legal Education*, Vol. 53, pp. 311–320; Bell, F. (2016). Empirical research in law, *Griffith Law Review*, 25:2, 262–282; Epstein, L., Martin, A. D. (2014). *An Introduction to Empirical Legal Research*. Oxford: Oxford University Press; Epstein, L., Martin, A. D. (2010). Quantitative Approaches to Empirical Legal Research. In *The Oxford Handbook on Empirical Legal Studies*, ed. Peter Cane and Herbert Kritzer. Oxford University Press.

<sup>3</sup> Clarivate Analytics – Web of Science database’s system of division of areas of academic studies have been selected (Web of Science Core Collection Help, 2020).

established the number of articles where the aforementioned terms are utilised, we analysed how often legal aspects are examined in these articles, i.e. in how many of them the term “legal” is mentioned. In addition, it was also established in how many of the articles mentioning the term “legal” the topic of “informed consent” is analysed.

2. In order to establish whether and how often the legal aspects of cosmetic surgery tourism are analysed in the academic articles present in Scopus and Clarivate analytics databases, we analysed how many of the articles mentioning “cosmetic surgery,” “aesthetic surgery,” “plastic surgery,” also mention “legal” and therefrom we chose those articles that mention the term “tourism.” The period from 1990 to 2020 (October) has been analysed.

3. In performing the qualitative study, it was established which particular legal aspect related to the broad area of “cosmetic surgery” is discussed in the most recent and most quoted articles in the analysed databases.

4. We also analysed in how many of the articles published in the Lithuanian Digital Academic Library database (hereinafter – eLABa) do the terms “cosmetic surgery,” “aesthetic surgery,” and “plastic surgery” appear and in how many of those the term “legal” is also mentioned. The period from 1990 to 2020 (October) has been analysed. In addition, it was also established in how many of the articles mentioning the term “legal” the topic of “informed consent” and term “tourism” is analysed. Since eLABa became more widely used in Lithuania since 2015 and in most likelihood does not include all the older academic articles published in the most recognised Lithuanian legal journals before 2015, the authors have additionally reviewed the contents of selected journals, thus allowing for more precise data to be collected. In performing the study, the authors have additionally reviewed the legal academic articles published in the Lithuanian legal journals *Teisė* and *Jurisprudencija* in search of articles discussing the legal aspects of cosmetic surgery. Vilnius University journal *Teisė* was chosen as the best known and the oldest periodic legal publication published in Lithuania, published by the Faculty of Law of Vilnius University since 1957. When analysing the articles in this journal, the articles published from 2008 to October 2020 were taken into account, since earlier editions have not yet been digitalised<sup>4</sup> and thus cannot yet be analyzed using a keyword-based search engine. In addition, in the study we also analysed articles published in *Jurisprudencija* – a legal academic journal published by Mykolas Romeris University. Issues of this journal were among the first ones to become available online<sup>5</sup>. Accordingly, choosing this journal allowed us to analyse a somewhat more extensive period (from 1998 to 2020) and the topics of articles published during this period by filtering them using keywords. The study established whether and how often in the said journals can one come across the following terms: “cosmetic surgery,” “aesthetic surgery,” “plastic surgery,” “informed consent,” and “tourism” in the context of legal analyses.

It is worth noting that in **foreign academic literature**<sup>6</sup> the legal aspects of cosmetic surgery are analysed more often than in our country. In Lithuania, there has so far been no academic articles

<sup>4</sup> Please see: <https://www.zurnalai.vu.lt/teise/issue/archive>

<sup>5</sup> Please see: <https://www3.mruni.eu/ojs/jurisprudence/>

<sup>6</sup> For example, De Roubaix, J. A. M. (2010). Beneficence, non-maleficence, distributive justice and respect for patient autonomy – reconcilable ends in aesthetic surgery? *Journal of Plastic Reconstructive and Aesthetic Surgery*, 64(1), 11–16; Griffiths, D., Mullock, A. (2018). Cosmetic Surgery: Regulatory Challenges in a Global Beauty Market. *Health Care Analysis*, 26(3), 220–234; Jalian, H. R., Jalian, Ch. A., Avram, M. M. (2013). Common Causes of Injury and Legal Action in Laser Surgery. *Jama Dermatology*, 149(2), 188–193; Kennedy, A. (2015). Slice them up or slice them out? Legal liability for operating on the troublesome patient in cosmetic surgery. *Journal of Law and Medicine*, 23(1), 137–155; Park, B. et al. (2016a). A Legal Analysis of the Precedents of Medical Disputes in the Cosmetic Surgery Field. *Archives of Plastic Surgery*, 43, 278–283.

presenting structured empirical facts related to legal problems in cosmetic surgery, their nature and tendencies in legal academic articles. This is a first-of-a-kind study analysing whether the cosmetic surgery related legal issues analysed in the articles in the international Scopus and Clarivate analytics databases resemble the cosmetic surgery related legal issues analysed in Lithuanian legal journals.

## **1. Informed Consent, Cosmetic Surgery and the Scientific Articles in the Scopus and Clarivate Analytics Databases**

The early feminist position claimed that women undergoing cosmetic surgeries were victims of patriarchal culture and the beauty industry. As time went by, such a position was criticised by stressing the aspects of women's freedom of choice and autonomy. The critics presented women as active agents choosing and in control of the procedures they undergo (Latham, 2008).

Scientific literature also mentions that currently the body, rather than being a dysfunctional object in need of medical intervention, has become a commodity, like a car, that can be improved and modified at any time depending on one's changing priorities and financial capabilities (Gimlin, 2000). Discussions take place as to whether cosmetic surgery does not stimulate inequality between those who can and those who cannot afford a "better" appearance. A question is being raised as to whether cosmetically unimproved human beings will not eventually become the unemployed lower class (McHale, 2015).

Regardless of differences of opinions on cosmetic surgery's advantages and disadvantages, it is agreed that the principle of human autonomy in performing one or another treatment is among the fundamental ones in medical law. The individual's autonomy and right to self-determination is realised by the institute of informed consent in performing a particular medical treatment.

Consent in this context is often defined as a "voluntary and lasting patient's permission to receive specific treatment, granted on the basis of sufficient information on the purpose, nature and possible risks of the treatment, including the probability of its success and any of its alternatives" (Latham, 2010, p. 49).

Čekanauskaitė and Gefenas claim that although patient's informed consent is one of the fundamental principles in modern medicine, established in international and domestic legal documents and codes of ethics, it is still a topic of wide discussions in various countries (Čekanauskaitė, Gefenas, 2010, p. 45). This study continues by an attempt to establish whether the quoted authors's statements on individual's informed consent are also relevant in the context of cosmetic surgery.

Firstly, it is worth noting that neither in Clarivate analytics, nor in Scopus databases is there an option to automatically filter the most relevant recent legal issues discussed in the articles on cosmetic surgery. Whether a particular issue is being mentioned in an article in the said databases, one can only establish through a keyword search, depending on which topic is of interest.

It is also worth noting that certain authors consider both cosmetic as well as reconstructive surgeries to be subdivisions of plastic surgery. These terms are quite often used interchangeably. At times, medics, lawyers and scholars from other areas define particular matters differently. In conducting our quantitative empirical study, a total of 10 646 articles mentioning the terms "cosmetic surgery," "aesthetic surgery" and "plastic surgery" were found in Clarivate analytics database (Table 1). One cannot exclude that some of the aforementioned terms could have been used interchangeably.

An ongoing competition between various areas of science to have articles assigned to their own category whenever registered renders the searches even more challenging. Consequently, quite often, only one area of science, for example, medicine, is mentioned, even though article analyses also legal issues. Articles mentioning "cosmetic surgery," "aesthetic surgery" and "plastic surgery" in the said database come from various areas of science. The analysed terms had most often been discussed in

the articles assigned to the areas of *surgery* and *medicine*. The conducted search rendered no articles mentioning “aesthetic surgery” and “plastic surgery” that were assigned to the area of legal science. However, the “cosmetic surgery” term was mentioned in 11 articles assigned to legal science in the Clarivate analytics database.

**Table 1.** Results of usage of terms “cosmetic surgery,” “aesthetic surgery” and “plastic surgery” in the Clarivate analytics database

Term	Amount of articles Clarivate analytics (1990-2020)*	Areas of science (5 most relevant)	Articles assigned to the area of legal science	Articles mentioning the term “legal”	Articles mentioning the term “informed consent”
“Cosmetic surgery”	1810	Surgery, dermatology, medicine general internal, women studies, psychiatry.	11	42	5
“Aesthetic surgery”	1027	Surgery, dermatology, dentistry oral surgery, medicine general internal, otorhinolaryngology	0	18	2
“Plastic surgery”	7809	Surgery, dentistry oral surgery medicine, medicine general internal, dermatology, otorhinolaryngology.	0	76	10

\* Until and including 27 October 2020.

Although there are very few articles assigned specifically to the area of legal science in Clarivate analytics database mentioning “cosmetic surgery,” “aesthetic surgery” and “plastic surgery” terms, but as the subsequent analysis demonstrated, legal aspects of cosmetic surgery, aesthetic surgery or plastic surgery are quite often analysed in the articles not assigned to the area of legal science. For example, the term “cosmetic surgery” was mentioned in 1810 articles published on the Clarivate analytics database. Only eleven of those were assigned to the area of legal science; however, in total, the system identified 42 articles mentioning the term “legal.” Therefore, the system identified more articles mentioning term “legal,” but these articles are not assigned to the area of legal science in the system. “Aesthetic surgery” was discovered in 1027 articles on the Clarivate analytics database. None of them were assigned to the area of legal science. However, in 18 of them, the term “legal” had been used. Similar results were achieved when the frequency of the “plastic surgery” term in academic journals was investigated. This term was mentioned in 7809 articles. None of them were assigned to the area of legal science, but in 76 of them the term “legal” had been used.

Therefore, in our attempts to establish the relevance of the informed consent issue in the context of cosmetic surgery, we face challenges already in the early stages of the study, posed by the different understanding or at times interchangeable usage of the following terms: plastic, aesthetic, cosmetic surgery. The ongoing competition between various areas of science to have articles assigned to their own category whenever registered constituted a further challenge. Quite often with only one discipline of science being mentioned, for example, medicine, the article would also analyse legal issues.

In particular, the “informed consent” term had been used in only five articles assigned to the area of legal science where the terms “legal” and “cosmetic surgery” had also been used. The “informed consent” term had been used in two articles that also mentioned the terms “legal” and “aesthetic surgery”; however, none of the two articles had been assigned to the area of legal science. The “informed consent” term had been used in ten articles that also mentioned the terms “legal” and “plastic surgery,” but none of these articles had been assigned to the area of legal science.

In conducting the empirical study, 46 936 articles mentioning the terms “cosmetic surgery,” “aesthetic surgery,” and “plastic surgery” were found in the Scopus database (Table 2).

**Table 2.** Results of the usage of the terms “cosmetic surgery,” “aesthetic surgery” and “plastic surgery” in the Scopus database

Term	Amount of articles Scopus (1990-2020)*	Areas of science (5 most relevant)	Articles assigned to the area of legal science	Articles mentioning the term “legal”	Articles mentioning the term “informed consent”
“Cosmetic surgery”	1938	Medicine, social sciences, psychology, arts and humanities, nursing.	(law is not separately distinguished in the database)	150	35
“Aesthetic surgery”	1362	Medicine, social sciences, biochemistry, genetics and molecular biology, dentistry, engineering.	(law is not separately distinguished in the database)	52	15
„Plastic surgery“	43636	Medicine, dentistry, biochemistry, genetics and molecular biology, nursing, engineering.	(law is not separately distinguished in the database)	499	95

\* Until and including 27 October 2020.

The said terms are most often used in studies of medical science. It is worth noting that this database does not specifically distinguish the science of law. Therefore, it is even more challenging to come to definite conclusions as to whether the individual’s informed consent question is often analysed in legal academic journals that also discuss matters related to cosmetic surgery. However, on the general and abstract level, we note that the terms “cosmetic surgery” and “aesthetic surgery” are often mentioned in articles in the area of social sciences. What is more, with 701 articles mentioning the terms “cosmetic surgery,” “aesthetic surgery,” “plastic surgery” with “legal,” 145 of those also mentioned the term “informed consent.” However, it is impossible to definitely conclude the specific area of social sciences that discussed the issue of informed consent.

To sum up, the performed analysis fails to confirm the statement that the individual’s informed consent issue is of particular relevance in articles from the Clarivate analytics database that discuss cosmetic surgery. Even less often does the individual’s informed consent concept come up in articles discussing cosmetic surgery and assigned specifically to the area of legal studies. What is more, it is impossible to definitely conclude the specific area of social sciences that discussed the issue of informed consent in the Scopus database.



## 2. Cosmetic Surgery, Informed Consent and the Case of Lithuania

Lithuania is not estranged from global tendencies either. Article 17 of the Law on patients' rights and damages compensation of the Republic of Lithuania (Lietuvos Respublikos pacientų teisių..., 1996) states that before performing a surgery or an invasive procedure, patient's informed consent must be obtained. Such consent must comply with the standards set by the Minister of Healthcare (Lietuvos Respublikos sveikatos apsaugos ministro..., 2010).

When obtaining the information-based consent, the information is deemed appropriate when the nature of the surgery or treatment, its character, alternatives, goals, but also known and possible complications, and other circumstances that may have influence on the patient's self-determination to consent or refuse receiving the envisaged surgery or treatment, but also possible consequences if the envisaged treatment is not undertaken, have all been explained to the patient. The law provides that the doctor has to inform the patient with due regard to his age and medical condition, in a form understandable to the patient, explaining special medical terms. This allows to realise the principle of the individual's autonomy provided for in the Constitution of the Republic of Lithuania. As Article 21 of the Constitution states, "the human person shall be inviolable" (Lietuvos Respublikos Konstitucija, 1992).

After conducting an empirical study on the eLABa database, the authors have in total found 92 articles mentioning the terms "cosmetic surgery" (4 articles), "plastic surgery" (84 articles) and "aesthetic surgery" (4 articles). The articles mostly mention the "plastic surgery" term. Legal aspects are most often touched upon in articles discussing plastic surgery (4 such articles have been found<sup>7</sup>). However, upon closer inspection of the contents of the aforementioned articles, it occurs that legal aspects are not in their centre of attention. The authors have not found a single article discussing cosmetic, plastic or aesthetic surgery matters together with the issue of individual's informed consent.

**Table 3.** Results of the usage of the terms "cosmetic surgery," "aesthetic surgery" and "plastic surgery" in the eLABa database

Term	eLABa database		
	Amount of articles eLABa (1990-2020)*	Articles mentioning the term "legal"	Articles mentioning the term "informed consent"
"Cosmetic surgery"	4	0	0
"Plastic surgery"	84	4	0
"Aesthetic surgery"	4	0	0

\* Until and including 27 October 2020.

eLABa has been in widespread use in Lithuania from 2015 and, in most likelihood, does not include all the older academic articles published in the authoritative Lithuanian legal journals before 2015; therefore, the authors have additionally examined selected tables of contents of certain journals, allowing

<sup>7</sup> For example: Rapolienė, G., Juozulynas, J. A. (2009). Senstantis kūnas Lietuvos viešajame diskurse. *Sociologija. Mintis ir veiksmai*, 24(1), 131–144; Siaurusaitis, B. J. (2004). Lietuvos vaikų chirurgijos raida, dabartis ir perspektyvos. *Lietuvos chirurgija*, 2(3), 175–182; Biržietienė, S., Gabrėnaitė, E. (2014). Eristinis argumentavimas reklamoje. *Respectus Philologicus*, 26, 190–202; Kisieliūtė, B., Košytė, V., Kuzborska, Z., Jakavonytė Akstinienė, A. (2019). Mamų žinios apie gimdos kaklelio vėžį ir vakcinaciją nuo jo. *Į sveiką gyvenimą ir skaidrią būitį Vydūno keliu: Vydūno tarptautinė mokslinė konferencija, skirta Sveikatos mokslų fakulteto veiklos 20-mečiui paminėti: konferencijos medžiaga.*



for a greater precision of collected data. In performing the study, the authors additionally reviewed the legal academic articles published in the Lithuanian legal journals *Teisė* and *Jurisprudencija* in search for articles discussing the legal aspects of cosmetic surgery. We performed the analysis using the *Teisė* website with the assistance of the search engine provided in search for articles mentioning the terms “plastic surgery,” “cosmetic surgery” or “aesthetic surgery.” The search engine did not return a single article mentioning these terms. The search for articles analysing the issue of individual’s informed consent also did not return a single article devoted to cosmetic surgery. We only managed to find an article by E. Meškys that discusses the individual’s consent issue in the context of biobanks (Meškys, 2015).

Likewise, we tried using the search engine on the *Jurisprudencija* website in search for articles mentioning the terms “plastic surgery,” “cosmetic surgery” or “aesthetic surgery.” The search engine did not return a single article mentioning the terms “cosmetic surgery” or “aesthetic surgery.” For “plastic surgery,” the search engine found two articles. One of them analysed the concept of gender identity and problems with legalization in modern law (Petrėnaitė, 2017). The other article analysed the influence of the European Union law on the regulation of private health insurance (Elzbergas, 2008). None of these articles discussed in detail the legal problems associated with cosmetic surgery. The search for the term “informed consent” yielded 13 articles, but none of them had analysed individual’s informed consent in the context of cosmetic surgery. The aforementioned articles analyse the significance and contents of the Helsinki declaration (Balsienė, 2008), patients’ obligations catalogue in Lithuania (Špokienė, 2012), civil liability for damages inflicted during clinical testing of medicinal products (Zamarytė, 2008), the role of international and local law in biomedical research (Sprumont, Andrulionis, 2009), legal and practical aspects of treating children with medicine (Stakišaitis, 2008), etc.

A composite analysis or more detailed statistics of jurisprudence that would allow to calculate how many criminal, administrative or civil cases related to cosmetic surgery there are annually or what legal issues are most often analysed therein is also missing. Still, searching the Infolex database yields some court cases worthy of greater attention, illustrating recent tendencies and proving that Lithuania is not estranged from legal issues analysed elsewhere, and especially when it comes to individual’s informed consent in performing aesthetic procedures.

For example, in a 2018 case (The Ruling of the Lithuanian Court of Appeal of 16 October 2018), the claimant pointed out she had visited a plastic surgeon to improve the look of her scars and wrinkles with hyaluronic acid. In the claimant’s view, the desired result was not achieved; on the contrary, the appearance of her face and neck was further damaged, while the treatments had adversely affected her health, which influenced her professional activities. No written contract had been signed between the healthcare services clinic and the claimant. No receipts confirming payments for the treatments have been issued. The respondent tried to prove that the requirement to obtain written informed consent applied only in a healthcare services clinic when personal healthcare services are provided. The respondent stated that the claimant visited the respondent’s clinic not because of a particular trauma or illness, but with a personal, aesthetic goal to improve her own appearance; therefore, the services rendered should not be qualified as healthcare services, and therefore the requirement for obtaining patient’s informed consent for the procedure, as established by the law, did not apply to the respondent. The court decided that the sole circumstance that the disputed services have been rendered on aesthetic, rather than curing or healthcare treatment’s reasons, does not in and of itself mean that the services rendered to the claimant may not be deemed personal healthcare services. The court drew everyone’s attention to the fact that only a doctor holding a license to practice medical activities may engage in improving aging skin with invasive methods and that such services may only be rendered in institutions licenced to engage in healthcare activities. The court also stated that lacking evidence that the

claimant decided to receive the treatment after being provided with all-round information, i.e., that she agreed to receive injections after the doctor exhaustively informed her as to the nature, character, goals, possible results and complications of the envisaged treatment, it is to be deemed that the doctor who rendered the services to the claimant was not attentive and careful enough as expected of a professional in this sector. The court concluded that the activities of the doctor who provided the treatment to the claimant without granting full information about the services, possible results (treatment prognosis) and (or) complications, were illegal, because the patient, not being provided all-round information, could not have known and evaluated the risk of treatment, appropriately used her freedom of choice, and potentially avoided monetary losses by entirely refusing the service, the likely outcome of which would not have satisfied her. The respondent's activities were pronounced as illegal not because she did not achieve the result desired by the claimant, but because she failed to fulfil her duty to inform the patient, *inter alia* did not provide the claimant with sufficient information on the basis of which she could have reasonably understood that the result desired by her may not be achieved after one treatment and may even not be achieved at all, i.e., due to the failure to duly perform her duties, she allowed the claimant to assume that a particular result will be achieved through the rendered services. The expected result was not achieved in the end. The Court stressed that the Supreme Court of Lithuania in its jurisprudence has declared that, legally, a causal link exists in situations where a person had a duty to perform an act or act in a particular manner but did not do so and such behaviour, inadequate to the factual circumstances, contributed materially to the damages being suffered, directly causing adverse consequences or creating conditions for such consequences to occur. Therefore, even without a factual causal link, a legal causal link may be established, which may be sufficient for civil liability to arise (The Ruling of the Lithuanian Court of Appeal of 16 October 2018).

In Lithuanian court practice, one can also find cases analysing instances of whether the consent to perform a particular beauty treatment had been informed enough.

For example, in a 2016 case (The Ruling of the Supreme Court of Lithuania of 2 June 2016), the Supreme Court of Lithuania resolved a dispute where a claimant asked for damages compensation because of improperly rendered plastic surgery services – breast augmentation with implants. The claimant alleged that the respondent rendered the plastic surgery services improperly, because the appearance (aesthetics) of the breasts following the surgery deteriorated. The claimant asserted that the respondent rendered her medical services without the necessary consent, i.e., she had not been duly informed about the chosen tactics of the surgery, means to be applied, and the possible negative consequences. In addition, she did not grant consent as to the size and form of the implants used during the surgery. The claimant stated that there was a causal link between the actions of the employees of the respondent and the negative consequences suffered by the claimant, because different breast implants than the ones initially agreed upon have been used during the surgery. Court stated that section 2 of article 17 of the Law on patients' rights and damages compensation provides that an information-based consent has to be obtained from the patient before conducting a surgical intervention. Court stressed that section 3 of article 2 of the same law provides a definition of the surgical intervention – it is a medical procedure whereby a doctor, seeking to diagnose, cure or improve the functioning of organs or their systems' malfunctioning because of illness or trauma, using medical devices, intervenes with patient's tissues and (or) organs breaching the tissues' and (or) organs' integrity (Lietuvos Respublikos pacientų teisių..., 1996). The court drew attention to the fact that the same laws and regulations apply to surgeries performed for aesthetic reasons as to any other surgeries. Therefore, the consent for plastic surgery must be expressed in writing, by signing a form compliant with the requirements established by the Ministry of Healthcare. The court pointed out that it is evident from the consent signed by the

claimant that she agreed to receive a breast corrective surgery with implants and augmentation, eliminating the excessive skin. Although during the dispute expert opinion was presented stating that the claimant received aesthetic breast surgery with augmentation by TMM 385 cc (*Eurosilicone*) implants and breast lifting by the lower leg method according to Hoffman's methodology, a partial removal of breast fat tissue and duplication of breast skin, but the experts did not point out that the consent before the surgery mentioned a different surgery than the one carried out to the claimant. The court also stressed that the expert opinion provided a more scientific description of the surgery, whereas the consent signed by the claimant – a description understandable to the patient. In the consent signed by the claimant, in addition to the aforementioned circumstances, possible complications are also exhaustively presented, as well as the fact that healing takes from 6 to 12 months. The consent also warned the claimant that further surgeries may be necessary subsequently in the process. In addition, section 3 of article 5 of the Law on patients' rights and damages compensation establishes an obligation for a doctor to provide information to the patient on the ways of treatment or tests, possible risks, complications, side effects, treatment prognosis and other circumstances with regard to the patient's age and health condition, in a manner understandable to the patient and by explaining specific medical concepts. It was evident from the consent that the claimant was informed that unexpected circumstances requiring additional procedures may occur during the surgery, therefore she authorised the doctor to conduct these additional procedures on the basis of the doctor's professional competencies. The judges' panel also noted that certain aspects of plastic surgery, for example alternative methods of diagnosis and treatment, can be explained to the patient in a way that makes them understandable to a non-specialist, i.e., also during oral communication, but the patient should sign a confirmation that the matters have been explained to them. Interestingly enough, the court also ruled that the fact that the consent form did not specifically mention what implants would be used during the surgery cannot be deemed a breach of the established requirements (The Ruling of the Supreme Court of Lithuania of 2 June 2016).

To sum up, after analysing academic articles published during the last years in major national legal journals (*Teisė* and *Jurisprudencija*), it is worth noting that the issue of legal aspects of cosmetic surgeries or the issue of informed consent pertaining to cosmetic surgery in Lithuania have not been widely examined. However, the lack of scientific literature on the matter does not mean there to be no cases related to cosmetic surgery in Lithuanian jurisprudence. A search through cases on the Infollex database permits us to conclude that like in other jurisdictions, leading by popularity of cosmetic surgery, part of the legal disputes in the area of cosmetic surgery in Lithuania relate to the matter of patient's informed consent. There are cases in Lithuania where the contents of the patient consent were at issue. There are also cases where in the context of an invasive aesthetic procedure, there was in fact no signed individual consent, claiming that when conducting the procedures for aesthetic reasons only, obtaining such consent is not obligatory.

### **3. Scopus, Clarivate Analytics and the Most Quoted and Recent Articles in the Area of Cosmetic Surgery and Law**

The public demand to undergo cosmetic surgeries to improve their appearance is a global phenomenon, not limited to countries of particular size or wealth. Some countries lead the world in per-capita plastic surgery procedures performed, some represent the largest number of plastic surgery procedures performed per year in general. Different legal topics of cosmetic surgery are mentioned in the articles analysing the question of legal aspects and cosmetic surgery in the mentioned countries.

For example, the publication called *Gangnam-Style Plastic Surgery: The Science of Westernized Beauty in South Korea* (Leem, 2017) stresses the Korean singer Psy's 2012 global hit song "Gangnam Style," which specifically talks about Gangnam (*Gang* and *nam* mean "river" and "south," respectively, in Korean), i.e., one of Seoul's districts famous for plastic surgery venues. According to figures from 2014, more than half of the country's 671 plastic surgery clinics were in Seoul and out of those 74,8% were specifically in Gangnam (Leem, 2017). Authors note that previously most legal disputes in Korea rose out of patient death or the material negative consequences of cosmetic surgery. Currently, however, more and more legal disputes arise because of clients' dissatisfaction after having undergone even relatively insignificant cosmetic procedures. The analysis performed notes that in quite a few court cases related to cosmetic surgery specifically the duty to duly inform the patient about the conducted procedure have been breached. It is recalled that the Supreme Court of Korea has clarified that cosmetic surgery is not an urgent treatment; therefore, the duty to duly inform should be even more broadly applied. The same court spoke also more broadly on the duty to duly inform the patient before conducting specifically facial cosmetic surgery, noting that although post-surgery symptoms when performing facial cosmetic surgeries are not material and only temporary, still, since the patients may experience emotional stress or their external activities may malfunction, plastic surgeons must duly inform the patients about the methods of the treatment and the adverse effects that may occur after the procedure, thus allowing the patients to choose whether to undergo a particular procedure or change their mind in the end (Park *et al.*, 2016, p. 282). Scientific articles mention that with the growth of competition among the clinics providing plastic surgery services, doctors are often inclined to stress only the positive effects of cosmetic surgery, not paying enough attention to the potential adverse effects, which results in them losing court cases thereafter. Authors stress that informed consent in Korea should be evaluated not only as a duty to protect patients' right to self-determination but also as a mean to protect the doctors themselves (Park *et al.*, 2016b).

In the US, various studies examining the litigation landscape in plastic surgery across its different subspecialties are constantly performed. For example, conclusions of one of the most recent of such studies in 2020 were published in the reputable *Aesthetic Surgery Journal*. For the purpose of that article, its authors conducted an analysis of the Westlaw legal database in search of malpractice cases in the US in the following categories: cosmetic, reconstructive, hand, craniofacial, and gender affirmation surgery. They conducted both a Boolean and a natural language search to identify cases in which the defendant was a plastic surgeon. Results of the study showed that in the majority of cases surgeons succeeded as defendants (98 [60%] vs 65 [40%]) and stressed that, *inter alia*, surgeons can avoid litigation by maintaining detailed office and surgical notes, adequately following and monitoring patients after surgery, ensuring compliance by communicating frequently and effectively, and always obtaining informed consent (Sarmiento *et al.*, 2020).

In a different publication in the same academic journal, authors aimed at establishing circumstances material in courts' decisions related to cosmetic surgery in Brazil. As the scientists stressed, the quality of the medical records, experts' examinations and *inter alia*, the quality of the patient's consent were often the circumstances that greatly influenced the court's decisions (Vila-Nova da Silva, 2015). The study gathered data from 98 consecutive malpractice claims related to plastic surgery, filed between 2000 and 2008. The website of the State Court of Justice of Rio Grande do Sul, Brazil, provided the cases. (Vila-Nova da Silva, 2015). After applying exclusion criteria, 39 malpractice claims remained and were entered into the study; these cases represent all fully resolved claims against doctors in the Brazilian state of Rio Grande do Sul during the examined period. The chi-square test and Cramer's V coefficient were used to test for statistically significant links between judicial decisions and expert

report conclusions, quality of medical records, and procurement of informed consent of the patient. As the conclusions also showed – there was a significant link between the procurement of written informed consent and a decision favoring the doctor. Cramer's V coefficients indicated a strong association between judicial decisions favoring the surgeon and (a) obtaining informed consent (Cramer's V = 0.77) and (b) expert reports favoring the physician (Cramer's V = 0.70) (Vila-Nova da Silva, 2015).

The analysis of the articles on Clarivate analytics or Scopus databases in the context of the citation index shows some interesting insights on the most interesting questions for the scholars from different countries.

First of all, it is worth noting that among articles found on the Clarivate analytics database assigned to the area of legal science and mentioning the term “cosmetic surgery,” the most often quoted ones are those that relate to breast cosmetic surgery and the legal problems related thereto (Dresser, Wagner, Giannelli, 1997). Furthermore, when searching through the Clarivate analytics database for articles mentioning the terms “cosmetic surgery” and “legal” among the articles not assigned to the area of legal science, among the most widely cited ones found is also an article discussing issues related to breast implants' (Janowsky, Kupper, Hulka, 2000).

However, when searching for the most cited articles mentioning the terms “cosmetic surgery” and “legal,” for example, in the Scopus database, we found articles that mostly emphasize the psychology of aesthetic surgery rather than legal issues pertaining to it (Sarwer, Crerand, 2008). This also happens when trying to filter the most cited articles in the Scopus database mentioning the terms “cosmetic surgery” and “informed consent.” These articles also most often analyse the psychological issues of cosmetic surgery (Pruzinsky, 1993). What is more, when analysing the most cited articles on the Scopus database mentioning the terms “aesthetic surgery” and “legal,” an article where most attention is paid to the perspective of using artificial intelligence is to be noted. The purpose of this particular article was to introduce the modern plastic surgeon to machine learning and computational interpretation of large data sets (Kanevsky *et al.*, 2016).

In analysing the articles on Clarivate analytics or Scopus databases in the context of the citation index, it is also worth noting that the most cited articles which utilise the terms “cosmetic surgery” and “informed consent” are often prepared in a two-fold manner. Sometimes they analyse legal issues only; for example, they investigate the reasons behind complaints and claims of negligence made by plastic surgery patients in order to identify trends and potential areas of improvement (Patel, Morrison, 2013), and sometimes the historical perspective of patient's autonomy, motivation in aesthetic surgery, the role of society in aesthetic surgery, and moral and legal liability in cosmetic surgery are being discussed (De Roubaix, 2010). Therefore, quite often these are moral and philosophical issues discussed together with a legal analysis of a particular cosmetic surgery issue.

When searching through the Clarivate analytics database for articles mentioning the terms “plastic surgery” and “informed consent” one can find quite a few widely cited articles related to facial surgery issues. In particular such articles examine malpractice litigation in facial plastic surgery procedures and characterize factors important in determining legal responsibility, as this information may be of great interest and use to practitioners in several specialties (Svider *et al.*, 2013). In addition, they identify common causes of legal action, injuries, claims, and decisions related to medical professional liability claims stemming from cutaneous laser surgery. The incidence of litigation related to laser surgery shows an increasing trend, with its peak occurring in 2010. Nonphysician operators accounted for a substantial subset of these cases, with their physician supervisors named as defendants, despite having not performed the procedure (Jalian, Jalian, Avram, 2013).

An analysis of the most recent (published in last years) legal articles on Clarivate analytics database mentioning the term “cosmetic surgery” shows that quite often they discuss an issue not yet widely analysed in Lithuanian legal science or jurisprudence. For example, conflicting human rights, such as the right to bodily integrity and the right to culture or religion are analysed when discussing the issues of male and female circumcision/genital cutting/mutilation (Paakkanen, 2019). As the authors claim, surgeries performed on male genitalia are widely accepted, whereas any surgery for cultural or religious reasons on female genitalia – whether infant or adult – is deemed a human rights violation. The article analyses the differences in human rights discourses on these topics and questions the validity of and the justifications for the different approaches (Paakkanen, 2019). Another article analysed the regulation of female genital surgery in Australia with a focus on New South Wales. Authors took the view that the categorisation of some surgeries as female genital mutilation and others as female genital cosmetic surgery contributed to the production of a constellation of gendered legal subjects, produced in language and law, which in turn contributes to maintaining the raced and gendered *status quo* in Australia (Iribarne, Seuffert, 2018). Another article discussed the individual’s free will question and its limits, including whether or not a person has the right to injure himself or herself, whether or not psychological harm justifies cosmetic surgery, etc. (Mashhad, 2016).

It is worth noting that in recent articles the legal liability of cosmetic surgeons operating on patients with body dysmorphic disorder is also discussed. The authors mention that practicing cosmetic surgery is constructed as psychologically beneficial. This therapeutic promise transforms it into proper medical treatment. However, there is emerging evidence that a significant percentage of cosmetic surgery patients suffer from the condition of body dysmorphic disorder, which is characterised by excessive preoccupation with one’s imagined or minor defects in appearance (Kennedy, 2015). Finally, problems relating to parents’ liability when the surgery is performed for a child are also analysed (Newbould, 2016).

To sum up, the analysis of the articles on Clarivate analytics or Scopus databases in the context of the citation index shows that the legal aspects of breast cosmetic surgery, the legal and psychological aspects of cosmetic surgery, the legal aspects of facial surgery, laser surgery litigation questions, and the perspective of using artificial intelligence in aesthetic surgery are the most widely cited topics. The analysis of most recent articles shows that the commentary on legal aspects of genital surgery, the legal liability of cosmetic surgeons operating on patients with body dysmorphic disorder, and legal problems relating to parents’ liability when the surgery is performed for a child are among the most relevant ones recently.

#### **4. Cosmetic Surgery Tourism and Legal Issues**

Cosmetic surgery tourism denotes patients’ mobility from one place to another willing to receive aesthetic treatments (Griffiths, Mullock, 2018, p. 228).

In pre-pandemic times, some authors analysing changes happening in the global beauty industry noted that aesthetic- or cosmetic surgery-related tourism was becoming ever more popular. The amount of cosmetic surgery procedures happening across the world is increasing with a recent American Society of Plastic Surgeons Report suggesting an increase of cosmetic procedures of 132 percent between the years 2000 and 2016 (American Society of Plastic Surgeons, 2016).

When clinics were closed during the COVID pandemics, plastic surgeons continued to stay in touch with their patients by way of virtual visits. The American Society of Plastic Surgeons measured how the telemedicine performed and found that most of its members sought technology to connect



with clients, with 64% of respondents seeing an increase in their telemedicine consultations since the pre-pandemic era. Even more so, 68% of the respondents started seeing patients virtually because of COVID-19 in the first place (American Society of Plastic Surgeons, 2020b). In addition, certain plastic surgery clinics started offering drive-through botulinum toxin and filler injections in their parking lots (Arnautovic, Jahromi, Konofaos, 2020).

The American Society of Plastic Surgeons announced results of a study of Americans' perceptions of plastic surgery in the wake of the COVID-19 pandemic, analyzing responses from more than 1 000 consumers in a country-wide survey conducted by a market research firm Quester. It provided insights into how consumers feel about the matter and top treatments. The results demonstrate that, during the pandemic, 49% of those who have not yet had plastic surgery indicated they are open to cosmetic or reconstructive treatment in the future (American Society of Plastic Surgeons, 2020a). Therefore, as certain predictions demonstrate, it is likely that after the pandemic, the plastic and cosmetic surgery services will remain relevant. The post-pandemic surgery trends' forecasts are being prepared. Insights therein were largely, if not exclusively, based on what was learned from patients via telemedicine appointments. The most sought for procedures were the injectables, followed by the more invasive treatments: Botulinum Toxin Type A – 65%; Breast Augmentation – 44%; Soft Tissue Fillers – 37%; Liposuction – 30%; Abdominoplasty – 24% (American Society of Plastic Surgeons, 2020b). Accordingly, these are expected to be the most popular procedures in the future.

Reasons for cosmetic surgery tourism are many and various: sometimes services desired to be received are not provided in the country of origin. At other times cosmetic surgery is cheaper abroad. Finally, sometimes the monetary aspect has no influence and the patient merely desires to receive the treatment from the best specialist available and accordingly is willing to travel abroad (Griffiths, Mullock, 2018, p. 221).

Cosmetic surgery tourism is often considered risky for various reasons. Such trips usually coincide with holidays, during which various leisure activities are undertaken, which is risky because infections are the most common complication for patients travelling abroad to receive a particular treatment. A long journey, for example by air, also has negative influence. Sometimes cosmetic surgery products or devices used abroad might not have been tested in the country where the patient comes from. Finally, cosmetic surgery tourism packages provide limited long-term care upon return to the country of origin. Some authors also note that cosmetic surgery patients are less able to verify the surgeon's qualification or obtain aftercare, such as a clinical supervision of wounds, bruising or scarring. The lack of care can result in post-operative problems (Latham, 2010, p. 48).

Regardless of the possible risks, admiration for cosmetic surgery tourism (at least before the pandemic) was increasing. However, academics have stressed that the legal consequences of a procedure are unclear, especially so if it is unsuccessful. For example, Davison *et al.* stated: “medical tourism patients can reasonably expect to continue healthcare activities, but there is little legal love abroad” (Davison *et al.*, 2018). In order to grasp a more detailed view of the legal aspects of cosmetic surgery tourism, an empirical study of articles published in Clarivate analytics and Scopus databases mentioning the said problems has been conducted.

When performing the empirical study, Clarivate analytics database returned 10 646 articles mentioning the terms “cosmetic surgery,” “aesthetic surgery,” and “plastic surgery.” Among them, however, only four articles mention the terms “legal” and “tourism” together (Table 3).



**Table 3.** Results of the usage of terms “cosmetic surgery,” “aesthetic surgery” and “plastic surgery” in the Clarivate Analytics database.

Term	Amount of articles on Clarivate analytics (1990-2020)*	Articles mentioning “legal”	Articles mentioning “tourism”
“Cosmetic surgery”	1810	42	3
“Aesthetic surgery”	1027	18	0
“Plastic surgery”	7809	76	1

\* Until and including 27 October 2020.

Therefore, the performed analysis does not allow to conclude that the legal problems in relation to cosmetic surgery tourism are currently a widely discussed topic on the Clarivate analytics database. On the contrary, as the previously conducted analysis showed, more often articles that mention the terms “cosmetic surgery,” “aesthetic surgery,” “plastic surgery” with “legal” discuss the matter of an individual’s informed consent.

When performing the empirical study, Scopus database returned 46 936 articles mentioning the terms “cosmetic surgery,” “aesthetic surgery” and “plastic surgery.” Among them, however, only 51 articles mention the terms “legal” and “tourism” together (Table 4). We also noted that there are more articles (in total – 21 article) discussing the legal aspects of cosmetic surgery tourism on Scopus database than Clarivate analytics (Table 4). This could be caused by the fact that this database in general contains more articles mentioning the terms “cosmetic surgery,” “aesthetic surgery” and “plastic surgery” by the hundreds as compared to the Clarivate analytics database. However, the mentioned topic is not of great importance either.

**Table 4.** Results of the usage of terms “cosmetic surgery,” “aesthetic surgery” and “plastic surgery” in the Scopus database.

Term	Amount of articles on Scopus (1990-2020) *	Articles mentioning “legal” aspects	Articles mentioning “tourism”
“Cosmetic surgery”	1938	150	28
“Aesthetic surgery”	1362	52	3
“Plastic surgery”	43636	499	20

\* Until and including 27 October 2020.

Scholars from different countries have for quite some time analysed legal problems occurring when certain procedures are conducted abroad. For example, in a study called *The Price of Medical Tourism: The Legal Implications of Surgery Abroad*, published in one of the most recent editions of the academic journal *Plastic and Reconstructive Surgery*, its authors stressed that medical tourism became a global healthcare phenomenon, with over 15 million US patients each year seeking medical care internationally, representing a 50 billion USD industry in 2017. Speculation and media fascination about the growing industry, various destinations and rationale behind the medical tourism is rampant. However, the actual legal implications of medical tourism, particularly when it goes wrong, are often unclear. Accreditation agencies on the international stage are limited in scope and practice, legal jurisdiction is difficult to establish, and the enforcement of rulings is nearly impossible (Davison *et*

*al.*, 2018). The authors mention an event in 2006 when a US Senate committee conducted a hearing on medical tourism matters, but eventually chose a “wait and see” approach, and no regulations were enacted at the time. Although healthcare in the United States is among the most regulated industries, medical tourism services take place beyond the traditional regulatory landscape. There are major hurdles for a claimant to be able to sue a foreign respondent for damages. The claimant has to know specifically whom to sue – the doctor, the hospital or the company that had organised the medical tourism trip. The authors provide an example illustrative of legal problems in medical tourism. In the said example, in 2011, a patient travelled to Mexico for weight loss and body sculpting surgery and died after developing complications from the procedure. His surviving relatives sued the medical tourism company and its co-owner, along with the physicians and the clinic where the operation took place. In that case, the appellate court could not affirm that personal jurisdiction was established between the medical tourism company and the hospital or physicians in Mexico. The legal reasoning in the case stated that because the medical tourism company did not have a principal-agent relationship with the clinic where the operation took place, no personal jurisdiction was transferred. In contrast, the action against the medical tourism company and its co-owner was remanded to the district court for retrial. The authors stress that foreign doctors cannot usually be sued in the US, unless they have strong ties with the US. Even if such an action succeeds, it is possible that other countries would not necessarily enforce the judgement of a US court. The US judicial system as a potential originator of medical tourism lawsuits works best against agencies or intermediaries, such as travel or referral companies, or those with hospital affiliations, such as Johns Hopkins, who predominately conduct business in the US. However, carefully worded waivers often appearing in agreements may successfully isolate these entities from responsibility.

In a different academic publication, a retrospective analysis of the cases of patients with complications following cosmetic surgery abroad was conducted. The criteria for inclusion were as follows: (i) a patient with permanent residence in the United Kingdom (ii) who had a cosmetic operation (iii) performed outside of the United Kingdom. The timeline for data spanned from 2013 to 2017. The authors concluded their publication by stating that there is no clear national policy on coping with patients with complications following cosmetic surgery abroad, except for the suggestion to promptly manage the complications. As the results of the study showed, quite a few of the interviewees would still travel abroad for the same treatment regardless of the complications suffered, and quite often the decision is made on the basis of knowing that the negative consequences of treatment abroad would be treated free of charge back in the home country (Farid *et al.*, 2019).

An analysis of the Lithuanian academic literature on the matter allows drawing the conclusion that legal aspects of cosmetic surgery tourism have so far not been analysed in most authoritative journals (*Teisė* and *Jurisprudencija*). When performing the empirical study through the eLABa database, only 1 article<sup>8</sup> with the term “plastic surgery” as well as the terms “legal” and “tourism” was found.

However, there are hints at legal disputes in Lithuanian jurisprudence in relation to post-operative aftercare following a beauty procedure. For example, in one case, the claimant pointed out that she consulted the doctor by email on the envisaged surgeries in relation to face lifting, lip boosting and breast augmentation. In the claimant’s view, the agreed healthcare services were rendered only partly. The claimant resides abroad, and the doctor knew this; therefore, it was agreed that post-surgery af-

<sup>8</sup> Kisieliūtė, B., Košytė, V., Kuzborska, Z., Jakavonytė Akstinienė, A. (2019). Mamų žinios apie gimdos kaklelio vėžį ir vakcinaciją nuo jo. Į sveiką gyvenimą ir skaidrią būti Vydūno keliu : Vydūno tarptautinė mokslinė konferencija, skirta Sveikatos mokslų fakulteto veiklos 20-mečiui paminėti : konferencijos medžiaga.

tercare and consultations for the patient would be provided by email. However, in the claimant's view, the doctor ignored the complaints of the patient submitted by email, provided no consultations, and eventually did not answer any queries from the patient until she did not address the media and engaged an attorney to represent her interests. On the other hand, the same case mentioned that it is evident from the correspondence between the counterparties that following the surgery, the doctor had consulted the patient, assigned further treatment, and invited her to come for an examination. Whilst the claimant failed to comply with the contractual obligation to arrive for an examination in 6 and 12 months following the surgery, the doctor had no opportunity to objectively examine any possible complications, establish reasons behind them, and take means to alleviate or eliminate them. Therefore, the claimant, having failed to arrive for regular prophylactic examinations, undertook the risk of complications on herself. In addition, evidence in the case, as rightly pointed out by the court of first instance, confirm that smoking could have negatively influenced the healing of wounds (The Ruling of the Lithuanian Court of Appeal of 18 April 2019).

To sum up, cosmetic surgery tourism was rapidly growing global industry before the pandemic. Post-pandemic forecasts show that people are open to cosmetic surgery procedures in the future. On the other hand, there is no significant amount of articles related to cosmetic surgery tourism's legal issues published in Scopus and Clarivate analytics databases. The existing articles related to the topic mention that the accreditation agencies are limited in scope and practice, quite often legal jurisdiction is difficult to establish, and the enforcement of rulings is nearly impossible. This matter has so far not been broadly discussed in Lithuanian academia either. As pertains to Lithuanian jurisprudence, one can note signs of legal disputes related to risks arising from medical cosmetic surgery tourism, for example, in terms of post-surgery care.

## Conclusions

1. The performed analysis fails to confirm the statement that the individual's informed consent issue is of particular relevance in the articles on the Clarivate analytics or Scopus databases discussing cosmetic surgery. Even less often does the individual's informed consent concept come up in the articles discussing cosmetic surgery and assigned specifically to the area of legal studies. What is more, it is impossible to definitely conclude to which specific area of social sciences does the issue of informed consent pertain as it is discussed in academic papers found in the Scopus database.
2. An analysis of articles on Clarivate analytics and Scopus databases in the context of the citation index shows that (i) the legal aspects of breast cosmetic surgery; (ii) the legal and psychological aspects of cosmetic surgery; (iii) the legal aspects of facial surgery; (iv) laser surgery litigation questions; (v) the perspectives of using artificial intelligence in aesthetic surgery – are all the most widely cited topics.
3. The most recent articles in Clarivate analytics database comment on the legal aspects of genital surgery, the legal liability of cosmetic surgeons operating patients with body dysmorphic disorder, and legal problems relating to parents' liability when the surgery is performed for a child.
4. There is no significant amount of academic articles related to cosmetic surgery tourism and legal issues related thereto in Scopus and Clarivate analytics databases. The existing publication related to the topic mentions that the accreditation agencies are limited in scope and practice, quite often legal jurisdiction is difficult to establish, and the enforcement of rulings is nearly impossible.
5. Neither legal aspects of informed consent in cosmetic surgery, nor legal aspects of cosmetic surgery medical tourism are widely examined in the most authoritative legal journals in Lithuania

(*Teisė and Jurisprudencija*) and the eLABa database. Meanwhile a search through cases on the Infoplex database permits us to conclude that at the moment global aesthetic surgery legal aspects are bypassing Lithuania only in legal science. There are cases in Lithuania where the content of patient consent was at issue. One can also note signs of legal disputes in court practice related to risks arising from cosmetic surgery's medical tourism, for example, in post-surgery care.

## Bibliography

### Laws and regulations

- Lietuvos Respublikos Konstitucija (1992). *Valstybės žinios*, 33-1014.
- Lietuvos Respublikos pacientų teisių ir žalos sveikatai atlyginimo įstatymas (1996). *Valstybės žinios*, 102-2317.
- Lietuvos Respublikos sveikatos apsaugos ministro 2010 m. kovo 8 d. įsakymas Nr. V-184 dėl sutikimo dėl sveikatos priežiūros paslaugų teikimo formos reikalavimų aprašo patvirtinimo. *Valstybės žinios*, 30-1392.

### Specialized literature

- American Society of Plastic Surgeons, (2020a). *American Society of Plastic Surgeons Releases New Guidance for Resuming Elective Procedures Amid COVID-19*. Arlington Heights, 2020 [online]. Available at: <https://www.plasticsurgery.org/news/press-releases/american-society-of-plastic-surgeons-releases-new-guidance-for-resuming-elective-procedures-amid-covid19> [Accessed 5 December 2020].
- American Society of Plastic Surgeons, (2020b). *ASPS Predicts New Industry Trends Amidst COVID-19 Reopenings*. Arlington Heights, 2020 [online]. Available at: <https://www.plasticsurgery.org/news/press-releases/american-society-of-plastic-surgeons-predicts-new-industry-trends-amidst-covid19-reopenings> [Accessed 5 December 2020].
- American Society of Plastic Surgeons, (2016). *Plastic surgery statistics report—2016 cosmetic plastic surgery statistics*. Chicago, 2016 [online]. Available at: <https://www.plasticsurgery.org/news/plastic-surgery-statistics> [Accessed 28 November 2020].
- Arnautovic, A., Jahromi, A. H., Konofaos, P. (2020). The Financial Impacts of the COVID-19 Crisis on the Practices of Cosmetic/Aesthetic Plastic Surgeons. *Aesthetic Plastic Surgery*, 44, 2330–2334.
- Atiyeh, B. *et al.* (2008). Aesthetic/Cosmetic Surgery and Ethical Challenges. *Aesthetic Plastic Surgery*, 32(6), 829–839, <https://doi.org/10.1007/s00266-008-9246-3>
- Balsienė, J. (2008). Helsinkio deklaracija ir jos nuostatų implementavimas į Lietuvos Respublikos teisės aktus. *Jurisprudencija*, 12(114), 44–51.
- Biržietienė, S., Gabrėnaitė, E. (2014). Eristinis argumentavimas reklamoje. *Respectus Philologicus*, 26, 190–202, <https://doi.org/10.15388/RESPECTUS.2014.26.31.15>
- Čekanauskaitė, A., Gefenas, E. (2010). Informuoto asmens sutikimas: ką turėtų žinoti ir ką iš tiesų žino biomedicinių tyrimų dalyviai? *Visuomenės sveikata*, 2010/4 (51), 45–52.
- Clarivate Analytics – Web of Science. [online]. Available at: [http://apps.webofknowledge.com/WOS\\_generalSearch\\_input.do?product=WOS&search\\_mode=generalSearch&SID=C5TMXQHYufEDHAustO5&preferencesSaved=](http://apps.webofknowledge.com/WOS_generalSearch_input.do?product=WOS&search_mode=generalSearch&SID=C5TMXQHYufEDHAustO5&preferencesSaved=) [Accessed 28 November 2020].
- Cohen, G. (2017). Medical tourism, medical migration, and global justice: implications for biosecurity in globalized world. *Medical Law Review*, 25(2), 200–222, <https://doi.org/10.1093/medlaw/fwx013>
- Davison, S. *et al.* (2018). The Price of Medical Tourism: The Legal Implications of Surgery Abroad. *Plastic and Reconstructive Surgery*, 142(4), 1075–1080, <https://doi.org/10.1097/prs.0000000000004816>
- De Roubaix, J. A. M. (2010). Beneficence, non-maleficence, distributive justice and respect for patient autonomy - reconcilable ends in aesthetic surgery? *Journal of Plastic Reconstructive and Aesthetic Surgery*, 64(1), 11–16, <https://doi.org/10.1016/j.bjps.2010.03.034>
- Dresser, R. S., Wagner, W. E., Giannelli, P. C. (1997). Breast implants revisited: Beyond Science on Trial. *Wisconsin Law Review*, 4, 705–776.
- Elzbergas, T. (2008). Europos Sąjungos teisės įtaka privataus sveikatos draudimo teisiniam reguliavimui. *Jurisprudencija*, 12(114), 92–100.
- Enderwick, P., Nagar, S. (2011). The competitive challenge of emerging markets: The case of medical tourism. *International Journal of Emerging Markets*, 6(4), 329–350, <https://doi.org/10.1108/17468801111170347>

- Farid, M. *et al.* (2019). Complications of Cosmetic Surgery Abroad – Cost Analysis and Patient Perception. *Plastic and Reconstructive Surgery - Global Open*, 7(6), e2281, <https://dx.doi.org/10.1097%2FGOX.0000000000002281>
- Gimlin, D. (2000). Cosmetic surgery: beauty as commodity. *Qualitative Sociology*, 23(1), 77–98, <https://doi.org/10.1023/A:1005455600571>
- Griffiths, D., Mullock, A. (2018). Cosmetic Surgery: Regulatory Challenges in a Global Beauty Market. *Health Care Analysis*, 26(3), 220–234, <https://doi.org/10.1007/s10728-017-0339-5>
- Iribarne, M., Seuffert, N. (2018) Imagined Legal Subjects and the Regulation of Female Genital Surgery. *Australian Feminist Law Journal*, 44(2), 175–201, <https://doi.org/10.1080/13200968.2018.1526056>
- Jalian, H. R., Jalian, Ch. A., Avram, M. M. (2013). Common Causes of Injury and Legal Action in Laser Surgery. *Jama Dermatology*, 149(2), 188–193, <https://doi.org/10.1001/jamadermatol.2013.1384>
- Janowsky E. C., Kupper, L. L., Hulka, B. S. (2000). Meta-analyses of the relation between silicone breast implants and the risk of connective-tissue diseases. *New England Journal of Medicine*, 342(11), 781–790, <https://doi.org/10.1056/nejm200003163421105>
- Jurisprudencija – Mokslo darbų žurnalas [online]. Available at: <https://www3.mruni.eu/ojs/jurisprudence/issue/archive> [Accessed 29 November 2020].
- Kanevsky, J. *et al.* (2016). Big Data and Machine Learning in Plastic Surgery: A New Frontier in Surgical Innovation. *Plastic and Reconstructive Surgery*, 137(5), 890e–897e, <https://doi.org/10.1097/prs.0000000000002088>
- Kennedy, A. (2015). Slice them up or slice them out? Legal liability for operating on the troublesome patient in cosmetic surgery. *Journal of Law and Medicine*, 23(1), 137–155.
- Kisieliūtė, B., Košytė, V., Kuzborska, Z., Jakavonytė Akstinienė, A. (2019). Mamų žinios apie gimdos kaklelio vėžį ir vakcinaciją nuo jo. *Į sveiką gyvenimą ir skaidrią būti Vydūno keliu : Vydūno tarptautinė mokslinė konferencija, skirta Sveikatos mokslų fakulteto veiklos 20-mečiui paminėti : konferencijos medžiaga.*
- Latham, M. (2010). A poor prognosis for autonomy: self-regulated cosmetic surgery in the United Kingdom. *Reproductive Health Matters*, 18(35), 47–55, [https://doi.org/10.1016/S0968-8080\(10\)35505-4](https://doi.org/10.1016/S0968-8080(10)35505-4)
- Latham, M. (2008). The shape of things to come: feminism, regulation and cosmetic surgery. *Medical Law Review*, 16(3), 437–457, <https://doi.org/10.1093/medlaw/fwn019>
- Leem, S. (2017). Gangnam-Style Plastic Surgery: The Science of Westernized Beauty in South Korea. *Medical Anthropology*, 36(7), 657–671, <https://doi.org/10.1080/01459740.2017.1345904>
- Mashhad, A. (2016). The Technique of Soul Removal Plastic Surgery: Islamic Perspectives. *Medicine and Law*, 35(2), 131–150.
- McHale, J. (2015). Children, cosmetic surgery and perfectionism: A case for legal regulation. In: Ferguson, P., Laurie, G. (eds.) (2015). *Inspiring a Medico-Legal Revolution: Essays in honour of Sheila McClean*. Surrey, Ashgate, 189–200.
- Meškys, E. (2015). Tradicinio informuoto asmens sutikimo pritaikymo moksliniams biobankams Lietuvoje galimybės. *Teisė*, 92, 96–108, doi: 10.15388/Teise.2014.3907.
- Newbould, M. (2016). When parents choose gender: Intersex, children and the law. *Medical Law Review*, 24(4), 474–496, <https://doi.org/10.1093/medlaw/fww014>
- Paakkanen, K. E. (2019). Entitled, empowered or victims – an analysis of discourses on male and female circumcision, genital mutilation/cutting and genital cosmetic surgery. *International Journal of Human Rights*, 23(9), 1494–1520, <https://doi.org/10.1080/13642987.2019.1612375>
- Park, B. *et al.* (2016a). A Legal Analysis of the Precedents of Medical Disputes in the Cosmetic Surgery Field. *Archives of Plastic Surgery*, 43(3), 278–283, <https://dx.doi.org/10.5999%2Faps.2016.43.3.278>
- Park, B. *et al.* (2016b). Informed Consent as a Litigation Strategy in the Field of Aesthetic Surgery: An Analysis Based on Court Precedents. *Archives of Plastic Surgery*, 43(5), 402–410, <https://dx.doi.org/10.5999%2Faps.2016.43.5.402>
- Patel, A. J. K., Morrison, C. M. (2013). Opportunities to Reduce Plastic Surgery Claims through an Analysis of Complaints Data. *Journal of Plastic Reconstructive and Aesthetic Surgery*, 66(4), 455–459, <https://doi.org/10.1016/j.bjps.2012.11.016>
- Petrėnaitė, D. (2017). Lytinio identiteto samprata ir jos problematika šiuolaikinėje teisėje. *Jurisprudencija*, 24(1), 150–165.
- Pitts-Taylor, V. (2005). Becoming-being a cosmetic surgery patient: Semantic instability and the intersubjective self. *Studies in Gender and Sexuality*, 10(3), 119–128, <https://doi.org/10.1080/15240650902979202>
- Pruzinsky, T. (1993). Psychological factors in cosmetic plastic surgery recent developments in patient care. *Plastic Surgical Nursing*, 13(2), 64–71, <https://doi.org/10.1097/00006527-199301320-00003>

- Rapolienė, G., Juozulynas, J. A. (2009). Senstantis kūnas Lietuvos viešajame diskurse. *Sociologija. Mintis ir veiksmai*, 24(1), 131–144, <https://doi.org/10.15388/SocMintVei.2009.1.6081>
- Rice, S. M., Graber, E., Kourosh, A. S. (2020). A Pandemic of Dysmorphia: “Zooming” into the Perception of Our Appearance. *Facial Plastic Surgery & Aesthetic Medicine*, 22(6), 401–402, <https://doi.org/10.1089/fpsam.2020.0454>
- Sarmiento, S. et al. (2020). Malpractice Litigation in Plastic Surgery: Can We Identify Patterns. *Aesthetic Surgery Journal*, 40(6), NP394–NP401, <https://doi.org/10.1093/asj/sjz258>
- Sarwer, D. B., Crerand, C. E. (2008). Body dysmorphic disorder and appearance enhancing medical treatments. *Body Image*, 5(1), 50–58, <https://doi.org/10.1016/j.bodyim.2007.08.003>
- Scopus [online]. Available at: <https://www.scopus.com/search/form.uri?display=basic> [Accessed 28 November 2020].
- Silkiss, R. (2006). Eight-fold path to happiness for the cosmetic surgery patient. *Ophthalmic Plastic and Reconstructive Surgery*, 22(3), 157–160, <https://doi.org/10.1097/01.iop.0000214509.24446.32>
- Siaurusaitis, B. J. (2004). Lietuvos vaikų chirurgijos raida, dabartis ir perspektyvos. *Lietuvos chirurgija*, 2(3), 175–182, <https://doi.org/10.15388/LietChirur.2004.3.2356>
- Sprumont, D., Andrulionis, G. (2009). Effectiveness of Protection of Biomedical Research Subjects under International and National Law. *Jurisprudencija*, 2(116), 245–276.
- Stakišaitis, D. (2008). Vaikų gydymo vaistais teisinio reglamentavimo aspektai. *Jurisprudencija*, 12(114), 36–43.
- Svider, P. F. et al. (2013). From the operating room to the courtroom: A comprehensive characterization of litigation related to facial plastic surgery procedures. *Laryngoscope*, 123(8), 1849–1853, <https://doi.org/10.1002/lary.23905>
- Špokienė, I. (2012). Pacientų pareigų katalogas Lietuvoje: teisinė turinio analizė. *Jurisprudencija*, 19(4), 1529–1550.
- Vila-Nova da Silva, D. et al. (2015). Factors Influencing Judicial Decisions on Medical Disputes in Plastic Surgery. *Aesthetic Surgery Journal*, 35(4), 477–483, <https://doi.org/10.1093/asj/sju089>
- Web of Science Core Collection Help – Research Areas (Categories / Classification). [online]. Available at: [https://images.webofknowledge.com/WOK48B3/help/WOS/hp\\_research\\_areas\\_easca.html](https://images.webofknowledge.com/WOK48B3/help/WOS/hp_research_areas_easca.html) [Accessed 28 November 2020].
- Williams, S., (2020). ‘I can recover at home’: Cosmetic surgeons see rise in patients amid pandemic. *BBC News* [online]. Available at: <https://www.bbc.com/news/world-53341771> [Accessed 5 December 2020].
- Zamarytė, K. (2008). Civilinės atsakomybės už klinikinių vaistinių preparatų tyrimų metu tiriamajam asmeniui padarytą žalą probleminiai aspektai. *Jurisprudencija*, 12(114), 52–63.

### Court cases

- The Ruling of the Supreme Court of Lithuania of 2 June 2016, Civil case No. 3K-3-292-686/2016.
- The Ruling of the Lithuanian Court of Appeal of 16 October 2018, Civil case No. e2A-448-516/2018.
- The Ruling of the Lithuanian Court of Appeal of 18 April 2019, Civil case No. e2A-242-781/2019.
- The Decision of the Equal Opportunities Ombudsperson’s Office of 18 December 2018 No. LGKT-(18)SI-23)SP-12.

### Other

- Equal Opportunities Ombudsperson Activity Report, 2018 [online]. Available at: <https://lygybe.lt/data/public/uploads/2019/04/lgk-2018-m.-veiklos-ataskaita-.pdf> [Accessed 30 October 2020].

## Are the Global Cosmetic Surgery Legal Issues Bypassing Lithuania?

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S u m m a r y

The article examines certain legal issues in relation to cosmetic surgery (informed consent and cosmetic surgery medical tourism) and the tendencies of their presence in articles in Lithuania and abroad.

The study employed the following methods: conceptual, systemic analysis of academic literature, comparison, generalisation, and empirical quantitative and qualitative analysis of academic articles.

The performed analysis fails to confirm the statement that the individual’s informed consent issue is of particular relevance in the articles on the Clarivate analytics or Scopus database that discuss cosmetic surgery. The individual’s



informed consent concept comes up even less often in the articles discussing cosmetic surgery and assigned specifically to the area of legal studies.

The analysis of the articles on Clarivate analytics and Scopus databases in the context of the citation index shows that the legal aspects of breasts cosmetic surgery, the legal and psychological aspects of cosmetic surgery, the legal aspects of facial surgery, litigation questions pertaining to laser surgery, and the perspective of using artificial intelligence in aesthetic surgery are all the most widely cited topics.

The most recent articles in the Clarivate analytics database comment on the legal aspects of genital surgery, the legal liability of cosmetic surgeons operating patients with BDD, and legal problems relating to parents' liability when the surgery is performed for a child.

There is no significant amount of academic articles related to cosmetic surgery tourism and legal issues related thereto in Scopus and Clarivate analytics databases. The existing publication related to the topic mentions that the accreditation agencies are limited in scope and practice, quite often legal jurisdiction is difficult to establish, and the enforcement of rulings is nearly impossible.

Neither legal aspects of informed consent in cosmetic surgery, nor legal aspects of cosmetic surgery in terms of medical tourism are widely examined in the most authoritative legal journals in Lithuania (*Teisė* and *Jurisprudencija*) and the eLABa database. Meanwhile, a search through cases on the Infoplex database permits us to conclude that at the moment, global cosmetic surgery legal aspects are bypassing Lithuania only in legal science. There are cases in Lithuania where the content of patient consent was at issue. One can also note signs of legal disputes in court practice related to risks arising from cosmetic surgery's medical tourism, for example, in post-surgery care.

## Ar pasaulinės kosmetinės chirurgijos teisinės problemos aplenkia Lietuvą?

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S a n t r a u k a

Straipsnyje analizuojamos kai kurios teisinės problemos, susijusios su kosmetine chirurgija (informuotas sutikimas ir kosmetinės chirurgijos medicininis turizmas) ir jų apraiškų mokslinėse publikacijose tendencijos Lietuvoje ir užsienyje.

Tyrimo buvo naudojami šie tyrimo metodai: konceptuali, sisteminė mokslinė literatūros analizė, palyginimas ir apibendrinimas, empirinis kiekybinis ir kokybinis mokslinių straipsnių tyrimas.

Atlikta analizė nepatvirtina teiginio, kad asmens informuoto sutikimo problema yra ypač aktuali „Clarivate analytics“ ir „Scopus“ duomenų bazių mokslo straipsniuose, kuriuose aptariami kosmetinės chirurgijos klausimai. Dar rečiau informuoto sutikimo samprata yra pateikiama straipsniuose, priskiriamuose teisės mokslo sričiai, kuriuose aptariama kosmetinės chirurgijos problematika.

„Clarivate“ ir „Scopus“ duomenų bazėse esančių mokslo straipsnių analizė pagal didžiausią cituojamumą parodė, kad krūtų kosmetinės chirurgijos teisiniai aspektai, teisiniai ir psichologiniai kosmetinės chirurgijos aspektai, veido chirurgijos teisiniai aspektai, lazerinės chirurgijos bylinėjimosi aspektai, dirbtinio intelekto perspektyvų klausimai estetinėje chirurgijoje yra patys populiariausi.

Naujausiuose „Clarivate analytics“ duomenų bazės mokslo straipsniuose analizuojami lytinių organų plastinės chirurgijos teisiniai aspektai, kosmetikos chirurgų teisinė atsakomybė, operuojant pacientus, sergančius dismorfiniu kūno sutrikimo sindromu, ir teisinė problematika, susijusi su tėvų atsakomybe, kai operuojamas vaikas.

„Scopus“ ir „Clarivate analytics“ duomenų bazėse nėra daug mokslo straipsnių, susijusių su kosmetinės chirurgijos turizmu ir jo teisiniais aspektais. Straipsniuose, kurie yra duomenų bazėse, minima, kad akreditavimo agentūrų taikymo sritis ir praktika yra ribotos, gana dažnai yra sunku nustatyti jurisdikciją, o nutarimus vykdyti yra dažnai neįmanoma.

Nei kosmetinės chirurgijos informuoto sutikimo teisiniai aspektai, nei kosmetinės chirurgijos medicininio turizmo teisiniai aspektai nėra plačiai nagrinėjami autoritetingiausiuose teisės mokslo žurnaluose Lietuvoje („Teisė“ ir „Jurisprudencijoje“) ir eLABa duomenų bazėje. Teismų praktikos paieška „Infoplex“ duomenų bazėje leidžia daryti išvadą, kad šiuo metu pasauliniai kosmetinės chirurgijos teisiniai aspektai apeina Lietuvą tik teisės moksle. Lietuvoje yra bylų, kuriose buvo nagrinėjamas paciento sutikimo klausimas. Teismų praktikoje taip pat galima pastebėti ginčų, susijusių su kosmetinės chirurgijos medicininio turizmu, pavyzdžiui, kooperacine priežiūra.



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