

ΠΡΟΣ:

1. GENERAL MANAGERS
2. COMPLIANCE OFFICERS
3. DUE DILIGENCE DEPARTMENTS
4. REGULATORY AFFAIRS MANAGERS

Chalandri, 21-5-2015

Θέμα: Update by the ELKE OF THE UNIVERSITY OF PATRAS in relation to the fees of physicians-members of Tutorial Research Personnel (DEP) in projects (Law 4310/2014)

Dear Sirs and Madams,

We attached for your attention, the informative letter we received from the ELKE of the University of Patras for the fees of physicians-members of DEP in projects:

From: Secretariat of ELKE of the University of Patra [<mailto:rescom@upatras.gr>]

Sent: Thursday, April 23, 2015 2:57 PM

To: announcements@upatras.gr

Subject: [ANNOUNCEMENTS] Fees for the participation of members of DEP in projects (Law 4310/2014)

TO: Scientific Supervisors of Projects and other members of DEP of the University of Patra

Dear members of the University Society, further to the following announcement, we inform you that article 99 of Law 4310/2014 (Gov. Gazette 254/τ.Α/08.12.2014), defines two (2) payment methods from the ELKE, in relation to the fees of Professors and Lecturers for their participation in research, development or other projects.

According to the above, the said payments will be effected as follows:

A) Members of DEP who are not practicing in parallel as freelancers, with regard to the fees they will be remunerated with, **for their participation in projects of any nature** may receive **ONLY based on plurality of posts** for the additional project* up to **100%** of their gross monthly wages.

B) Members of DEP who practice as freelancers (therefore they have started-up a profession in the competent Tax Authority), for fees they will be remunerated with **from 01/01/2015 and forth**, from their participation:

- In projects financed by international or private resources (natural persons or legal entities), **are obligated to issue** an Invoice for the Provision of Services (**T.P.Y.**)
- **In projects co-financed** by the European Commission and National Resources (e.g. ESPA, GGET etc.) or **projects financed by the Public Sector** (e.g. by Ministries,

Public Law Legal Entities, Municipalities, Regions etc.), may receive **ONLY based on plurality of posts** for the additional project* up to **100%** of their gross monthly wages (not taking into account any fees they may have received upon the issue of a T.P.Y.)

Attention: For the cases of members of DEP **who do not practice as freelancers** (case A), but their additional fees reach **100%** of their gross monthly wages **and wish** to start-up a profession (for fees deriving from international or private resources), must bear in mind that after the start-up of their profession, they will obligatorily be subjected to the restrictions applied to category B.

Note:* An **additional project is the work conducted apart from the contractual duties as these are defined by the provisions of Law 4009/2011. In case a fee is collected upon the issue of a T.P.Y., the interested parties must file a Solemn Declaration of Law 1599/1996 in which they will certify that they perform tutorial and other duties in accordance with the provisions of the above law.

Your faithfully,

From the Secretariat of ELKE

*** Note to the members of SFEE:

Dear Members,

Further to our letters addressed to the ELKEs of the State Universities which were sent on 7/4/2015 and after the co-operation with the legal advisors of ELKE and SFEE, we conclude that there is no issue for the enactment of a specific provision against another general one, as was our original approach, but that a **separation** needs to be made, among the **NHS physicians**, who are covered by the legislation of the **Ministry of Health** and the **University Physicians-members of DEP**, who are covered by the legislation of the **Ministry of Health**.

A. NHS PHYSICIANS

Article 24 of Law 1397/1983 for the **NHS** provides relevantly: "The posts of medical personnel of hospitals of any legal form and of the health centres set out in accordance with the provisions of the said law, **with the exception of** armed forces hospitals and **University Hospitals, consists in posts of full-time and exclusive employment physicians. These physicians are permanent public servants and are prohibited from practicing in parallel as physicians or in any other professional capacity** except of those who relate to authoring or artistic activities and to hold any other public or private office or post. In addition, they are prohibited from being owners of a private clinic or pharmaceutical company or participate in companies with respective objects.

Article 11 of Law 2889/2001 as substituted by **article 36 of Law 4272/2014** pinpoints the general rule that **NHS physicians may not practice as freelancers** therefore be remunerated by the private sector. **As an exception, their ability to participate in type A events in Greece or abroad and type B in Greece is provided, with the payment of reasonable honoraria via the ELKEA.** In addition, they are entitled to participate in work groups (advisory experts committees) being held in Greece, with or without any fees, after obtaining the consent of their supervising entity; again the said fee is paid via the ELKEA.

B. UNIVERSITY PHYSICIANS

On the other hand, University physicians-members of DEP, are entitled by law to freely practice as freelancers and operate a private practice (that is a basic difference from the NHS Physicians) (article 23 par 2(i) of Law 4009/2011) where it is specifically accepted that "**professors may freely practice as freelancers after notifying the Dean of the School/University by which they are employed**". Article 99 of Law 4310/2014 defines that: "*The practice of a freelancing profession, in the sense of par. 2 (i) of article 23 of Law 4009/2011, for Professors and Lecturers in Universities subject to the above provision, includes the **participation in any form of programs**, which are financed by international **or private resources**, of the Special Accounts for Research Sums (E.L.K.E.) of the Universities, the Special Legal Entities formed for the Exploitation and Management of the Assets of Universities, which are founded by statutory authorization of par. 7 of article 41 of Law 2413/1996 (A' 124) and the private law legal entities for the management of the assets of the research sums of Universities, which are established by statutory authorization of article 58 of Law 4009/2011, provided that they will perform their tutorial and other duties, as these are set out in the provisions of Law 4009/2011 and by the respectively competent bodies of the Universities*".

The participation in Scientific Events and Advisory Boards are comprised in the meaning of **any form of programs** and the honoraria in the meaning of **private resources**.

Fees of full-time professors described in the preceding paragraph are obligatorily collected, in accordance with the law, via the Private Law Legal Entity of their Institution (Article 23 par. 3 of Law 4009/2011). In this sense, full-time university physicians, who freely practice as freelancers, are remunerated via the ELKE of the University where they belong. That leaves the part-time university physicians who occupy a full-time post in public or private sector.

C. NHS PHYSICIANS serving in UNIVERSITY HOSPITALS

NHS Physicians serving in University Hospitals, are deemed as NHS Physicians.

Following the above, the clarifications and updates occasionally sent by the **ELKE** throughout the Greek State (ELKE of Thessalia, ELKE of Patra, Crete etc.) concern only the university physicians-members of DEP (Tutorial Research Personnel) and not the NHS Physicians, neither the university physicians who serve or are appointed as NHS physicians as well and are remunerated in accordance to the above via the ELKEA.

We remain at your disposal,

For SFEE's Legal Department

Yours faithfully

Dimitra Lembessi

