



Journal Website:
<http://usajournalshub.com/index.php/tajpslc>

Copyright: Original content from this work may be used under the terms of the creative commons attributes 4.0 licence.

Issues Of Regulation And Protection Of Patient Rights In The Sphere Of Medical Service In Uzbekistan

Safarova Hulkar Norbek Qizi

Teacher Of The Department Of Constitutional Law, Tashkent State University Of Law,
Independent Researcher Of The Academy Of Public Administration Under The President Of
The Republic Of Uzbekistan

ABSTRACT

In the article, the issues of regulation of medical service and the concept of patient rights are analyzed. The quality and directions of the system of qualified medical services are discussed. The activities of entities providing medical service in ensuring the rights of patients were studied. In addition, proposals were put forward to amend norms related to the introduction of telemedicine and to improve the existing legislation in the Law of the Republic of Uzbekistan “On Public Health”.

KEYWORDS

Qualified medical care, health care, patient, right to health, telemedicine, e-medicine, medical care, medical staff.

INTRODUCTION

These days, in Uzbekistan, the process of reforming the legislation on the protection of public health and the provision of qualified medical services is being carried out. The

President of the Republic of Uzbekistan Sh. Mirziyoyev stated that “... the main goal of all reforms is to improve people’s lives, and

quality medical care plays an important role” [].

It should be noted that the rights of the patient are an integral part of human rights. When it comes to patient rights, there is a need to define the concept of patient. The Law of the Republic of Uzbekistan “On Public Health” does not define the concept of patient.

According to the analysis, national and foreign sources provide unambiguous and not clear definition of the concept of patient. A patient is an abnormally disturbed, sick, diseased state of the body. [, –P.589-599] This definition is given in the Annotated Dictionary of the Uzbek Language, published in 2008, which evaluates the human being as a whole living organism and suggests that the violation of its normal state leads to the status of the disease.

A.G. Blinov refers that patient is a person who has entered into a legal relationship in the sphere of health or is invited to participate in a biomedical experiment in order to receive medical, psychiatric, pharmaceutical services in specialized institutions of any organizational and legal form to exercise subjective rights. [, –P.18, 26]

D. Babadjanov’s definition of the concept of patient is characterized by its comprehensiveness. According to him, “a patient is a person who receives medical care, undergoes medical supervision and / or treatment due to any disease, pathological condition or other health and life disorders, uses medical services regardless of the disease, as well as participates in medical experiments; a person who is treated in a medical institution of any organizational and legal form, in a private practice doctor, or in places where he

or she has no consent or on a paid or free basis under a contract or law”. [, –P.63, 68]

Despite the different views and approaches, it should be noted that the legal status of the disease in a person arises from the moment of the relationship between the person and the health care organization (public or private), regardless of the issue.

In our opinion, it is proposed to amend the first part of Article 24 of the Law of the Republic of Uzbekistan “On Public Health” with a provision **“regardless of illness or condition, a patient is a person who applies for medical care or receives medical care”**.

An important point in this proposed understanding is that a person who applies to a medical facility thinking that he or she is ill due to feeling unwell or panic, even if his or her illness has not been confirmed by medical staff, should enjoy all the rights of a patient.

It should be noted that A.N. Pishita in the research proposed a comprehensive approach to patient rights, taking into account not only medical activities, but also ethics and moral norms in defining and ensuring patient rights, as well as their age, gender, health status, professional suggests not to neglect its activities either. [, –P.107]

The rights of the patient are an issue that depends not only on him, but also is one of the duties and functions of the state. It should be noted that the national legislation, in particular the Law of the Republic of Uzbekistan “On Public Health”, distinguishes the right of citizens to medical and social assistance as a separate general right.

Another important right of the patient is the right to demand that this disease be kept

secret by medical institutions and doctors. The fact that a citizen seeks medical help, the state of health, the diagnosis of the disease and other information obtained during the examination and treatment constitute a doctor's secret.

In case of violation of their above rights, the patient or his/her legal representative may file a complaint directly to the head or other official of the treatment and prevention institution, a higher governing body or a court.

While the rights of patients are familiar with their categories, the next issue is the legal mechanisms for ensuring these rights. Today, the improvement of normative legal acts in this area is an important issue. [–P.133]

The preamble to the Amsterdam Declaration on Europe's Patient Rights Policy states that the concept of health care includes a wide range of services aimed at health care and protection, prevention, diagnosis, treatment, care and rehabilitation. [, – P.101-107]

It is obvious that qualified medical care depends on the quality and direction of the provided services, ensuring the rights of the patients and the activities of the service providers.

A person can strengthen his/her health in any way that is not prohibited by law, and these ways and methods, the amount of money spent are determined independently.

However, the efforts of patients to restore their health are limited to a certain extent. The patient can apply for rehabilitation only to medical institutions or private clinics that have a license to engage in this activity. Medical intervention is a process of interference with the consent of the patient or his / her close

relatives. [, –P.18] Undoubtedly, the consent of the patient or his/her close relatives is important in the provision of medical services. Failure to obtain this consent is itself a violation of patient rights.

Article 19 of the Law of the Republic of Uzbekistan "On Public Health" stipulates that the young over the age of fourteen have right to voluntarily consent or refuse medical intervention, or Article 24, which deals with the rights of patients, strengthens the right to voluntarily consent or refuse medical intervention, which is the legal basis for the above. [].

As one of the main areas of patient rights and the quality of services are enshrined in Article 3 of the Convention on Human Rights and Biomedicine, which establishes a link between equality and quality, according to this, Member States of the Convention shall strengthen the obligation to ensure "equal access to health care and quality health care". [].

In the scientific literature, the concept of medical service for citizens means the availability of sufficient entities to provide these services, their location and quantitative capacity, the proportion of payments for services for all segments of the population. [, –P.132, 138]

If people face obstacles in the medical care to its free access (territorial, time or price), then right to medical care is not fully guaranteed, the principle of openness of medical care to all is violated. As Y.Ji rightly points out, "the importance of these principles and the role of the population's access to qualified health care in human health was evident during the Covid-19 coronavirus pandemic. [, –P.480] If people face various obstacles in using medical

services, it is natural to give the impression that this service is designed for certain categories of people. The case of people who do not have health insurance and cannot afford to pay for treatment is another example. [].

Another important point to note is that as important as the support with medical care is, the quality of its delivery is very important as well. These two elements are a key factor in ensuring right to qualified medical care, as stipulated in the Constitution of the Republic of Uzbekistan, and ultimately in the formation of a healthy nation.

In our opinion, the introduction of telemedicine in the Law of the Republic of Uzbekistan “On Public Health”, the introduction of it as part of qualified medicine for patients, the qualification requirements for consultants through this system, the limits of their liability for damage, the time has come to create a legal framework for the introduction of this institution.

Normative legal acts aimed at regulating medical services in our country are numerous, but the rights of patients who are consumers of the health care system are not sufficiently ensured. Hence, patient rights are an integral part of the internationally recognized right to health. Its implementation requires social activism from patients, and the responsibility of the state authorities and relevant medical institutions for their duties.

In addition, the introduction of telemedicine into the Law of the Republic of Uzbekistan “On Public Health” as part of qualified medicine, the requirements for the qualification of medical staff providing advice through this system, the limits of their liability are proposed

to create a legal framework for the introduction of this institution for patients.

REFERENCES

1. Ўзбекистон Республикаси Президенти Шавкат Мирзиёев раислигида 9 ноябрь куни соғлиқни сақлаш тизимини ривожлантириш, ҳудудлар аҳолисини сифатли тиббий хизмат билан қамраб олиш, тиббиёт муассасалари моддий-техника базасини мустаҳкамлаш борасидаги ислохотлар натижаларини таҳлил қилиш ва истиқболдаги устувор вазифаларни белгилашга бағишланган видеоселектор йиғилиши. <https://president.uz>
2. Бегматов Э. А Мадвалиев, Н Махкамов Ўзбек тилининг изоҳли луғати. Ўзбекистон миллий энциклопедияси. – 2008. – Б. 589-599. (Begmatov E. A Madvaliev, N Makhkamov Annotated dictionary of the Uzbek language. National Encyclopedia of Uzbekistan. – 2008. – B. 589-599 p).
3. Блинов А.Г. Юридический статус пациента как субъекта здравоохранительных правоотношений. Журнал российского права. 2011; 4: 18-26. (Blinov A.G. The legal status of the patient as a subject of healthcare legal relations. Journal of Russian Law. 2011; 4: 18-26 p.)
4. Бабаджанов Д. Понятие пациента в теории и законодательстве / Дж. Бабаджанов. Вестник Таджикского государственного университета права, бизнеса и политики. 2014; 5: 63–68. (Babazhhanov D. The concept of a patient in theory and legislation / J. Babadzhanov. Bulletin of the Tajik State University of Law, Business and Politics. 2014; 5: 63-68 p.)

5. Пищита А. Н. Правовой статус российского пациента // Журнал российского права. – 2005. – №. 11 (107). (Pishchita A.N. Legal status of a Russian patient // Journal of Russian law. - 2005. – №. 11 (107))
6. Сайдуллаев Ш.А. Вопросы совершенствования научно-теоретических и методологических основ нормотворческой деятельности в Республике Узбекистан на фоне зарубежного опыта // Studia politologiczne (Политологические исследования). – Варшава 2019. – № 52. – Б.133.
7. Блинов, А. Г. "Декларация о политике в области обеспечения прав пациента в Европе и ее значение в уголовно-правовой охране прав и свобод пациента." Вестник Саратовской государственной академии права №5 2008. – С. 101-107. (Blinov, A. G. "Declaration on the policy in the field of ensuring the rights of the patient in Europe and its significance in the criminal law protection of the rights and freedoms of the patient." Bulletin of the Saratov State Academy of Law No. 5 2008. - 101-107 p.)
8. Садковская Т.В., Храбан В.Г. Некоторые аспекты взаимоотношений страховых медицинских организаций и медицинских учреждений // Медицинское право. 2007. № 3. С. 18. (Sadkovskaya T.V., Khraban V.G. Some aspects of the relationship between insurance medical organizations and medical institutions // Medical Law. 2007. № 3. 18 p.)
9. Ўзбекистон Республикаси Олий Мажлисининг Ахборотномаси, 1996 й., 9-сон, 128-модда (Bulletin of the Oliy Majlis of the Republic of Uzbekistan, 1996, № 9, Article 128).
10. Конвенция Совета Европы о защите прав человека и человеческого достоинства в связи с применением достижений биологии и медицины (ETS №64): Конвенция о правах человека и биомедицине (заключена в г.Овьедо 04.04.1997) Конвенция вступила в силу 01.12.1999. (Council of Europe Convention for the Protection of Human Rights and Human Dignity with regard to the Application of Biology and Medicine (ETS №64): Convention on Human Rights and Biomedicine (concluded in Oviedo on 04.04.1997) The Convention entered into force on 01.12.1999.)
11. Kirby J. B., Sharma R. The availability of community health center services and access to medical care // Healthcare. – Elsevier, 2017. – Т. 5. – №. 4. – С. 174-182; Фурлет И. В., Моисеева К. Е., Алексеева А. В. Некоторые результаты оценки доступности медицинской помощи // Территория инноваций. – 2017. – №. 10. – С. 132-138. (Alekseeva A.V. Some results of assessing the availability of medical care // Territory of innovations. - 2017. - №. 10. – 132-138 p.)
12. Ji Y. et al. Potential association between COVID-19 mortality and health-care resource availability // The Lancet Global Health. – 2020. – Т. 8. – №. 4. – С. e480.
13. Halpern N. et al. United States resource availability for COVID-19 // Society of Critical Care Medicine. – 2020.
14. Kosimov Botirjon Ma'rufjon o'g'li Threats to judicial independence: reflections on the us experience // TSUL Legal Report. 2020. №1. URL: <https://cyberleninka.ru/article/n/threats-to>

judicial-independence-reflections-on-the-
us-experience (дата обращения:
15.03.2021).

15. Юлдошев А. Состояние и перспективы согласования актов законодательства с институтами гражданского общества в Узбекистане (Yuldashev A. Status and prospects for the agreement of legislative acts with the institutions of civil society in Uzbekistan) // Review of law sciences, vol. 3, no. Спецвыпуск, 2020/ - Р. 40-46. doi:10.24412/2181-919X-2020-3-40-46