

Resolution of the
18th General Meeting of the
German Rectors' Conference
(HRK) on 12 May 2015
in Kaiserslautern

**Franchising Models
in Medicine and
Medical Schools**

HRK German Rectors' Conference

The Voice of the Universities

Ahrstraße 39
53175 Bonn,
Germany

Tel.: +49 (0) 228 887-0
Fax: +49 (0) 228 887-110

post@hrk.de
www.hrk.de

I. Preliminary remarks

At its session on 19 November 2013, the General Meeting of the German Rectors' Conference adopted a set of recommendations on the franchising of study programmes. The meeting approved guidelines on selection criteria, reporting and transparency requirements and academic standards for franchise-issuing institutions and their university and non-university partners. It also called on the Standing Conference of the Ministers of Education and Cultural Affairs of the States in the Federal Republic of Germany and the Accreditation Council to ensure a nationally consistent approach and to develop uniform standards and assessment criteria for the accreditation of franchised study programmes. This recommendation makes detailed reference to the general questions and problems relating to the franchising of study programmes. The resolution now presented directs the focus towards cross-border franchising in medical training while laying down principles for the establishment of new private medical schools.

In recent years new models have emerged in medical studies, many of which comprise a cross-border element – usually in the form of cooperation between foreign universities and private or municipal hospitals in clinical training or the complete provision of the curriculum by a German cooperation partner. This has prompted a lively debate on the legal evaluation of the various structures. In the case of cross-border cooperations a distinction must be made between 'academic franchising', whereby a programme offered by a university is delivered by a university or non-university cooperation partner and the academic degree is conferred by the university itself, and the freedom of settlement protected under European law.¹ The legal powers of the state legislator vary depending on the model of cooperation. Non-autonomous branches of European universities are covered by the right of freedom of settlement. Branches of EU universities are privileged under European law; qualitative or structural inspections are only justified where there is reason to suspect circumvention. However, if the sponsors are companies (GmbH) registered in Germany, the establishment cannot be considered a branch of a foreign university.

A distinction should also be made between the above cooperations and the establishment of private medical schools in Germany.² However,

¹ Hence the HRK recommendation "Academic Franchising" of 19 November 2013; also Leusing, "McUniversity", HM 2/2012, 53; Geis, "Franchising-Modelle in der Medizin und Medical Schools" (Franchising Models in Law Relating to Medical Training), OdW 2014/2, 55.; Sandberger, "Kooperationen von staatlichen und nichtstaatlichen Einrichtungen im deutschen und internationalen Bildungsmarkt" (Cooperations Between State and Non-state Institutions in the German and International Education Market), OdW 2014/3, 132.

² The most recent example is Medizinische Hochschule Brandenburg Theodor Fontane (recognised by the Brandenburg Ministry for Science, Research and Culture through a decision in July 2014).

many of the problems associated with franchising may also apply to such institutions.

It is undisputed that these models can usefully complement conventional medical training at state universities. However, the recognised academic standards must be upheld. State legislators have a particular duty to ensure this – without neglecting European legal requirements in relation to freedom of settlement and the recognition of professional qualifications from an EU member state, which is linked to compliance with defined quality standards.

With this resolution, the HRK is engaging in the debate surrounding the new models of study in medicine and appealing to the federal states to ensure a high standard of quality in academic medical training in Germany through suitable legislative measures. The HRK reserves the right to issue statements on other aspects of the study of medicine which are currently the subject of public debate, such as the ratio of classroom hours to practice in doctor qualification and the imminent shortage of individual rooms, in due course.

II. Guidelines

1. Traditional medical degrees are now complemented by a wide range of model and reformed study programmes as well as franchised study programmes.
2. However, in the case of cross-border franchised programmes, in order to establish uniform quality standards in medical training, state legislation on qualitative and organisational matters is essential.
3. The states are requested, in future, to have franchised study programmes appraised by the German Council of Science and Humanities (WR) on the basis of available medical expertise. For new private medical schools, mandatory institutional accreditation by the WR should be introduced.
4. The scientific standards of university medical training must be upheld in accordance with the EU directive on the recognition of professional qualifications, both in medical degree programmes at private universities and in franchised study programmes. This obligation applies to both the university which confers the degree and the German institution which delivers the course.
5. All information relating to the course must be presented transparently and made publicly available for students to consult. German regulations on university access and admissions must be respected for student enrolment.
6. Freedom of research and teaching and academic autonomy must be safeguarded in franchised study programmes and at private medical schools as in any other context.

III. Notes

1. Complementary Training Structures

Demand for places on medical courses in Germany remains high. For some years the number of applications has exceeded the available places by four to one. Even the Higher Education Pacts have not produced a relevant increase in the number of places available. Consequently, the waiting time for a place at medical school for applicants with average entrance qualifications has increased to 12 or 13 semesters. In this unsatisfactory situation, private and cooperative models of medical training may present a useful complement to existing structures.

However, the imbalance of supply and demand in medical school places is not reflected in the availability of medical professionals in Germany. Approximately 10 000 people graduate in medicine from leading universities in Germany every year.³ Between 2000 and 2011, the number of physicians in Germany rose continuously by around 2% per year. There is therefore no general under-supply; but there are

³ Deutsche Hochschulmedizin e. V.: Landkarte Hochschulmedizin (map of medical schools in Germany; last accessed on 17/2/2015).

distribution problems leading to shortages in rural areas.⁴ However, this will not be discussed further in this resolution.

2. Legal Requirements

The new models of medical training introduced thus far do not involve branches of universities in the European Union but cooperations between recognised universities and the sponsors of German hospitals or a subsidiary of such sponsors.⁵ According to the above definition, these structures are therefore franchising models, subject to regulations which are different from those governing the establishment of a branch of a foreign university.⁶ Consequently, state legislators have the option of introducing qualitative and organisational regulations for the provision of study programmes in medicine with due consideration of Article 24 of the EU directive on the recognition of professional qualifications.

Against this background, in order to establish uniform quality standards for medical studies, it is necessary for the federal states to introduce statutory provisions in state higher education legislation to define the prerequisites for a cooperative delivery of study programmes of this kind, as has already happened in some states.⁷ It must be made clear through nationwide and ideally uniform standards, also with regard to the obligations arising from Article 24 of the EU directive on the recognition of professional qualifications, that cross-border franchising models are not branches of foreign universities and therefore the science ministries of the federal states have greater supervisory rights to maintain quality standards.

Ultimately, the sponsor which funds the training facility must be clear. According to Article 24 Paragraph 2 of the EU directive on the recognition of professional qualifications, this must generally be a university. Non-university institutions – usually hospitals – can only be involved in training for the acquisition of clinical experience.⁸ EU law does not permit non-university training at hospitals only. The study of medicine must take place at university.

3. Accreditation and Quality Assurance

The requirement for quality assurance of franchised study programmes in medicine must be incorporated in federal state law in response to the relevant professional standards and European legislation. The appraisal by the WR of universities and institutions which offer programmes in

⁴ German Council of Science and Humanities, Empfehlungen zur Weiterentwicklung des Medizinstudiums in Deutschland auf Grundlage einer Bestandsaufnahme der humanmedizinischen Modellstudiengänge (Recommendations on the further development of medical studies in Germany based on a survey of model study programmes in human medicine), p. 17 f.

⁵ Asklepios Medical School Hamburg; Kassel School of Medicine; Paracelsus Medical School Nürnberg.

⁶ Cf. Narr, Ärztliches Berufsrecht, as at Nov. 2014, II 1 d, Rn 20.

⁷ Cf. § 72a Para. 2 LHG BW.

⁸ Cf. Narr, l.c., Rn 6-8.

human medicine and dentistry plays an important role in compliance with recognised academic standards. As there is no accreditation agency in Germany with the necessary expertise for programmes in medicine, systems should be in place to ensure that compliance with recognised academic standards (see III. 4.) in franchised study programmes is monitored by the WR. For new private medical schools, mandatory institutional accreditation by the WR must be introduced.

4. Academic Content of Medical Degree Programmes

An individual can obtain a degree in medicine by following a course of academic study at a university. The relevant quality requirements are set out in the implementation of the EU directive on the recognition of professional qualifications (Article 24 Paragraph 2) in the Federal Regulation on Medical Practitioners (Bundesärzteordnung) and the Regulation on Licences to Practise Medicine (Approbationsordnung für Ärzte).⁹ The model is the academically and practically trained physician.¹⁰ The association of research, teaching and healthcare is the constituting element of university medicine. The acquisition of scientific skills at university is a necessary precondition for the responsible practice of the medical profession.¹¹

However, the new models of medical studies – be it a cross-border cooperation or a new private medical school – do not make it possible to adequately discern whether quality standards in research and teaching are being upheld. In many places – where information is available about teaching staff, which is not always the case – clinical subjects are mainly taught by physicians who work in clinical practice; clinical-theoretical subjects do not appear to be covered. When new medical schools are founded on an academic franchising model and mandatory accreditation is carried out, it must be assessed whether staff possess the necessary academic qualifications and have access to adequate technical and personal resources and the necessary infrastructure to deliver research-based teaching.¹² To achieve this, a sufficient number of full-time professors must be recruited through a regular appointment process in which scientific achievements are given priority. Basic research experience among the academic teaching staff is also essential in the clinical phase.

5. Students

In its recommendation of 19 November 2013, the HRK noted that the university which confers a degree bears responsibility for students

⁹ Art. 24 Para. 2 and 3, Directive 2005/35 EC, § 3 p. 1 No. 4 in conjunction with p. 2 BÄO, § 1 ÄApprO.

¹⁰ § 1 Para. 1 ÄApprO.

¹¹ German Council of Science and Humanities, l.c., p. 7f.

¹² The same view is expressed by the German Council of Science and Humanities (2005) in its "Stellungnahme zu Leistungsfähigkeit, Ressourcen und Größe universitätsmedizinischer Einrichtungen" (Statement on the capabilities, resources and size of university medical institutions) (p. 45 f.).

enrolled in franchised study programmes. It ensures that all information relating to the programme is accessible to students. This includes transparency as to admissions, study conditions, the suitability and approval of training facilities, the curriculum, degrees and their recognition, but also the qualifications of teaching staff.¹³ Legislation must be introduced in the federal states to ensure that applicants commencing a franchised study programme in medicine fulfil the admission requirements for an equivalent state or state-recognised institution (higher education entrance qualification).¹⁴

The university which confers the degree ensures that students have followed the necessary studies and passed the required examinations. The decision on the state recognition of private medical schools should be published along with the reasons for the decision.

6. Academic Autonomy

Legislation should be introduced in the federal states to ensure appropriate academic self-governance both in private medical schools and in franchised study programmes in medicine. This includes in particular autonomous decision-making by researchers and tutors in the academic core area, separate from healthcare interests, and allows students appropriate participation in the design of the programme. This is especially important when training mostly takes place not at the university itself but at a hospital.

¹³ Cf. § 72a Para. 5 LHG BW.

¹⁴ Cf. § 72a Para. 2 LHG BW.