

LEGAL EDUCATION OF PROFESSIONALS IN HEALTHCARE SECTOR

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Abstract

Legal education of professionals involved in medical practice and of those providing healthcare services is important, as public health law concerns the preservation and codification of the standards established for the prevention of diseases, the prolongation of life and the promotion of health. Medico-legal aspects and regulatory issues in healthcare relates not only to medical clinicians and healthcare professionals but also to healthcare providers and hospital managers. Introducing an interdisciplinary approach in legal education of healthcare professionals and medical practitioners could benefit in personal and professional development of healthcare providers' personnel, as health care professionals have a shared role in providing patient-centered care. Sustainable knowledge and continuity of legal education in healthcare sector would provide positive impact on patient safety and quality of care.

Keywords: Legal education, healthcare, interdisciplinary approach, sustainability

INTRODUCTION

Medical profession and healthcare services are considered of being such of high risk and law is a tool for protecting and promoting individual and public health. Duties, responsibilities and accountability of medical practitioners and healthcare professionals are strictly related to medico-legal aspects in healthcare services. Legal education of professionals involved in medical practice and of those providing healthcare services is important, as public health law concerns the preservation and codification of the standards established for the prevention of diseases, the prolongation of life and the promotion of health. Law can promote, protect and fulfill the right to health.

Law can be used to organize and manage health systems, allocate responsibilities, set standards, and authorize and constrain action. Knowledge of medico-legal issues and proper management could prevent litigations (World Health Organization, 2002). Providing meaningful, actionable risk management and compliance legal advice requires not only an understanding of objective legal and regulatory requirements, but also an awareness of what regulators expect and how compliance efforts will be viewed by these regulators.

The interaction between the professionals' duties of beneficence and respect for the patient's autonomy requires professionals to act in a way that respects the patient's formal right to consent but also reflects the spirit behind that requirement. (Maclean, 2009). For medical professionals and healthcare providers to be able to perform their duties and to fulfill all expectations and requirements regarding the protection of human rights in patient care, it is necessary for them to be familiar with legal and regulatory framework in healthcare. This could be obtained by development and introduction of legal training and education of healthcare professionals.

Public health policy and legislative competences of medical professionals, healthcare providers and managers are strictly related to the quality of services based on medical standards and normative regulations. Knowledge of legal requirements regarding activities in the healthcare sector could have positive impact on healthcare systems.

IMPORTANCE ON MEDICO-LEGAL EDUCATION

Medico-legal aspects in healthcare have wide scope and reflects not only national legal framework but also norms and regulations of regional and international importance. The various forms of cross-border care are legally based on different frameworks. In general, cross-border health care can be defined broadly to include every transaction which implies either a patient, or a service, or a provider to move across national boundaries.

Access to healthcare on international, regional and national level, as well as protecting the human right to health in multinational environment could be facilitated based on the introduction and proper implementation of medico legal education. Medico legal aspects in providing healthcare services have major impact on the quality and equity of access to healthcare. Main focus point and major issues addressing the specific medico legal education refers not only to the mechanisms for overcoming barriers in access to healthcare services but also providing solutions within the legal regulatory framework to protecting the right to health and human right of patients, the population and vulnerable groups. The right to health applies under specific conditions to specific social groups of the population, such as people with disabilities, underaged patients, elderly people, as at the same time according to international legal regulation States have special obligations towards the right to health. Taking into consideration these specific characteristics of the right to health it is specifically important healthcare providers and healthcare managers, as well as state holders and decisionmakers to be familiar with human rights issues and especially legal issues in healthcare.

According to the European Union Charter of Fundamental Rights everyone has the right of access to preventive health care and the right to benefit from medical treatment under the conditions established by national laws and practices. This is why national and international legal regulatory framework issues need to be implemented in educational courses and curriculum at medical universities and public health schools. Education on human rights in public health, legal aspects on health risk assessment and practical case law has to be in the focus of medico-legal courses. Evidence on the importance of medico-legal education provides the fact that high level of human health protection shall be ensured in the definition and implementation of all policies and activities.

Specific education related to the right to health in regards to providing healthcare services could ensure equality and non-discrimination practices as in that regard examples of unequal treatment and human rights violations could be limited. Fundamental human rights principals in healthcare could be better ensured, as introducing legal education in healthcare sector could provide wider consideration and protection of the right to the highest attainable standards of health.

The right to health, which is main topic at medico legal educational curriculum, has been addressed in various ways by international and regional human rights instruments. This has to be taken into consideration, due to the fact that some legal instruments are general applicable while others address human rights of specific groups. Some groups of individuals such as children of people with disabilities could face specific treatment in relation to accessing the right to health. Considering health as a human right requires specific attention to different individuals and groups, as facing specific health issues and particular forms of treatment.

Children sometimes face specific health challenges related to the stage of their physical and mental development and these factors need to be taken into consideration when adopting and implementing legal curriculum in healthcare education. The Convention on the Rights of the children, as international legally binding act requires States to ensure access to essential health services for the child and for his/her family. In order for assuring that this legal requirement would be easily ensured, health professionals need to undergo specific training and educational courses on legal aspects of providing healthcare services.

In relation to providing healthcare services and medical treatment to persons with disabilities, especial attention needs to be provided to the aspect of obtaining free and informed consent especially when providing healthcare to persons with psychological or intellectual disabilities. In accordance to exercising the right to health of such vulnerable group of patients, healthcare providers need to take education on specific legal aspects related to requirements and obligations when providing healthcare services so to be able to protect and ensure that patients will obtain the full and equal access to all range of medical and healthcare services. This is especially important as according to legal requirements States must require health professionals to provide care of the same quality to persons with disabilities as to others, including on the basis of free and informed consent. (Office

of the United Nations Higher Commissioner for Human Rights, World Health Organization - The right to health Fact sheet No. 31)

MEDICO-LEGAL ASPECTS IN HEALTHCARE

Medico-legal aspects and regulatory issues in healthcare relates not only to medical clinicians and healthcare professionals but also to healthcare providers and hospital managers. The clinical aspect of providing healthcare services focuses on patients' care, as the hospital management is concerned with the non-medical responsibilities of general management, coordination and smooth running of all services provided by the entire staff of the hospital or healthcare center. Having knowledge of legal regulations, relevant regulatory framework and standards is directly related to patients' safety and freedom of exercising medical and healthcare professional duties in everyday practice.

Law and policy programmes in healthcare are of significant importance as they are linked to mechanisms for improving cooperation with institutions and organizations acting for facilitating and support health promotion activities, information initiatives, educational practices and training in obtaining public health competences. Public health actions in the field of education and training of healthcare professionals and medical specialist have to be based on intersectional and multidisciplinary approaches to health promotion, prevention, solution and recovery form negative impact of public health threats.

Public health law issues related to legal powers and duties of the State to assure the conditions for the population to be healthy is an important focus point in the process of establishing medico-legal knowledge competences in healthcare sector. Public health functions provide solid basis for the establishment and the development of public health legislation and regulatory framework, as public health law has a dynamic nature. Health law is intended to create an environment in which the promotion of health goes hand in hand with the protection of individual rights and the general principles of equity and justice. (World Health Organization, 2011)

Differences in legal and public health systems, could result to variety on the approach to establishment of coordinative mechanisms for providing and assure all essential public health functions. Despite of the differences in achieving main results, all healthcare systems have to accomplish improvement in enhancement of quality assurance and power to deal with public health risks.

Medico-legal aspects in healthcare is a dynamic phenomenon, as they change and evaluate according to the development of the society and the evolution of peoples' needs. As new technological solutions, artificial intelligence and modern technologies intervene in medical practice and healthcare, legal framework medico-legal educational curriculum has to provide adequate knowledge and competences. The application of information and communications technologies (ICT) covers whole range of functions that affect health (European Parliament and Council Directive 2011). Synergies across various policy areas allow health issues to be tackled in their wider context.

In this direction the European Parliament initiated the adoption of the Data Governance Act (DGA) on the 6-th of April 2022. DGA target is to become law after being adopted by the Council of the EU, and be part of the European Data Strategy. It will allow both the reuse, but also sharing of data, including the specifics of trade secrets, and intellectual property rights, and also personal data. It will contribute to the collaboration between sectors and EU countries, based on mutual trust across participants, and data intermediaries. This will provide strong evidences of ensuring the safety of the respective rights (European Commission and European Parliament, online).

ICT technologies in healthcare bring new perspectives to the delivery of medical and health services. They support the provision of high-quality health care and allows the performance of more accurate diagnosis and treatment. It also contributes more effective treatment of patients by healthcare professionals. Medico legal aspects in that regard focus on aspects related to development and implementation of technologies, as mobile applications promote healthy lifestyles, resulting in a stronger personalization, including individual therapy. Mobile health technologies serve more as a tool to support healthcare management and delivery of services, as it has the potential to play a key role in improving people's lives. Based on that, it is of particular crucial to ensure the safety and security of patients when using technologies that provide access to mobile healthcare.

Such new trends have brought up important issues to be focused on in health policy, issues where healthcare providers and stakeholders need to have relevant knowledge and competences so they can adequately be involved in cooperation and implementation actions as new trend activities require management of processes related to e-health, cross-border healthcare, health-technology assessment related to societal changes and demographic transition processes.

LEGAL TOPICS IN MEDICAL CURRICULUM

Introducing legal courses and teaching curriculum in medical higher education institutions is especially important as various legal issues are being faced by professionals working in healthcare sector. Legal aspects in healthcare have multidimensional perspective as they relate to complex issues such as applying legal principals, regulating healthcare profession, clinical negligence, patient's rights, reproductive rights, regulation on medical products and devices, palliative care, etc.

Legal principles relevant to healthcare include, but are not limited to: Principle of beneficence, Non-maleficence, Autonomy, Informed consent, Confidentiality and Justice. All health practitioners have a duty of confidentiality that arises from the nature of the information provided in the course of the therapeutic relationship with the patient. A patient is entitled to expect that information discussed during a consultation will not be shared with other parties without their explicit permission. The exemptions to the duty to maintain confidentiality are both legal and ethical. Often legal issues and regulatory framework results to ethical complications in healthcare practice. This requires special approach to medico-ethical aspects and frequently the legal educational courses include theoretical and practical topics on ethical considerations.

Privacy and confidentiality principles and concepts included in medico-legal curriculum as these principles are directly addressed to avoiding patients harm and negative effect on healthcare staff and organizations. The importance of these principles. Providing equality in healthcare and avoiding discrimination practices are also important topics in the focus of medico-legal educational courses. Inequality in access to healthcare could result to violation of the right to timely access to affordable, preventive and curative care of good quality. It provides disturbance in the rule of law, as the rule of law is critical to the capacity of governments and health care managers to respond to emergencies, to lay the groundwork for recovery, and to help communities build resilience against future shocks and emergencies (United Nations, International Development Law Organization, Statement on a rule of law-based response to the COVID-19 pandemic, 2020). Assessment of risks related to medical practice activities also directly relate to the rule of law. The rule of law is a durable system of laws, institutions, norms, and community commitment that delivers accountability of both government and private actors, just laws that protect fundamental rights, open government, and accessible justice. It should be noted that the lack of explicit legal framework in regard of the organization of some registers brings a lack of clarity on the way of keeping the registers and the data storage therein (Neykova, M., 2018).

The rule of law refers to a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. Protection of public order is an essential condition for protection of national security (Neykova M., 2018).

In healthcare sector, the rule of law principles requires adequate measures to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of the law, participation in decision-making, legal certainty, and procedural and legal transparency.

In times of health emergencies and public health risks national authorities, governments and institutions need to cooperate in strengthening the capacity to respond to public health threats and using legal tools and regulatory mechanisms, based on the rule of law to be able to set triggers for application of emergency powers. Healthcare providers and managers, when specially trained and being familiar with public health law issues and curriculum, could identify some legal issues that may arise from national authorities in the course of responding to public health emergencies. Countries worldwide are required to fully respect for the dignity, human rights and fundamental freedoms of persons and when identifying legal issues and developing operational plans for responding to public health emergencies, medico-legal competences created positive impact on performing key operational or executive roles during public health emergencies. By applying interdisciplinary approach in

responding to public health risks and emergencies, health professionals may assist in the provision of emergency assistance and could respond to appointments and duties in legal and liable manner.

Health security issues related to competences regarding preparedness and response of healthcare professionals, medical doctors and healthcare service providers to health risks assessment and evaluation is an important topic addressing legal aspects of public health risks. There is need for risk assessment in events and threats from public health perspective, as infectious diseases, long term chronic conditions and communicable diseases could affect long term effectivity of healthcare systems. From the perspective of prevention and control of threats from communicable diseases, at European Union level there has been adopted legislation and regulatory mechanisms for providing basis for epidemiological surveillance and coordination of responses.

Introducing an interdisciplinary approach in legal education of healthcare professionals and medical practitioners could benefit in personal and professional development of healthcare providers' personnel, as health care professionals have a shared role in providing patient-centered care. An interdisciplinary approach involves professionals from different disciplines working collaboratively, with a common purpose, to set goals, make decisions and share resources and responsibilities (Department of Human Services 2008). Well-integrated and coordinated care that is based on the needs of the patient can contribute to reducing delays to provision of care and high quality of healthcare services.

HUMAN RIGHTS IN PATIENT CARE

Patient care and public health are two complementary and interrelated approaches for promoting and protecting health (Peled-Raz, 2017). The right to health, like all human rights, imposes three layers of obligations on states: the responsibility to respect – to refrain from directly interfering with a right; to protect – to prevent third-party interference with the enjoyment of a right; and to fulfil – to take steps to ensure the fullest possible realization of a right. States must respect the right to health by, inter alia, refraining from denying or limiting equal access for all persons and abstaining from enforcing discriminatory practices as a state policy (CESCR, 2000).

Healthcare professionals and medical specialist need to have special education and knowledge on various aspects of human rights in patient care, as currently there is a significant legal practice and case law as well as court rulings on access to medical treatment, patients' rights in healthcare and cross-border patient mobility.

The concept of "human rights in patient care" refers to the application of human rights principles to the context of patient care. The human rights lens provides ground to examine systemic issues and state responsibility. Human rights principles that apply to patient care include both the right to the highest attainable standard of health, which covers both positive and negative guarantees in respect of health, as well as civil and political rights ranging from the patient's right to be free from torture and inhumane treatment to liberty and security of person. Although there is no specific right to health in the European Convention on Human Rights, a wide range of issues relating to health have been dealt with by the European court. The court's case-law requires states to safeguard people's mental and physical well-being in many different circumstances.

Apart from special training courses and educational curriculum on legal aspect of healthcare provided for medical doctors, healthcare professionals and management officials, increasing theoretical and practical capability and knowledge on public health issues and regulatory challenges of legal professionals is also requireable.

Issues related to medical liability, technological developments in healthcare, telemedicine and artificial intelligence provide challenges to both legal and healthcare professionals. Technology has been the central component in shaping the contours of legal doctrine in negligence generally and medical liability specifically. Along with improving health, technological advances create opportunities for error in diagnosis and treatment, and those errors may result in severe outcomes.

At European Level, a special programme for Human Rights for Legal Professionals (HELP) has become main educational platform of the Council of Europe for legal professionals and its aim is to train judges, lawyers and prosecutors on human rights standards in Europe. The programme has provided opportunities for improving competences for legal professionals to better protect human rights on a national level and keep up to date with the ever-evolving standards and case law of the European Court of Human Rights.

In regards to the Right to the Integrity of the Person (Bioethics) the platform offers an educational training course, composed of two parts. The first part presents the right to integrity in general, including the right to private life and the prohibition of torture; the second part will cover the right to integrity in the specific fields of medicine and biology.

Teaching Medical law as part of Bulgarian national educational system includes continuous legal training for all lawyers in Bulgaria. All attorneys must undergo at least four academic hours of training each year, as one academic hour corresponds to 90 minutes. There is no accreditation system for the continuous training of lawyers, as attorneys are free to choose the form and subject matter of the training.

Training obligations can be fulfilled through participation in training activities. The establishment and development of interdisciplinary educational programs where law students can be educated side-by-side with medical students, residents, attending physicians, and other health care providers, as well as social work and public health students, could bring additional added value to the educational and training.

CONCLUSION

Sustainable knowledge and continuity of legal education in healthcare sector would provide positive impact on patient safety and quality of care. Legal education of healthcare professionals would guarantee prevention and limitation of violation of human rights in patient care, would facilitate access to high quality of health care and would have positive results in protection against cross-border health threats, which is a main objective of social protection systems within EU countries and outside the European Union.

Healthcare systems across the world are facing serious challenges especially with public health related threats and pandemic crisis. Countries and healthcare stakeholders need to ensure better preparedness to coordinate effectively against cross-border health threats, as this could be acquired by implementing adequate medico-legal educational resources in healthcare sector as well as educational continuity in medical education system.

Beyond the core of normative framework, creating practical guidance capability, providing theoretical knowledge and implementable competences of healthcare services providers, medical doctors, legal professionals, healthcare managers, governmental and institutional officials may guarantee overcoming and preventing the existence of barriers for access full range of health care and medical services at international, regional and domestic level.

Through the development of advanced education methodology and the introduction of special curriculum programmes addressed to healthcare providers and beneficiaries, there could be resulted the improvement of specialized knowledge on legal aspect and regulatory framework issues in healthcare sector. Special medico-legal education of healthcare professionals could facilitate and enable easier access to preventive and primary care, may improve the management of healthcare systems and could improve medical treatment and response to emergency situations and public health threats.

Positive impact on the healthcare system in general and better protection of human right and the interest of the society could be achieved as increase in awareness of human rights in patient care issues in result to the establishment and implementation of education tools and special curriculum.

Guarantee of human rights protection and awareness of patient confidentiality rules and regulations, obtained by introducing special courses and providing legal education of healthcare professionals, may result to decrease inequalities in access to healthcare.

Proper health delivery and ability of dealing with complex healthcare issues could benefit not only healthcare providers and the healthcare system management but also could improve the response to specific healthcare challenges related to professional ethics issues, medical liability approach, negligence and malpractice cases resolution. Additional challenges related to addressing multiple discrimination, cases regarding access to healthcare and protecting the right to health, could be resulted to successfully resolutions specificity based on legal education of healthcare professionals.

Specific approach to healthcare used, based on legal education and knowledge introduces in healthcare practice, will definitely result to improvement of access to healthcare services and quality of care. This will be beneficial to everyone regardless the role in which the one is interfering with the healthcare system.

Introducing interdisciplinary approach in medico-legal education is of high importance as it provides knowledge and competences of applying of legislative regulations and provisions in relation to patient privacy in the context of integrated health and social care.

REFERENCES

- CESCR, (2000). General Comment No. 14 on the right to the highest attainable standard of health, 11 August 2000, UN Doc. E/C.12/2000/4 (hereafter CESCR, General Comment No. 14), para. 34.
- Department of Human Services 2008, Health independence programs guidelines, State Government, Melbourne.
- European Parliament and Council. (2008). Directive 2011/24/EU on the application of patients' rights in cross-border healthcare. Official Journal, 2011, L 88/45; BEUC. E-Health Action Plan 2012–2020 public consultation. Brussels, BEUC (<http://www.beuc.org/publications/2011-00398-01-e.pdf>, accessed 3 July 2014); Iakovidis I, Purcarea O. E-Health in Europe: from vision to reality. In: Blobel B, Pharow M, Nerich M, eds. EHealth: combining health telematics, telemedicine, biomedical engineering and bioinformatics to the edge. Amsterdam, IOS Press, pp.163–168.
- European Commission and European Parliament, Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on European data governance (Data Governance Act), <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52020PC0767>, <https://www.lexology.com/library/detail.aspx?g=ee9ed53a-f838-407f-a0c2-01793c79147b>, April 2022.
- Maclean, Al. (2009). Autonomy, Informed Consent and Medical Law, pp. 88.
- Neykova, M., Digitalization of registers in the public administration - key element of electronic governance, University of economics and innovation in Lublin, Free University of Varna, 2018; issn:2367-4555
- Neykova M., Contemporary aspects of the protection of public order in Bulgaria, World Science, June 2018 Vol.8, pp. 57 – 58, DOI: https://doi.org/10.31435/rsglobal_sr/01062018/5644
- Office of the United Nations Higher Commissioner for Human Rights; World Health Organization, The right to health Fact sheet No. 31.
- Peled-Raz, M. (2017). Human rights in patient care and public health—a common ground. Public Health Rev, pp. 29-38. <https://doi.org/10.1186/s40985-017-0075-2>.
- United Nations (2020). International Development Law Organization, Statement on a rule of law-based response to the COVID-19 pandemic.
- World Health Organization (2020). Better Laws for Better Health: Western Pacific Regional Action agenda on Strengthening Legal Frameworks for Health in Sustainable Development Goals
- World Health Organization – Regional office for Europe (2011), Developing a framework for public health law in Europe.

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