

ISSUES OF IMPROVEMENT OF CIVIL LEGAL REGULATION OF MEDICAL SERVICES

(The thesis)

Jamshid Abdulaev Djamilovich

philosophy of legal sciences doctor (PhD), “Excellence of Justice”

Email: jamshidb003fb@gmail.com

Annotation

The article analyzes the concept of medical services, the civil legal regulation of medical services and the unique features and special aspects of contractual legal relations in the medical field.

Key words: Medical services, valvular heart disease, surgeon John Gibbon, Charles Hufnagel, “Mittivine” - blogger Farhod Mannopov, laws and regulations.

Health is one of the greatest gifts to man. The development of modern medicine, with the development of technology, has made it possible to treat body parts that are naturally presented to humans with the help of external interventions. Let's prove our point with statistical numbers: “In 2006, the total estimated number of deaths related to valvular heart disease in the United States was 19.989”¹. The majority of patients suffering from the diseases described in the numbers given above are provided with medical contractual services. However, in all these surgical procedures, many patients died due to the lack of quality and efficiency of the medical services provided. We can find official statistical figures reflecting such death not only in the USA, but in every country. The problem is not in the analysis of these numbers, but behind the numbers is the human life, its health and the medical services provided to the population in the context of globalization.

“On May 6, 1953, the first successful closure of an interatrial septal defect with the help of a cardiopulmonary device, proposed by the American surgeon John Gibbon, changed the world fundamentally. The participants of this operation did not imagine what would lead to heart surgery at that moment. The first rise and the

¹ Rosamond W, Flegal K, Friday G, et al.; American Heart Association Statistics Committee and Stroke Statistics Subcommittee. Heart disease and stroke statistics—2007 update: a report from the American Heart Association Statistics Committee and Stroke Statistics Subcommittee. *Circulation* 2007; 115:e69–e171 [Erratum in *Circulation* 2007; 115:e172]

subsequent inevitable declines associated with the introduction of new technologies encouraged researchers to progressively solve a number of problems. And one of them was to repair valvular defects of the heart”². So, this surgical operation of the representative of the United States, John Gibbon, proved that many human internal organs can be treated with the help of external interventions, or, in other words, prolong life. The development of science and technology of the next century accelerated this process.

At this point it is appropriate to clarify these figures in modern medical terms of special significance: “Aortic valve disease accounted for 12.471 deaths and mitral valve disease for 2.759 deaths, the remainder being equal between tricuspid and pulmonary valve disease distributed. Echocardiography and MRI are the imaging techniques mainly used to evaluate the heart. Further research has served as a solution to eliminate these heart-related diseases”³. One such study includes: “In 1951 Charles Hufnagel developed a ball valve made of methyl methacrylate for implantation in the thoracic aorta for patients with aortic regurgitation. The successful implantation of this design in the descending aorta first demonstrated the feasibility of the idea of implanting foreign bodies into the aorta”⁴. The statistical numbers, comments, and all the information related to the above heart surgery procedure were initially used as a means of treating existing diseases in human health. In developed countries, this type of social relations is covered by the state for a fee and for the needy segment of the population, based on the factor of the presence of the private sector in medicine.

With the development of modern medicine in civil law, classical concepts and attitudes are changing: “In the classical concept of civil law, medical service is an executive (according to the general rule of a medical organization) aimed at satisfying the needs (physical) of a client (person, citizen, patient) ra) diagnosis of

² Шевченко Ю.Л., Цветкова Т.В., Гудымович В.Г. Отдаленный результат протезирования митрального и аортального клапанов сердца отечественными шаровыми протезами через 35 лет после операции (клиническое наблюдение с кратким обзором литературы) // Вестник Национального медико-хирургического Центра им. Н. И. Пирогова. 2020. №3-2. URL: <https://cyberleninka.ru/article/n/otdalennyy-rezultat-protezirovaniya-mitralnogo-i-aortalnogo-klapanov-serdtsa-otechestvennymi-sharovymi-protezami-cherez-35-let>.

³ Rahimtoola Sh. The year in valvular heart disease. J Am Coll Cardiol 2007; 49:361 –374

⁴ Ю.Л.Шевченко, Т.В.Цветкова, В.Г.Гудымович. “Отдаленный результат протезирования митрального и аортального клапанов сердца отечественными шаровыми протезами через 35 лет после операции (клиническое наблюдение с кратким обзором литературы)” Вестник Национального медико-хирургического Центра им. Н.И.Пирогова, vol. 15, no. 3-2, 2020, pp. 172-178.

diseases, their treatment, prevention, and other activities that are in line with his interests”⁵.

Based on the fact that the main medical institutions in the countries of the former Soviet Union are state-owned, after the disintegration of the former Soviet Union, in many countries, the instruction or surgery provided by a unilateral medical organization requires a document confirming the identity of the client (patient) and the consent of his or her family members. Based on the attachment of letters, the practice of formalization began to be observed. In the process of activation of the private sector in the field of medicine, the legal gaps of this practice became apparent. However, in the national mentality formed by the people over the years, it was initially difficult to sue the state-owned medical office, but due to the need to increase the number of deaths among the population, it became an agenda. We prove our opinion with official sources: “The blogger Farhod Mannopov, who died on March 5 of this year, known by the nickname “Mittivine”, did not have a qualified doctor in the clinic where he was operated. SSV informs about this in the results of the examination conducted at the “Star Med Center” clinic in connection with the blogger’s death”⁶. Therefore, in this matter, there is a need to improve the civil legal regulation of medical services, as well as contracts and agreements related to the provision of medical services.

Regarding the systematicity of the activity of medical services provided by medical organizations to the population: “As a result of discussing the nature of the market, it is possible to observe that medical activity appears and then declines again, and is related to its limitations and boundaries”⁷

In the opinion of Alexander Anatolyevich Mokhov, head of the medical law department of the Moscow State Law University named after O.E.Kutafina (MGYuA), doctor of legal sciences, professor, there are several problems in the provision of medical services: “The development of modern medical technologies and their introduction to local health care problems remain. In fact, new technologies (biological, genetic, informational, etc.) have organizational, legal and ethical

⁵ А.Мохов. Медицинское право. DOI: 10.17803/1994-1471.2023.149.4.093-104. Концепция правового регулирования медицинской деятельности; <https://aprp.msal.ru/jour/article/download/3880/2112>

⁶ <https://www.xabar.uz/uz/mahalliy/farhod-mannopov-mittivinening-olimi-bilan-bogliq-qoshimcha>

⁷ А.И.Биленко. Российский рынок медицинских услуг: правовые проблемы обеспечения конкуренции : автореф. дис. ... канд. юрид. наук. М., 2022

problems at all early stages of their life cycle”⁸. Therefore, legal regulation of medical services is important.

At the moment, the scope of the type of medical services provided has expanded, taking into account the active intervention of the private sector in the field of treatment and the fact that the private sector is allowed even with complex surgical operations, usually the parties in practice decide on such medical services based on an agreement based on a free price, medical services are regulated by law. the need arises.

In our country, several laws and by-laws have been adopted for the legal regulation of relations in the field of medicine. On September 14, 1996, the Law of the Republic of Uzbekistan “On the Protection of Citizens’ Health” containing 47 articles was adopted with No. 265-I. In particular, contractual relations in the issue of health care of citizens are given in Article 29 of the law: “Primary medical and sanitary care provided by institutions of private and other health care systems is carried out on the basis of a contract in accordance with the second part of Article 10 of this Law. with the exception of certain groups of citizens to be shown”⁹ With the above law, the system of relations in the field of medical services in our country was legalized on a general basis.

Forming a healthy lifestyle in our country The 24-article Law of the Republic of Uzbekistan “On Protection of Reproductive Health of Citizens” was adopted on March 12, 2019 with Orq-528, which states that “The purpose of this Law is to it is to regulate relations in the field of reproductive health care”¹⁰ - it was noted.

PQ-57 of the President of the Republic of Uzbekistan dated December 21, 2021 “Additional measures to comprehensively support persons with disabilities, support their employment and further increase their social activity”¹¹ In order to implement paragraphs 8 and 9 of the decision on In addition, in order to create a legal basis for the regulation of relations related to medical services, the President of the Republic of Uzbekistan, dated June 13, 2017, No. the decision of the President of the Republic of Uzbekistan on measures to increase the professional responsibility

⁸ А.Мохов. Медицинское право. DOI: 10.17803/1994-1471.2023.149.4.093-104. Концепция правового регулирования медицинской деятельности; <https://aprp.msal.ru/jour/article/download/3880/2112>

⁹ O‘zbekiston Respublikasi Oliy Majlisining Axborotnomasi, 1996-y., 9-son, 03/22/770/0424-son; 04.11.2022-y., 03/22/800/0990-son; 21.01.2023-y., 03/23/815/0044-son

¹⁰ Qonun hujjatlari ma’lumotlari milliy bazasi, 12.03.2019-y., 03/19/528/2741-son; Qonunchilik ma’lumotlari milliy bazasi, 21.04.2021-y., 03/21/683/0375-son

¹¹ <https://ijtimoiy-xizmat.uz/uz/>



of managers and specialists for their effectiveness and the decision of the President of the Republic of Uzbekistan dated November 12, 2021 PQ-6 No. “And on additional measures to further increase the capacity of personnel in the health sector”¹² was adopted.

The legal basis for regulating relations related to medical services, as well as “Strengthening all-round support for the development of the private sector in the health sector, creating the necessary conditions for private medical institutions to provide high-tech quality medical services to the population, private medical sector in order to expand the attraction of foreign investments and highly qualified specialists, as well as to develop medical tourism and the export of medical services”¹³. In order to provide the gift of children to childless families and to prevent early divorces, it was necessary to legally regulate the issue of artificial insemination. Because it is no secret that our citizens provide services related to this field in Turkey, Dubai, India and other foreign countries. Registered on February 6, 2020 in our country to legalize the processes related to “assisted reproductive technologies, medical technologies, treatment methods and procedures aimed at achieving pregnancy carried out outside the woman's body at some or all stages of fertilization”¹⁴, the order of the Minister of Health of the Republic of Uzbekistan with list number 3217 “On approval of the regulation on the procedure for the use of assisted reproductive technologies”¹⁵ was accepted. So, we can come to the right conclusion that this field is regulated by this norm.

In order to legally regulate the rights and obligations of the parties to legal relations in the field of health care, as well as some types of medical and pharmaceutical activities: “The draft Health Code of the Republic of Uzbekistan was developed by the Ministry of Health. According to Norma, in the document, the norms of current laws, decisions and other regulatory legal documents related to the health sector are combined and unified. The document consists of 21 chapters and 180 articles. The draft code includes a section on basic terms and concepts in the field of health care. The health care system and the organization of medical

¹² O‘zbekiston Respublikasi qonun hujjatlari to‘plami, 2017-y., 23-son, 459-modda; Qonunchilik ma’lumotlari milliy bazasi, 30.11.2021-y., 06/21/26/1111-son, 24.02.2022-y., 06/22/78/0163-son

¹³ Qonunchilik ma’lumotlari milliy bazasi, 12.11.2021-y., 07/21/6/1039-son

¹⁴ O‘zbekiston Respublikasi qonun hujjatlari to‘plami, 2017-y., 14-son, 06/21/6318/0927-son, 08.10.2021-y., 06/21/6320/0940-son, 12.04.2022-y., 06/22/102/0291-son

¹⁵ Qonun hujjatlari ma’lumotlari milliy bazasi, 06.02.2020-y., 10/20/3217/0136-son; Qonunchilik ma’lumotlari milliy bazasi, 17.05.2021-y., 10/21/3217-1/0463-son, 28.07.2021-y., 10/21/3313/0724-son



assistance are covered in detail. Therefore, the preparation of this draft code is one of the big steps to regulate existing relations in the field of medicine¹⁶. The project of this norm was put up for discussion in order to include a wide section of our people, the public and experts in the field.

As a result of the analysis of the issues of improving the civil legal regulation of medical services, we came to the following conclusions:

First of all, the legal regulation of contractual legal relations in the field of medicine is an urgent issue today.

Secondly, it is necessary to consider the legal features of medical law in the spirit of modern times, taking into account the new treatment methods and tools that have appeared due to the development of modern technology.

Thirdly, it is appropriate to implement the creativity of our national norms on the basis of scientific theoretical studies of the current legislation and contracts of this type of countries where the services of medical institutions engaged in private treatment, external interventions on the internal organs of the body, and surgical procedures are developed.

References:

1. O'zbekiston Respublikasi Oliy Majlisining Axborotnomasi, 1996-y., 9-son, 03/22/770/0424-son; 04.11.2022-y., 03/22/800/0990-son; 21.01.2023-y., 03/23/815/0044-son
2. Qonun hujjatlari ma'lumotlari milliy bazasi, 12.03.2019-y., 03/19/528/2741-son; Qonunchilik ma'lumotlari milliy bazasi, 21.04.2021-y., 03/21/683/0375-son
3. O'zbekiston Respublikasi qonun hujjatlari to'plami, 2017-y., 23-son, 459-modda; Qonunchilik ma'lumotlari milliy bazasi, 30.11.2021-y., 06/21/26/1111-son, 24.02.2022-y., 06/22/78/0163-son
4. Qonunchilik ma'lumotlari milliy bazasi, 12.11.2021-y., 07/21/6/1039-son.
5. O'zbekiston Respublikasi qonun hujjatlari to'plami, 2017-y., 14-son, 06/21/6318/0927-son, 08.10.2021-y., 06/21/6320/0940-son, 12.04.2022-y., 06/22/102/0291-son
6. Rosamond W, Flegal K, Friday G, et al.; American Heart Association Statistics Committee and Stroke Statistics Subcommittee. Heart disease and stroke statistics—

¹⁶ <https://kun.uz/news/2020/11/27/sogliqni-saqlash-kodeksi-loyihasi-ishlab-chiqildi?q=%2Fnews%2F2020%2F11%2F27%2Fsogliqni-saqlash-kodeksi-loyihasi-ishlab-chiqildi>

2007 update: a report from the American Heart Association Statistics Committee and Stroke Statistics Subcommittee. Circulation 2007; 115:e69–e171 [Erratum in Circulation 2007; 115:e172]

7. Ю.Л.Шевченко, Т.В.Цветкова, В.Г.Гудымович. Отдаленный результат протезирования митрального и аортального клапанов сердца отечественными шаровыми протезами через 35 лет после операции (клиническое наблюдение с кратким обзором литературы) // Вестник Национального медико-хирургического Центра им. Н.И.Пирогова. 2020. №3-2. URL:<https://cyberleninka.ru/article/n/otdalennyy-rezultat-protezirovaniya-mitralnogo-i-aortalnogo-klapanov-serdtsa-otechestvennymi-sharovymi-protezami-cherez-35-let>.

<https://ijtimoiy-xizmat.uz/uz/>

8. Rahimtoola Sh. The year in valvular heart disease. J Am Coll Cardiol 2007; 49:361 –374

9. А.И.Биленко. Российский рынок медицинских услуг: правовые проблемы обеспечения конкуренции : автореф. дис. ... канд. юрид. наук. М., 2022

10.А.Мохов. Медицинское право. DOI: 10.17803/1994-1471.2023.149.4.093-104. Концепция правового регулирования медицинской деятельности; <https://aprp.msal.ru/jour/article/download/3880/2112>

11.<https://www.xabar.uz/uz/mahalliy/farhod-mannopov-mittivinening-olimi-bilan-bogliq-qoshimcha>

12.<https://kun.uz/news/2020/11/27/sogliqni-saqlash-kodeksi-loyihasi-ishlab-chiqildi?q=%2Fnews%2F2020%2F11%2F27%2Fsogliqni-saqlash-kodeksi-loyihasi-ishlab-chiqildi>