**Observance of patients’ rights in the context of the electronic health system introduction**

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In accordance with the Concept of Healthcare financing reform, there shall be mentioned the following. Most Ukrainians live in fear of being confronted with a domestic health system. Despite paying with their own pocket, almost half of their health care funds, in addition to national taxes, the citizens are forced to receive services based on outdated infrastructure, without quality assurance and respect for the rights and dignity of them as patients. Such organization of the system not only violates the constitutional human right to affordable and high-quality medical care; also, it reduces the health and life expectancy of Ukrainians, and, in addition, hinders economic development and social cohesion of society.

The point of reference for medical reform was the Law of Ukraine "On State Financial Guarantees for Medical Care of the Population", which consolidated many new approaches and structures that need to be elaborated and may take some time for lawmakers to point out "weaknesses" thereof and to strengthen them.

The law introduces a new term: the electronic healthcare system, which refers to the information and telecommunication system, which provides automation of the accounting of medical services and management of medical information by creating, placing, publishing and exchanging information, data and documents electronically, into the structure which includes a central database and electronic medical information systems, which provides automatic exchange of information, data and documents through open source software interfaces.

Under the conditions of scientific and technological progress, the role and importance of information relations increases rapidly. In particular, it deals with the legal aspects of the introduction of the e-health system, the dissemination of information through digital media both within and across borders, and the creation of a variety of electronic registries. In addition, such relationships are designed to ensure compliance with the rules when providing information about the patient's health, including his right to see relevant documents that contain information about the patient's health. Such a system is also intended to create an opportunity to create a "single medical space": the coordination and integration between the levels of health care, as well as the introduction of a new quality management system.

Electronic healthcare system, in the best international practices, is a system that helps patients receive, and doctors provide medical services of proper quality. Also, it allows one to control how much public money allocated to public health is spent efficiently and to prevent abuse. Such an idea should be pursued by lawmakers when introducing the electronic health system in Ukraine.

Access to the patient’s data contained in the electronic healthcare system is possible only if the patient (his/her legal representative) agrees in writing or in a form that allows to conclude consent. Without consent, access to patient’s information is possible only in clearly defined cases.

When analyzing the Order for the functioning of the electronic health care system, attention should be drawn to one term, namely, medical information, which is defined as information on the patient's health status, diagnosis, information obtained during the medical examination, including relevant medical documents concerning the patient's health. Note that prior to this, there was no clear definition of "medical information" at the national legal level.

Thus, "medical information" has been referred to by the legislator through "information", which is similar to the approach repeatedly criticized by scientists, namely the definition of medical service through the "service", which is traced in the Law of Ukraine "Fundamentals of the legislation of Ukraine on health care". Such a definition in a priori can not carry a semantic load because it does not give an understanding of what is the medical information in essence. Analyzing the definition, we understand that the legislator has very narrowly characterized those data that are important for healthcare workers and which should be contained in the electronic health system. The Order, in particular, refers to information about the patient's health status, diagnosis, information obtained during the medical examination.

Constitutional Court of Ukraine under medical information understands the testimony of the state of health of a person, the history of illness, the purpose of the proposed examination and medical measures, the forecast of the possible development of the disease, including the risk to life and health, which in its legal regime belongs to a confidential, i.e., restricted information.

The Law of Ukraine "Fundamentals of the legislation of Ukraine on health care" defines medical information as the information on the patient’s state of health, the purpose of the proposed examination and medical measures, the forecast of the possible development of the disease, including the risk to life and health. This definition is somewhat more restrictive than that proposed by the Constitutional Court of Ukraine, because it did not take into account information about the history of the patient's illness. However, the definition of medical information given in the Order is even more limited in scope.

Researches have made a lot of attempts to determine the scope of information that constitutes medical information. Having analyzed the provisions of international legal standards and national legislation, it seems appropriate to propose an author's definition of medical information, which should be understood as information and/or data on the state of health of the patient, diagnosis, the purpose of the proposed examination and treatment, the process and results of the provision of medical help, forecast of the possible development of the disease, including risks to life and health, stored on physical materials or displayed in electronic form.

Continuing to analyze the definition set forth in the Order, we can not overlook the provision proposed by the legislator that medical information is determined through medical documents. However, taking into account the legislative provisions, it seems not entirely correct to indicate that medical information includes medical documents, it would be advisable to indicate that the information constituting medical information is contained in the medical records, that is, on the material (paper/electronic) carriers. Medical documentation is a source of information, not the information itself.

Order provisions on the right of the patient to withdraw previously filed consent for the processing of personal data seem to be controversial, as well, because such processing does not require special authorization of the patient or legal representative. In the Order there is no direct indication that the patient agrees to the processing of personal data, however, the named provision states that the patient has the right to apply for the withdrawal of an application for consent to the processing of personal data.

Additionally, in accordance with Order, patients or their legal representatives have the opportunity to give their consent in writing or in a form that allows them to conclude consent to access their data contained in the electronic health system to doctors and third parties. The above provision is also contrary to current legislation, since, again, consent to the processing of personal data in this case is not required.

The analyzed Order is a subordinate document and it shall comply with the laws and in no way contradict them. Legislators need to go into more detailed analyze of the current regulatory framework and bring the Order in line with the existing norms.

The above analysis showed only a small segment of those legislative collisions that arise in the law enforcement procedure, generated by normative documents within the framework of medical reform, "the exchangeable coin" in which human have rights become.