



 Research Article

OBJECT AND SUBJECTS OF PROFESSIONAL LIABILITY INSURANCE OF DOCTORS

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ABSTRACT

This article discusses constitutional guarantees, the object and subjects of medical professional liability insurance. The issue of the rights and obligations of subjects of medical professional liability insurance is also analyzed through research by domestic and foreign scientists.

KEYWORDS

Doctor, profession, responsibility, professional liability, insurance, professional liability insurance, doctor's professional liability insurance.

INTRODUCTION

The purpose of medical professional liability insurance or medical malpractice insurance is to protect healthcare providers from financial ruin due to lawsuits and to ensure that patients receive compensation for damages caused by medical negligence.

Today, many private medical institutions are being created in our country, and this, in turn, creates an entrepreneurial environment.

One of the guarantees of stable operation of such business entities is the introduction of modern management by the Institute of Professional Liability

Insurance, as the experience of foreign countries in the field of healthcare shows. The task of this institution is to take measures to eliminate damage caused to the patient during the provision of medical services, freeing medical workers from the property burden caused by the need to compensate for damage [1].

METHODS

The article uses systemic-structural, formal-legal, comparative-legal, logical (analysis, synthesis, deduction and induction) and statistical methods. For example, through the system-structural method, first

of all, the opinions of scientists on the issue are given, then theory and legislation are analyzed, and then personal opinions are expressed based on what has been studied. The comparative legal method was used to compare foreign and national legislation. The relevance of the article is analyzed by studying the number of complaints and lawsuits caused today by professional errors of medical workers using statistical methods.

RESULT

As a general rule, the object of professional liability insurance is the property interest of the policyholder (insured) in compensation. According to B. T. Sultanaliev, unlike other types of insurance, the occurrence of an insured event in professional liability insurance usually does not depend on external factors (for example, various natural phenomena, force majeure, actions of third parties) and the doctor's qualifications and performance. The experience of professional activity may also depend on the individual characteristics of the patient's (victim's) body [2].

Insurance protection is characterized by a number of objective and subjective characteristics.

Objective signs usually include:

random state of occurrence of negative consequences;

the possibility of causing material damage and harm to life or health;

the need to prevent negative consequences, eliminate them and compensate for the damage caused.

The combination of these signs indicates the presence of insurance risk in the process of social production.

Subjective signs of insurance protection include the conscious need of participants in public relations

(state, individuals and legal entities) to take measures to implement insurance.

Moreover, if the corresponding economic opportunities, individual professional groups and the legal culture of the population as a whole are sufficiently high, the corresponding needs are formalized in the form of requests [3; pp. 735-739].

The purpose of medical professional liability insurance is to protect the legitimate interests of both parties. On the one hand, society and the state protect the interests of the patient, placing the burden of compensation for harm caused to the victim during the provision of medical care on the organization of medical care, and on the other hand, protects the property interests of the patient. medical personnel. Thanks to this, the state guarantees the effective development of healthcare, which is considered important for society.

In world practice, there are various medical professional liability insurance systems, which can be divided into four main types:

the first is individual insurance for a specific profession;

the second is self-insurance, i.e. insurance through the association of professional persons in mutual insurance societies;

third, group insurance, medical association or other medical societies entering into a relationship with the insurance company;

the fourth is a mixed system, which includes several elements of the above, for example, in addition to participation in a mutual insurance company, a professional additionally insures his risk in any private insurance company.

In decision of President of the Republic of Uzbekistan December 7, 2018, number PQ-5590 “On comprehensive measures to radically improve the healthcare system of the Republic of Uzbekistan,” the Ministry of Health was entrusted with the development of a draft Law of the Republic of Uzbekistan “On insurance of medical activities and compulsory liability.” medical personnel.” This bill has been submitted for public discussion on the portal for discussing draft regulatory legal documents.

According to the bill, the object of compulsory liability insurance for medical personnel is property interests associated with the occurrence of liability of medical personnel for obligations arising from harm to the life or health of victims due to a defect. in the provision of medical care.

But to us this definition seems something crazy and incomprehensible. The concept of “lack of medical care” is borrowed from the Russian language and is a translation of the concept of “lack of medical care.” But using the word “defect” in this sense in relation to the provision of medical care is inappropriate. In the legislation of the Republic of Uzbekistan, the concept of “failure to provide medical care” is not used and is not defined in any regulatory legal document. As a result, the question remains as to what defect is meant by a deficiency in medical care, its level and how to define it.

According to opinions based on research by a number of scientists, the following concepts are distinguished:

deficiency - any deficiency in the provision of medical services by a medical service, medical organization, unit, official, medical worker;

A defect is a condition that can only be identified, classified and assessed after quality control or forensic examination of medical activities [4].

Medical malpractice is usually caused by a medical error. Such a medical error is defined as follows:

unintentional action or inaction of a medical worker in connection with the provision of medical care to a person seeking medical care, characterized as independence or negligence;

physical or moral harm from a medical worker to a patient;

an error by a medical worker in the conscientious performance of his professional duties without signs of a crime or offense;

inaccurate information provided by a medical worker in the course of his professional activities.

Thus, medical malpractice is a culpable error that constitutes a violation of the quality or safety of a medical service provided by a medical organization or medical professional, regardless of whether it causes harm to the patient's health.

Article 11 of the Law of the Republic of Uzbekistan “On Insurance Activities” provides that the objects of civil liability insurance may be property interests associated with the following:

the risk of liability for causing harm to life, health or property of individuals, legal entities, state property;

risk of liability for violation of contract terms [5].

We will use this article as the basis for determining the object of medical personnel liability insurance.

In general, we can say that the object of professional liability insurance for medical personnel is the property interests of medical personnel in relation to liability arising from harm to the life or health of victims as a result of errors in its provision. medical care.

In this case, the object will be aimed at protecting the property interests of the widowed medical worker.

Yalinsky A. and Rericht A. argued that “professional liability insurance has two goals: to protect the client from the insolvency of the professional entity that caused the losses, and to protect this entity from death in the event of a professional error” [6; p. 280].

According to B.T. Sultanaliev, the subject of professional liability insurance for doctors is usually healthcare workers or healthcare organizations. This includes doctors, nurses, surgeons, dentists and other health care professionals. This may also include healthcare facilities such as hospitals, clinics, nursing homes and medical laboratories. The subjects of this insurance are persons or organizations engaged in the provision of medical care or related services.

But, in our opinion, it is incorrect to call only medical personnel the subject of doctor’s professional liability insurance. Because there are other parties involved in this insurance relationship. It is appropriate to recognize all those who have entered into this relationship as subjects of doctor’s professional liability insurance.

That is, the subjects of liability insurance for medical workers are medical workers, insurers, victims and beneficiaries.

Medical worker is an individual working in the field of medical activities, including traditional medicine. Under this insurance, the insured person is a medical worker.

The insurer can be a medical organization or the medical worker himself. If a medical organization is insured, all employees who have entered into an employment contract with a medical organization (including managers) and carry out insured activities and have sufficient qualifications and knowledge are considered insured.

Article 13 of the Law of the Republic of Uzbekistan “On Insurance Activities” provides a general definition of an insurer.

An insurer is a legal entity that has a license to carry out the relevant type of insurance and undertakes to pay insurance compensation (insurance payment) in accordance with the insurance contract.

Thus, the insurer can be a legal entity of any organizational and legal form, which is not prohibited by the legislation of Uzbekistan.

Accordingly, we can say that the insurer of a doctor’s professional liability insurance is a legal entity that has a license giving the right to carry out the corresponding type of insurance activity and carries out compulsory insurance of harm caused to life. and the health of the patient when providing medical services by a medical professional.

The categories of persons to whom the insurance risk is directed can be divided from the point of view of insurance of the professional liability of a doctor and the situation of the occurrence of professional liability of a medical worker.

In the first case - harm to the life and (or) health of the patient, in the second case - the death of the patient.

Accordingly, we divide those entitled to compensation into victims and beneficiaries.

A patient whose life and (or) health was harmed during the provision of medical care to the victim.

Beneficiary The person entitled to receive insurance benefits in the event of the patient's death.

Let's consider what rights and obligations medical personnel and the insurer may have when entering into a relationship related to an insurance contract.

Medical personnel have the following rights:

choosing an insurer to conclude an insurance contract;

obtaining clarification from the insurer about the terms of the insurance contract;

appeal the insurer's decision to refuse to pay insurance compensation in accordance with the established procedure.

Medical personnel are obliged:

payment of the insurance premium under the insurance contract;

notify the insurer of the overpaid amount of insurance compensation in connection with cruel treatment of the victim or beneficiary and take the necessary measures to return the overpaid funds to the insurer.

The insurer has the following rights:

participation in checking insurance cases in a medical institution and, if necessary, involving relevant specialists;

checking information about an insured event at a medical institution.

The insurer has the following obligations: have regional divisions (branches) authorized to consider

applications for insurance compensation and make their payment;

familiarizing the medical worker with the terms of the insurance contract, including his rights and obligations;

ensure the confidentiality of information received by a medical professional about the victim and beneficiary as a result of his activities;

if a decision is made on non-payment of insurance compensation, notify the medical worker, the victim, the beneficiary in writing, indicating the reasons for the refusal;

payment of insurance compensation.

CONCLUSION

To summarize the above, it is very important to clearly define the objects and subjects of medical professional liability insurance. Having determined the object, they understand within the framework of what law the relationship should be regulated. Since the object of insurance of a doctor's professional liability is the property interests of the doctor, these relations are regulated by civil law. By contacting a doctor with professional liability insurance, patients receive additional guarantees of the quick and effective implementation of their legal rights.

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