



IMPROVEMENT OF CIVIL LEGAL REGULATION OF CONTRACTUAL RELATIONS ON MEDICAL SERVICES

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A B S T R A C T	K E Y W O R D S
<p>The article analyzes the issues of improving the civil legal regulation of some contractual relations in the provision of medical services (liver transplantation, heart stenting, transplantation of human organs and tissues, artificial insemination, kidney transplantation). Also, the issues of sustainable development of medical service contracts in the daily medical contractual practice of developed countries, improvement of civil legal features in terms of contract law, and information on the experience and theoretical knowledge of the world countries in this matter are covered.</p>	<p>Transplantation of human organs and tissues, HRSA, WHO, "Uzbekistan - 2030" strategy, UNDP UZBEKISTAN, civil law, "European Charter of Patients' Rights", "Standard General Medical Services Contract", the nature of the medical service contract, kidney failure.</p>

Introduction

The development of science, the increase in the scope of relations related to the provision of medical services, the rapid increase in the number of subjects engaged in private medical practice in the field of medical services in the form and appearance of civil law. creates contractual relations related to the presentation. Currently, with the development of science and technology and digital technology, such methods of providing medical services as liver transplantation, heart stenting, human organ and tissue transplantation, artificial insemination, kidney transplantation, which seemed impossible in daily medical practice in the last century, are foreign. is increasing in countries and in our country. In particular, in 2023, the Health Resources and Services Administration's (HRSA) Organ Donation Statistics on the issue of transplantation stated that "The number of men, women, and children on the national transplant waiting list is 103,223; 17 people die waiting for organ transplantation every day; 46,000+ transplants performed in 2023"[1], statistics on dental care "Oral diseases affect nearly 3.5 billion people worldwide, WHO estimates -according to his books, this is about 2 billion adults with permanent teeth, and 514 million children with primary (baby) tooth cavities" [2], in our country "about 3 thousand patients in Uzbekistan undergo hemodialysis treatment due to kidney failure feeling the need"[3] is emphasized. Despite the fact that the contractual relations for the provision of medical services are regulated by civil law in some countries, despite the fact that they meet in daily medical practice in the post-Soviet countries, the need to improve this institution and make it "de jure" is urgent. Certain scientific works are being carried out regarding the prospects of civil legal regulation of contractual relations for the provision of medical services. Regarding the procedure for concluding,

amending and canceling contracts for the provision of medical services in this area, the consequences of the parties not properly fulfilling their obligations in contractual relations for the provision of medical services, and issues of responsibility in these relations, medical services. It is becoming important to analyze the issue of finding a scientific-practical solution to the problems of improving the mechanisms of protection of the rights of the subjects of the contract for the provision of medical services, strengthening the organizational legal basis of the contracts for the provision of medical services.

Large-scale reforms are being carried out in our country in order to protect citizens' social and economic rights and freedoms, and to develop contractual relations for the provision of medical services. Within the framework of the "Uzbekistan – 2030" strategy, "full coverage with treatment of 350,000 patients with diabetes and 1.5 million patients with cardiovascular disease, 70% of appeals of the population in need of medical assistance at the primary link itself urgent goals such as achieving a solution, full coverage of patients with hemodialysis places in the republic"[4] and developing legal bases of relations related to the provision of other medical services are highlighted. With the development of science, including digital technologies, there is a need for scientific research to improve the civil legal regulation of contractual relations on the provision of medical services.

The Civil Code of the Republic of Uzbekistan adopted on March 1, 1997, "On Citizens' Health Protection" [5], adopted on August 29, 1996, adopted on March 11, 2019 Laws "On Protection of Reproductive Health of Citizens" [6], "On Transplantation of Human Organs and Tissues", adopted on May 11, 2022, 2018 of the President of the Republic of Uzbekistan Decision of the President of the Republic of Uzbekistan on September 11, 2023 PF-158 "On measures to increase the efficiency of nephrology and hemodialysis assistance to the population of the Republic of Uzbekistan"[7], adopted on July 12 Decree No. "Uzbekistan - 2030" strategy and other legal documents related to the field provide a legal solution for issues related to this topic.

Legal scholars O.E. Jamkova, E.E. Vasileva, E.M. Alsynbaeva, N.E. Bodyak, O.V. Gorbunova, R.R. Safin, A.A. Ostanin, L.V. Vysotskaya, N.A. Barinov, N.V. Kosolapova, M.P. Maleina, M.V. While Bolotina and other research scientists have specially researched the issues of contractual legal regulation of medical service relations, M. M. Mello, E. Bucher, T. A. Brennan, G. Leggatt, A. Hirshman, Nadiya E. Nedzel, Nicola V. Palmieri, Novoa R., J. Smith, Pablo Rodriguez del Pozo, Xiao-Yang Li, J. Cartwright, S.R. Latham, R.R. Bovbjerg, D.M. Studdert, K.Walsh, DJ.Hunter and others' scientific studies studied the issue of contractual legal regulation of medical service relations.

The relations regarding the provision of medical services in the Republic of Uzbekistan are based on general principles or to a certain extent. It was studied by I.Anortoyev, S.Bobokulov, K.O.Sindorov, V.R.Topildiyev, M.Sh.Choriyev, N.F.Imomov, M.S.Boltayev, N.E.Gofurova, N.I.Askarov, J.T.Askarov and other scientists. In particular, major civil scientists, academician H.R. Rahmonkulov, professors I.B.Zokirov, R.J.Roziyev, O.Okylulov, Sh.Rozinazarov from the point of view of the existence of this type of contracts, professor M.Sh Choriyev within the nature of the contract, M.S. Boltayev medical insurance on the issue of civil-legal regulation of business activity, N.E. Gofurova on the international legal basis of ensuring the right to health, N.I. Askarov on the section of unnamed contracts, researcher J.T. Askarov on the scientific-theoretical classification of the legal regulation of the activities of business entities in the field of medical services carried out research.

However, it is clear from the research analysis that the solutions to the problems related to the legal and individual regulation of medical service relations in our country are not fully covered. Therefore,

improving the civil legal regulation of contractual relations for the provision of medical services in our country, the specific characteristics of contractual relations for the provision of medical services, the essence of the concept of a contract for the provision of medical services, the main and additional conditions of this contract, in particular, it is necessary to develop improved scientific-theoretical and practical recommendations related to the issue.

As part of the general description of the legal regulation of medical service contractual relations, it is important to study such issues as the legal basis of medical service contractual relations, the genesis and development trends of medical service contractual relations, and the comparative legal analysis of medical service contracts. The Republic of Uzbekistan maintains bilateral and multilateral relations with several foreign countries and international organizations in the field of public health. In order to justify our opinion, we present the official information provided by UNDP - UNDP UZBEKISTAN (United Nations Development Program). "In it, the project "Support to effective resilient and inclusive governance system for health" will contribute to the achievement of the 4th result of the United Nations Partnership Program for 2021-2025 'satisfied. The main activity of the project is to increase the opportunity of the most vulnerable groups to use quality medical services, to create an effective system of providing medicines and medical supplies to all sections of the population, including those in need of social protection" [8]. Our republic has bilateral and multilateral beneficial relations with many international organizations aimed at protecting citizens' health.

Based on the analysis of different approaches to medical service contractual relations in the coverage of the legal bases of medical service contractual relations, the emergence of medical service contractual relations, existing forms in different periods, the application of law to medical service contractual relations it is necessary to analyze the issues related to its correct implementation in practice.

Improvement of the civil legal regulation of certain contractual relations on medical services and the main norms in the field of health care of citizens - about 10 (ten) laws in force in the Republic of Uzbekistan, decrees of the President of the Republic of Uzbekistan About 30 (thirty) decisions, about 10 (ten) normative legal documents of the Cabinet of Ministers of the Republic of Uzbekistan, about 20 (twenty) medical service relations of the Minister of Health of the Republic of Uzbekistan it is necessary to conduct a scientific theoretical study of related orders and regulatory legal documents related to the provision of medical services adopted by competent bodies in other fields.

In particular, the Law of the Republic of Uzbekistan No. 415-I dated April 25, 1997 "On Medicines and Pharmaceutical Activities" and taking into account subsequent changes in the field, adopted in a new version on April 4, 2016 Law of the Republic of Uzbekistan No. ORQ-399 of January "On Amendments and Additions to the Law of the Republic of Uzbekistan "On Medicines and Pharmaceutical Activities", 813 of August 19, 1999 - Law of the Republic of Uzbekistan No. I "On Narcotic Drugs and Psychotropic Substances", Law of the Republic of Uzbekistan No. 402-II of August 30, 2002 "On Donation of Blood and Its Components" Law No. 615-II dated April 29, 2004 of the Republic of Uzbekistan "On the use and protection of the symbols of the Red Crescent and the Red Cross" dated May 3, 2007 Law of the Republic of Uzbekistan No. 97 "On Prevention of Iodine Deficiency Diseases", Law of the Republic of Uzbekistan No. O'RQ-353 dated September 23, 2013 "Disease caused by the human immunodeficiency virus (HIV infection) Law on combating the spread of STIs, Law No. ORQ-528 dated March 12, 2019 Law "On Protection of Reproductive Health of Citizens", OrQ-768 dated May 12, 2022 - is regulated by the Law of the Republic of Uzbekistan "On Transplantation of Human Organs and Tissues"[9] and other legal documents.

Also, the decision of the President of the Republic of Uzbekistan dated April 1, 2017 "On measures for the further development of the private sector in the field of health care", PQ-3039 dated June 13, 2017 "To the residents of the city of Tashkent Decision of December 7, 2018, No. PF-5590 "On measures to further improve the management system of primary medical and sanitary care and increase the professional responsibility of managers and specialists for its effectiveness" Decree of the Republic of Uzbekistan "On comprehensive measures to fundamentally improve the health care system", dated October 12, 2018 No. PQ-3968 "Measures to regulate the field of folk medicine in the Republic of Uzbekistan Decision No. PQ-4290 dated April 6, 2019 "On measures to develop public-private partnership in the health sector", Decision No. PQ-4290 dated May 30, 2020 Decision No. 4737 "On creating additional conditions for the provision of emergency medical services by non-governmental medical organizations", Decision No. PQ-4790 of July 27, 2020 "Sanitary of the Republic of Uzbekistan Resolution No. PF-6221 of May 5, 2021 "On measures to organize epidemiological peace and public health service activities" "To consistently continue reforms in the health care system and increase the capacity of medical workers Decree No. PQ-5124 dated May 25, 2021 "On additional measures for comprehensive development of the health care sector", 2021 - the decision "On additional measures to improve the quality of medical services to the population and further increase the capacity of personnel in the health sector" adopted by the PQ-6 dated November 12, and 2020- The order of the Minister of Health of the Republic of Uzbekistan "On the approval of the regulation on the procedure for the use of assisted reproductive technologies"[10] with list number 3217 dated February 6, 2017 and other legal documents also provide medical services It is important to improve the civil legal regulation of contractual relations.

A number of scientists and practicing specialists express the following opinions and comments on the classification of contracts for the provision of medical services:

N.A.Barinov on the contract of service for a fee: "In the science of civil law, the contract on the provision of paid medical services is of interest as a broader concept - an integral part of services"[11], and in the following years refers to the types of medical services that are coming in a large volume.

"A contract concluded on the model of a contract for the provision of medical services for a fee to a third party has a number of features. Firstly, the condition on the subject of such contracts should be recognized as having been agreed upon, and the concluded contract, if the parties have determined the types of medical services and the number of recipients of the services, secondly, in addition to giving the third party the right to demand the fulfillment of the obligation in his favor, certain obligations and medical services are imposed on him to perform the actions necessary for the provision of medical services"[12].

Let's answer the question with the views of S.S. Shevchuk: "According to the contract on the provision of medical services, one party, the provider of medical services (a medical organization or a private practitioner), entrusts the other party with the provision of qualified medical services to the patient. undertakes, which is expressed in the performance of certain works. Actions or certain actions of a professional nature to maintain and/or correct the patient's health, provide reliable information about diagnosis, treatment methods and predicted results and maintain medical confidentiality and the patient is obliged to comply with the contractor's requirements"[13]. We agree with the researcher's comments mentioned above and consider it appropriate to add the following. The contract for the provision of medical services for a fee, like other contracts, is regulated by current legislation. The medical service

contract should cover the issue of rights and obligations between the patient-client and the medical organization providing the service, as well as benefits and other features.

The foreign experience of the USA, Russian Federation, Great Britain, Italy and other countries is important in the civil legal regulation of certain contractual relations on the provision of medical services. In addition, in the "European Charter of Patients' Rights"[14], adopted in Rome on November 15, 2002, fourteen types of rights of the patient-customer in the contractual relationship of medical care: the right to measures, the right to access medical services, the right to information about medical services, the right to consent to medical services, the right to freely choose medical services, the right to privacy and confidentiality of medical practice, the right to respect patients' time, the right to comply with quality standards, safety the right, the right to innovation, the right to avoid pain and suffering as much as possible, the right to an individual approach to treatment, the right to appeal, the right to receive compensation, etc.

Forms of medical care include reconstructive plastic surgery, aesthetic plastic surgery, liver transplant, heart and lung transplant, kidney transplant, IVF (artificial insemination), assisted reproduction technologies), surrogate motherhood, heart surgery, dental medical services, cosmetology medical services, hijama, leech injection and other medical service contracts are basically the same in terms of content, i.e. providing quality medical services to the population, medical services It is important to provide a legal solution to the issue through a medical service contract in the event of an accident, medical errors, damage to health caused by carelessness during the application of diagnostic, preventive and medical treatment measures to the patient, and other situations.

In the article "Medical service: legal aspects" by N.V. Kosolapova, a representative of the Moscow State University of Economics, Statistics and Informatics, the following characteristics of the issue of medical service for the CIS countries are noted: The local health care reform system has changed along with the legal nature of private relations, the introduction of mandatory health insurance (OMS) and voluntary health insurance (DMS) systems, and the spread of paid medical services (PMU)"[15]. The medical service contract is a service contract of general importance, for a fee, and the legal right to defend itself for each party to this contract is implemented in this manner. The purpose of this procedure is to ensure that both parties to the contract adhere to the agreed terms and to resolve disputes in a stable manner.

If we turn to foreign experience in this matter, for the purpose of legal regulation of medical service contracts in Great Britain, on April 24, 2023, "Standard General Medical Services Contract"[16] (Classification: Official Publication reference: PR00220) signed. It is noteworthy that this norm covers all classic and modern methods of providing medical services, the model contract, the rights and freedoms of the parties. The rapid development of modern medicine creates the need for legal regulation of medical service contracts in this field in our country with current legislative documents and other norms.

According to researcher N.K.Yelina, the content of the medical service contract should include the following. "The following important conditions for a medical service contract may be:

- the subject of the contract;
- quality of medical service - compliance with the relevant highest advanced level of medical science and practice, with this criterion confirmed at the time of mandatory certification of medical service;
- awareness - reliable and complete information about a certain medical service in a convenient form of presentation;

- type of medical service - pre-hospital, ambulance, emergency, ambulatory, sanatorium, inpatient, etc." In our opinion, in the content of the medical service contract, in addition to the above, a clear limit of medical service provision, as well as instructions that the patient (client) should follow during medical practice, should be attached to the contract.

In the medical service contract, along with important terms, customary terms are also important. "Usual conditions are conditions determined by dispositive norms that regulate the relationship to a certain obligation. Such conditions are assumed as usual"[17].

Having studied the issues of improving the civil legal regulation of certain contractual relations on the provision of medical services, the following conclusions were reached:

1. It is desirable to systematize and unify the legislation on contractual relations for the provision of medical services. In this case, the adoption of the Health Code and the clear relationship between this code and the Civil Code should be established. In the Health Code, the subjects of the contract for the provision of medical services, the main and additional conditions of this contract in contractual relations for the provision of medical services, the quality of medical services provided by the medical organization, the quality of medical services It is appropriate to have chapters on the rights and obligations of the presenting organization and the client (patient).
2. It is suggested to use the experience of the USA and European countries to ensure the rights and obligations of the parties to this contract in the contractual relations for the provision of medical services. In particular, it is envisaged to effectively ensure the rights and obligations of the parties to the medical service contract by digitizing and registering all relations related to contractual relations of medical services.
3. To improve the contractual relations for the provision of medical services, the medical services provided to a wide segment of the population in our country, in particular, the transplantation of human organs, the provision of medical services by means of assisted reproductive technologies, the provision of cosmetology medical services, dental medical services services and other medical services are approached from the point of view of bringing them to the level of developed countries and thereby putting an end to the violation of the rights and obligations of the parties to the contract in the contractual relations on the provision of medical services in Uzbekistan. Also, in this matter, it is necessary to make good use of the experience of using compulsory insurance in parallel with the contract for the provision of medical services in Germany. In addition, it is possible to apply the experience of monitoring the material and technical base of medical service organizations under the authority of the American Hospital Association in the USA to meet the requirements for the medical service provided. Using the experiences of the above-mentioned countries in providing medical services will serve to improve the form and quality of contractual relations for providing medical services in our country.
4. The judicial practice of contractual relations on the provision of medical services is studied, the existing conflicting situations are studied, the results of these analytical studies and proposals and recommendations for the creation of norms in order to provide a legal solution to the conflicting judicial practices, in particular, in the form of a model The draft of the contract on the provision of medical services "XXX" was developed.
5. In the determination of legal liability in the contractual relations of medical services, the scientific considerations on the issue of determining civil legal liability or criminal liability and determining the legal boundary between them were analytically studied.

It is suggested to use the experience of the USA and European countries to ensure the rights and obligations of the parties to this contract in the contractual relations for the provision of medical services. In particular, it is envisaged to effectively ensure the rights and obligations of the parties to the medical service contract by digitizing and registering all relations related to contractual relations of medical services.

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