

LEGAL AND ECONOMIC FEATURES OF THE MANAGEMENT FOR UKRAINE'S HEALTH SYSTEM

ПРАВОВІ ТА ЕКОНОМІЧНІ ОСОБЛИВОСТІ МЕНЕДЖМЕНТУ СИСТЕМИ ОХОРОНИ ЗДОРОВ'Я УКРАЇНИ

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The study to analyze the legislation of Ukraine's healthcare, original studies analyzing financing of Ukraine's healthcare, statistical and audit reports of authorized bodies and organizations of Ukraine. There were analyzed essence and features of the Ukrainian legislation for the healthcare. Analyses of the study is revealed the features of the Constitution of Ukraine as well as the specific laws in the field of healthcare. According to the results of published series and legislation of Ukraine in Ukraine there remains a steady tendency to significant deficit of the State Budget. There is also a tendency towards misuse of the Ministry of Health of Ukraine budget funds and as a result of insufficient financing of the health sector. The analysis of the causes of the insufficient financing of healthcare in Ukraine as well as problems for implementation of the Sustainable Development Strategy of Ukraine 2020 are demonstrated an urgent need for a broader application of strategic planning and further control for the strategy implementation. According to the analyses of published data, such a control should be provided by the state authorities as well as local governmental authorities. To summarize, the study is provided with the analyses of the regulation framework within the field of health care in Ukraine. The study results are showed that healthcare of Ukraine to be regulated by various legal act under the Constitution. The Constitution of Ukraine is the major legal document in the country to define health as the major value of the Ukraine. The Law of Ukraine and other legal acts are in line with the Constitution and to specifically adopted to regulate all issued in relation to health. Furthermore, the study is concluded that Ukrainian Law is also in line with international standards, including healthcare.

Key words: health care of Ukraine, management of health care of Ukraine.

У статті виконано аналіз законодавства України в галузі охорони здоров'я, оригінальних досліджень щодо фінансування цієї

галузі, статистичної та аудиторської звітності уповноважених органів та організацій. Проаналізовано сутність і особливості українського законодавства, що регулює сферу охорони здоров'я. Розкрито зміст положень Конституції України, основних законів у сфері охорони здоров'я. За результатами опублікованих серій та законодавства України в Україні зберігається стійка тенденція до значного дефіциту Державного бюджету. Також спостерігається тенденція до нецільового використання бюджетних коштів Міністерства охорони здоров'я України та внаслідок недостатнього фінансування галузі охорони здоров'я. Аналіз причин недостатнього фінансування охорони здоров'я в Україні, а також проблеми реалізації Стратегії сталого розвитку України 2020 показали нагальну потребу в більш широкому застосуванні стратегічного планування та подальшому контролі за реалізацією стратегії. Відповідно до аналізу опублікованих даних такої контроль повинні забезпечувати органи державної влади, а також органи місцевого самоврядування. В статті проведений аналіз чинної нормативно-правової бази, що має відношення до регламентації галузі охорони здоров'я України. Результати дослідження свідчать, що охорона здоров'я України регулюється різними нормативно-правовими актами відповідно до Конституції. Конституція України є головним правовим документом країни, що визначає здоров'я як основну цінність України. Закони України та інші нормативно-правові акти відповідають Конституції та спеціально прийняті для регулювання всіх видів стосовно охорони здоров'я. Крім того, результати дослідження демонструють, що законодавство України також відповідає міжнародним стандартам, включаючи стандарти щодо діяльності галузі охорони здоров'я.

Ключові слова: охорона здоров'я України, менеджмент охорони здоров'я.

Problem statement. Health is a supreme social value worldwide, including Ukraine, which is recorded in the Constitution [1, c. 4]. The health care system of Ukraine has been undergoing a reform process since Independence in 1991. Since then a multiple attempts has been made to change the health care, but in 2015 a new strategic plan was implemented with a specific highlights for healthcare [2, c. 12].

Health care is regulated by the law, including specific statements in the Ukraine's Constitution. These Laws is regulated organizational and administrative processes, including rules for the health care financing. It is worth to mention that law of Ukraine to have a many health related articles within a Laws and Codes. For example, according to article 17 of the Civil Code of Ukraine (CCU) to stipulate that civil rights and interests of citizens, observance of their rights are under the protection of the President of Ukraine, state authorities, authorities in the Autonomous Republic of Crimea or local self-government bodies [3, c. 17]. Further analyses of the CCU to show that President of Ukraine is responsible for the protection of the civil rights and interests of citizens in accordance with the limitations of his duties. The duties of the President are specified in the Constitution of Ukraine. There are a list of cases within Ukraine's law about granted rights of the citizens, which are provided by the public authorities, authorities of the Autonomous Republic of Crimea or bodies of local self-government. The above-mentioned authorities are responsible to protect the civil rights and interests according to the Constitution of Ukraine and the Laws of Ukraine, including the CCU. It is worth to noted, that above mentioned regulations said to make an effect to all areas in Ukraine, including to the healthcare. The regulation of health care is characterized by its peculiarities because it has an impact on the security of the State, since the health is considered as a part of human capital, demonstrating a direct impact on the economy of the country [4, c. 4; 5, c. 2].

Analyses of the recent studies. The sources of the administrative law are constituted various legal and regulatory acts to be issued by judicial branches of State authorities. These acts contain administrative and regulatory provisions to allow logic regulation of executive activity in all governmental sectors, including health care [6, c. 25; 7, c. 63]. All laws of Ukraine are in agreement with the Constitution of Ukraine, which is the highest law. For example, the Constitution of Ukraine is defined the status of the President of Ukraine, the status of the Cabinet of Ministers of Ukraine (CMU), established other regulation of Ukraine's legal being. The Law of Ukraine is a source of administrative law, which sets out the

mechanism for exercising the executive power in Ukraine. Other important sources are Decrees and Ordinances of the President of Ukraine, CMU Resolutions and Ordinances, Acts of the central executive bodies of Ukraine (ministries, state committees), Decisions of councils and executive bodies of local self-government. International treaties, the norms of which must be harmonized with the legislation of Ukraine, are essential.

Identification of previously unsolved parts of the general problem. As many other sectors in Ukraine, the healthcare system of Ukraine is under changes due to initiation of reform in 2015 [8, c. 55]. That changes are mainly about to improve the funding approach through decentralization of the hospital's management as well as changing approaches to training and certification of medical personnel. Currently, many legal acts were performed to make the healthcare system better, however further investigations are needed to better understand changes in the healthcare management in relation to legal acts in Ukraine.

Aim of the study is to analyze legal regulation of healthcare of Ukraine in relation to its financing and planning of future development.

Presentation of the research results. The legal framework of Ukraine is constituted by various legal acts, which are defined healthcare policy and the role of state authorities in implementing that policy. The state authorities implement the state's policies to ensure the exercise of the citizens' rights to medical care and life, which is in line with the Constitution. It is worth to mention that the Constitution of Ukraine is the major law, containing basic rules for the country, including the healthcare. The Constitution is given the right for the citizens to health care, as well as to stimulate the economic policy of the state to take into account such a social basis as health care. The Constitution is defined the sources of healthcare funding as well as the role of the relevant state and local self-government bodies for the regulation of healthcare.

There is an article 3 of the Constitution of Ukraine to state the highest social values as human life and health, whereas Article 49 is to define a people's right to healthcare [1, c. 4].

The most important law of Ukraine regulating healthcare is the Law of Ukraine "Fundamentals of the legislation of Ukraine on health care", which was issued in the next year after the Independence [9, c. 1]. This Law is regulated the role of public authorities in ensuring the rights of citizens to health care, identify the duties of state authorities to implement a system of measures that constituted health care. Further, this Law is defined the decentralization of public administration, providing for the development of auton-

omy of healthcare institutions in Ukraine. The article 8 of healthcare law is given the right to public authorities to guarantee the provision of free assistance to health care facilities, which are financed from local or state budgets (communal or public health facilities, respectively) [9, c. 9]. The executive state authorities are responsible for formulation and execution of the procedure for providing assistance in accordance with the procedure defined and approved by the Ministry of Health of Ukraine, which is the central executive governmental authority for ensuring the formulation and implementation of state health policy in Ukraine [4, c. 12]. In order to ensure the functioning of health care, the Law of Ukraine (Section 3, Article 12) is established the financing of health care in Ukraine at the level which is at least 10% of national income (internal national income (GNI) or Gross national income) [9, c. 13]. It is worth to mention that the legislation of Ukraine is comprehensively regulated healthcare system and related to the healthcare issues for population and state authorities. For example, there is the CCU which is regulated right of Ukraine's population, including certain issues for the healthcare. In particular, Book 2, Chapter 21 of the CCU is regulated the personal non-property rights of the citizens, ensuring the basic right to existence of an individual such as the right for life, the right to receive medical care, the ban on euthanasia, the regulation of sterilization, abortion, the right of a citizen to obtain information about the state his health, the right fo the person to be an organ donor [3, c. 99].

The Criminal Code of Ukraine (CrCU) is regulated approach of the Ukraine for the people making crime. There is a Section II within the CrCU entitled "Crimes against the life and health of the person", regulating a substantial list of crimes in Articles 115-146 that are directly or indirectly related to health [10, c. 66]. A special part of the CrCU includes section III, which regulates "Crimes against the will, honor and dignity of the person", as well as section IV, "Crimes against sexual freedom and sexual integrity of the person". Also, CrCU is regulated criminal responsibilities for the misconduct to affect public health through violations of environmental safety, public safety, etc.

Code of Criminal Procedure of Ukraine (CPCU) of Ukraine is regulated protection of the citizen, society in general and the State from criminal offense, protection of the right, freedom and legitimate interests of each participant in criminal proceedings, as well as to ensure full and impartial investigation, judicial review. There are regulations in the CPCU to determine the procedure for taking measures to apply medical coercion or educational coercion [11, c. 5]. Criminal

Enforcement Code of Ukraine (CECU) of Ukraine is regulated the procedure for the execution and serving of criminal punishment for a person, designed to protect the interests of all members of society, through the regulation of conditions, to help the person re-socialize after the release from prison, to create a mechanism for the prevention of criminal offenses. There is also the Law of Ukraine "On Consumer Rights Protection" aiming to protect the rights of the population as customers, and health related application of that Law is dedicated for product safety. The Commercial Code of Ukraine is dedicated to address following concerns: the proper quality of goods, to perform work, to provide a service, to observe the safe composition of goods, to perform safe work or to provide a safe service, the right to receive compensation for damage caused by goods of poor quality, improperly performed works, improperly rendered service or service of inadequate quality, as well as damage that may be caused by a product to life or health [12, c. 147]. Both certification and implementation of international certification is monitored by the relevant government or local government, aiming to improve competitiveness of Ukraine.

There is an important legal document Labor Code of Ukraine. The Labor Code is regulated the standard of working time, vacation, the provision of labor protection, including the provision of safe working conditions, the need for medical examination, the work of underage citizens, work during pregnancy [13, c. 937]. Health care is also regulated by the Family Code of Ukraine. The Family Code determines the age of marriage, determines the procedure for marriage, regulates the protection of family, childhood, motherhood and paternity, which must be provided by public authorities [14, c. 258]. There is the Law of Ukraine "Fundamentals of the legislation of Ukraine on health care", which is regulated major principles of functioning the healthcare of Ukraine [9, c. 1]. In particular, this law is regulated provisions on the right and obligation of citizens as well as covered legal, organizational, financial, social components in the healthcare. This Law of Ukraine is in line with the current politics of Ukraine within the field of healthcare. Also, this Law is defined healthcare in Ukraine as well as determined role of state authorities and local self-government bodies for implementation of Law in order to maintain the healthcare system. This law is determined by the Ministry of Health of Ukraine as a central executive governmental body for the health system [9, c. 12]. The financing health system in Ukraine is partially covered by direct or indirect payments from the population. However, according to article 49 of

the Constitution of Ukraine there is a State to be responsible for the financing of healthcare system [1, с. 15]. The of Law of Ukraine “Fundamentals of the legislation of Ukraine on health care” is in line with the Constitution, specifically in the part 2 article 25 “Maintaining the Healthy Living Standards of the Population” [9, с. 8]. This article is determined that Ukraine to provide a standard, covering sufficient level for living for the citizens, and that level must maintain the health of the population. To meet this standard, there is a set of minimum rate for wages and other income sources of citizens which is adopted by Ukraine [15, с. 4]. However, there is a chronic insufficiency in the living standards oas can be judged from the minimum wages and other fixed incomes of the population from the State. The abovementioned insufficient incomes are also partially related to the impossibility of providing free medical care to the population as declared in the Constitution. According to the results of published series and legislation of Ukraine in Ukraine there remains a steady tendency to significant deficit of the State Budget [4, с. 13; 16, с. 53]. There is also a tendency towards misuse of the Ministry of Health of Ukraine budget funds and as a result of insufficient financing of the health sector [17, с. 42]. The analysis of the causes of the insufficient financing of healthcare in Ukraine as well as problems for implementation of the Sustainable Development Strategy of Ukraine 2020 are demonstrated an urgent need for a broader application of strategic planning and further control for the strategy implementation. According to the analyses of published data, such a control should be provided by the state authorities as well as local governmental authorities.

Conclusions. To summarize, the study is provided with the analyses of the regulation framework within the field of health care in Ukraine. The study results are showed that healthcare of Ukraine to be regulated by various legal act under the Constitution. The Constitution of Ukraine is the major legal document in the country to define health as the major value of the Ukraine. The Law of Ukraine and other legal acts are in line with the Constitution and to specifically adopted to regulate all issued in relation to health. Furthermore, the study is concluded that Ukrainian Law is also in line with international standards, including healthcare.

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