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Universitätskliniken als staatliche Hochschulen im Sinne des § 1 Abs. 1 S. 1 WissZeitVG / Burkhard Boemke

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Abstract

The WissZeitVG contains less restrictive requirements than the general provisions for temporary employment of scientific and artistic staff at University. The Act is only applied to establishments of the educational system which are expressly named as State Universities by federal states' law. Due to the removal of university clinics from the university to which they originally belonged the question arises whether the temporary employment of the clinics' medical staff can be based on the provisions of the WissZeitVG. Since the Act's application in institutional terms does not depend on who the employer of the medical staff is but the status of the establishment they actually work in, its applicability on the medical staff's employment decisively depends on whether and under which conditions university clinics are State Universities according to the WissZeitVG. University clinics have an independent status as state universities by being named as such by federal states' law or a derived one by being dependent units of State Universities. The latter is exclusively the case in the federal state of Lower Saxony. If the university clinics are – such as all the rest of them in Germany –

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independent legal personalities themselves or units of the "Universitätsmedizin", which in turn is legally independent of the university it once was part of, the clinics are not State Universities by act of federal states' law. Since it is also irrelevant who the clinics' legal entity is, these clinics are not subject to the scope of application of the WissZeitVG. By consequence the medical staff's temporary employments cannot be based on its special provisions. (HRK / Abstract übernommen)