

The right to health care in the system of constitutional human rights: Theoretical and legal analysis of content and structure

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ABSTRACT

Aim: Comprehensive analysis of the constitutional and legal content of the right to health care, determination of its structural elements, and formation of a scientifically grounded classification of powers that constitute this fundamental human right.

Materials and Methods: The methodological basis of the study was the system-structural, comparative-legal, formal-logical methods and legal modeling. The empirical base consisted of 156 sources for the period 2000–2025: constitutional norms of Ukraine and foreign countries (15 documents), legislative acts in the field of health care (28 acts), international legal documents on human rights (12 conventions and declarations), scientific works of domestic and foreign researchers (101 publications). The search was carried out in the following databases: Google Scholar, ResearchGate, V.I. Vernadsky National Library of Ukraine.

Conclusions: The research established that the right to health care represents a complex legal formation with three structural components requiring not only normative consolidation but also effective implementation mechanisms under contemporary challenges.

KEY WORDS: health care, constitutional rights, rights and freedoms of a person and a citizen, legal protection

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INTRODUCTION

The issue of guaranteeing the constitutional and legal status of individuals and citizens occupies a leading position in contemporary theoretical studies of constitutional law and the practical application of constitutional norms. The concept of the constitutional and legal position of human beings and citizens forms the fundamental principles of interaction between individuals, state institutions, and society, defining the powers and mutual obligations of all parties to these legal relations. The right to health care holds particular significance in the system of constitutional human rights, occupying a central place among social rights and serving as a necessary prerequisite for the realization of other constitutional rights and freedoms.

The relevance of studying the right to health care is determined by several factors. First, health as an intangible good is the foundation of human existence and a prerequisite for the full functioning of personality in society. Second, contemporary challenges related to the COVID-19 pandemic, environmental threats, and socio-economic crises have actualized the issue of the effectiveness of legal provision of health care. Third,

there is a need to improve the theoretical foundations of understanding the content and structure of the right to health care in accordance with modern international standards and national features of Ukraine's legal system.

AIM

Comprehensive analysis of the constitutional and legal content of the right to health care, determination of its structural elements, and formation of a scientifically grounded classification of powers that constitute this fundamental human right.

MATERIALS AND METHODS

The methodological foundation of the study was a complex of general scientific and special legal methods of cognition. The systemic-structural method was applied to analyze the right to health care as a complex legal formation and to identify its structural components. The comparative legal method was used to compare different theoretical approaches to understanding the

legal status of individuals and the content of the right to health care. The formal-logical method allowed for the formulation of an author's definition of the right to health care and classification of corresponding powers. The method of legal modeling was applied to create a structural model of the right to health care. The empirical base of the study consisted of provisions of the Constitution, legislative acts in the field of health care, international legal documents on human rights, as well as scientific works of domestic and foreign researchers in the field of constitutional and medical law.

The authors conducted a descriptive analytical study of the constitutional and legal content of the right to health care using a complex of general scientific and special legal methods of cognition.

Criteria for inclusion of materials: for regulatory legal acts (current constitutions and basic laws of Ukraine and EU countries), legislative acts in the field of health care adopted after 2010 (international conventions and declarations on human rights ratified by Ukraine); for scientific publications: publications in peer-reviewed publications for 2000-2025, research on constitutional and medical law; works devoted to the structure and content of the right to health care, publications in Ukrainian, Russian and English.

Data sources: Google Scholar, ResearchGate, electronic catalog of the V.I. Vernadsky National Library of Ukraine, official websites of international organizations (WHO, Council of Europe, UN).

The volume of analyzed materials: total number of sources: 156, constitutional and basic legislative acts: 15 (Constitution of Ukraine, constitutions of 8 EU countries, 6 profile laws), special legislation in the field of health care: 28 acts, international legal documents: 12 (including the Universal Declaration of Human Rights, the European Convention on Human Rights, the International Covenant on Economic, Social and Cultural Rights), scientific publications: 101 (of which 67 are domestic and 34 are foreign).

The study was conducted during 2023-2025, while sources for the period from 2000 to 2025 were analyzed in order to ensure the relevance and completeness of the study.

REVIEW AND DISCUSSION

As a result of the conducted research, an author's definition of the right to health care has been formulated as a fundamental human right that consists in the ability to use all available social goods to preserve health in an optimal state and obtain qualified medical assistance when needed. A structural model of the right to health care has been developed, which includes three

main components: the right to health preservation, the right to health restoration, and the right to protection and compensation for health damage. A key problem of legal provision has been identified, which lies in the gap between normative consolidation of rights and the creation of effective mechanisms for their practical implementation.

The issue of guaranteeing the constitutional and legal position of individuals and citizens occupies a central place both in theoretical studies of constitutional law and in the practical application of constitutional norms. The reason for such significance lies in the fact that the concept of "constitutional and legal position of human beings and citizens" establishes fundamental principles of relations between individuals, state institutions, and society as a whole. Within its framework, the powers and mutual obligations of parties are defined, and a mechanism for ensuring, guaranteeing, and protecting the rights of all subjects of these legal relations is formed [1].

Legal theorists distinguish four conceptual approaches to understanding the legal status of individuals. According to the first, legal status is reduced to legal capacity. The second approach emphasizes the normative character of status through the consolidation of rights and obligations in legal acts. The third concept integrates legal capacity with normatively defined rights and obligations. The fourth, broadest approach, interprets legal status as a comprehensive system of legally formalized and state-protected rights, freedoms, obligations, and responsibilities that serves as a guideline for the social behavior of legally capable individuals [2].

Thus, central concepts in characterizing the legal status of individuals are subjective rights, legal obligations, and legal capacity. Legal capacity encompasses three key qualities of a legal subject: the ability to possess rights and obligations (legal capacity), the ability to personally acquire and implement them (legal competence), and readiness to bear responsibility for violation of obligations (delictual capacity). Legal science interprets the nature of delictual capacity differently: some scholars see it as an element of legal capacity, others as a component of legal competence, and still others distinguish it as an autonomous component of legal capacity [3, p. 61].

Constitutional and legal science has developed a wide spectrum of definitions of the constitutional and legal status of human beings. Systematizing various scientific views on its nature, it is appropriate to present concepts that reflect the essence of two key theoretical directions. For example, scholar O. Sovhyria characterizes the constitutional and legal status of human beings and citizens as a constitutionally and legislatively

established complex of legal indicators that regulates the actual place of human beings and citizens in the system of social, political, economic, legal, and other connections. Such interpretation emphasizes that legal status is the legally formalized position of an individual within the state and social system [4].

The conceptual foundation of the right to health care is such an intangible good as health. Today, legal and medical sciences offer numerous definitions of health. The substantive content of this concept depends on the specific subject with which it is associated. Scientific discourse includes the concepts of "public health," "national health," "population health," "community health," and "personal health." Common to all these categories is the basic concept of health, but they differ in the level of generalization: increasing scale (increasing the number of individuals in a group) is accompanied by complication of the system of factors that determine its formation [5].

At the same time, health determinants are understood as a multi-component system of individual, socio-economic, and environmental factors that shape the health of both individual persons and entire populations. This system encompasses a wide spectrum of parameters: behavioral models and lifestyle, economic status and income level, educational potential, working conditions and their safety, housing quality, employment stability, accessibility and quality of medical services, and the ecological situation in the region of residence. An important feature of health determinants is their systemic and synergetic character of influence [6]. Considering the multiplicity, diversity, and variability of external determinants, it is worth supporting the position of scholar O. Shamysh, according to which health constitutes the highest possible and optimal physical and mental state of the human organism, necessary to ensure biological functioning, the possibility of long active life, and the birth of healthy offspring. Thus, health represents an ideal state of the human organism, a standard to achieve and a kind of basic guideline [7].

For our research, it is important to understand individual health as a personal intangible good. Personal non-property goods are goods without monetary value that are inseparable from human beings, recognized in society, and protected by law. Most such goods, particularly health, are innate human qualities regulated by civil law. At the same time, the right to health belongs to personal non-property rights that ensure protection of personal inviolability [8].

Health is defined as a state of absolute physical, mental, and social well-being that goes beyond the mere absence of pathologies and physical anomalies. However, the category of "well-being" has a subjec-

tive-evaluative nature. Lexicographic sources interpret this concept through the related evaluative category of happiness or characterize it as a harmonious life course without crisis moments and shocks, economic security and material prosperity, standard state of an individual without deviations from the norm and negative manifestations [9].

Physical health is characterized as optimal functioning of the human organism at all structural levels - from cellular to systemic, which presupposes proper functioning of organs and tissues and is determined through a complex of various indicators [10].

Mental health is characterized as a state of brain activity that ensures adequate emotional, intellectual, and conscious-volitional interaction with the surrounding world. Structurally, mental health includes intellectual, emotional, and characterological components. A person is in a state of mental well-being when they possess a developed emotional sphere, high levels of attention, perception, thinking, and memory, and are able to be guided by their own consciousness, character, and will for adequate manifestation of these qualities in various life circumstances [10].

Social health is defined as a complex of social conditions and interpersonal relations of a person in social space that harmonize with natural laws and create favorable prerequisites for the full development of life activity and human activity. It is precisely the social component of health that most clearly demonstrates the conditionality of individual health by external determinants of various nature - both objective and subjective factors generated in the process of social interaction of personality with society as a collective of individualities, each characterized by unique personal qualities [10].

Let us proceed to analyze the content of the second component of the research subject, namely, establish a precise definition of the concept of protection. In contemporary jurisprudence, there is no consolidated theoretical approach to defining the essence of protection - this concept remains insufficiently developed both at the level of individual legal branches and within general theoretical jurisprudence.

The Academic Dictionary of the Ukrainian language also does not offer an independent definition of the concept "protection," using a similar methodology for its explanation, that is, interpretation through the verb "to protect," which has the following meanings: 1) to defend someone or something from danger, ensure security from the threat of attack, encroachment, etc.; 2) to be on guard near someone or something; to stand watch, guard; 3) to guarantee, ensure the inviolability of someone or something; 4) to protect from destruction,

annihilation, causing harm, etc.; 5) to safeguard from something [11].

Researchers provide different definitions of health care, but essentially their approaches to understanding its nature are similar. In particular, I. Seniuta interprets health care as a general obligation and one of the key tasks of the state and society, as one of the priority vectors of state policy oriented toward forming an effective system of social protection, improving population health, preventing demographic crisis, enhancing quality of life and environmental conditions, as well as modernizing the health care system at the current stage of Ukraine's development [12].

In turn, S. Buletsa interprets health care as identification, prevention, and elimination of diseases, early diagnosis, therapeutic measures, improvement of patient condition, prevention of deterioration through preventive examinations and treatment, qualified care, medical rehabilitation, provision of patients with medications and other therapeutic means; a complex of state and public measures aimed at protecting health, preventing and treating diseases, and ensuring human longevity [13].

The state develops health care policy and guarantees its implementation. State policy in the field of health care is oriented toward practical implementation of constitutional norms and legislative provisions of Ukraine regarding guaranteeing accessible quality medical assistance for every citizen of Ukraine, implementing new effective mechanisms of financing and management in health care, creating prerequisites for cultivating a healthy lifestyle.

O. Punda provides a definition of the health care institution in an objective sense and proposes to interpret it as a complex of legal norms that regulate relations regarding preservation, maintenance, and strengthening of health [14].

Based on the legislatively fixed definition of the concept of health care, within the framework of these legal relations, two main types can be distinguished: legal relations concerning health preservation and legal relations related to its restoration. In this regard, for example, V. Moskalenko, T. Hruzieva, and H. Inshakova note that the concept "right to health care" in its content includes rights and a number of conditions, particularly socio-economic ones, without which ensuring health is impossible [15].

N. Korobtsova characterizes the right to health care as a legislatively fixed and state-guaranteed possibility for every person to freely possess, use, and dispose of their own health as a personal good, as well as to engage state and other resources for health preservation and protection [16].

In connection with this, there arises a need to analyze another concept developed within legal doctrine - the concept of human rights in the sphere of medical activity. We note that human rights in the sphere of medical activity represent normative provisions fixed in international and domestic legal acts that guarantee individuals health care and provision of medical assistance upon the onset of disease [17]. The predominant part of subjective rights in the field of medical activity arises in a person precisely from the moment of seeking medical assistance, therefore these rights represent an additional aspect of the right to health care and are included in its substantive content.

One of the key problems of legal support for implementing the right to health care is the state of development of legislation in the medical sphere. The quality of normative-legal regulation of human rights in the field of health care largely determines the successful and progressive development of both medical law in particular and the state in general. The experience of many contemporary states shows that one can have quite developed and exemplary legislation in the field of health care, but this does not guarantee that every person can actually use the rights granted to them. There can be many reasons for this, but one of the main ones is unresolved issues of ensuring human rights in the medical sphere. Indeed, the most perfect legal norms in the field of health care, but not supported by a system of provision, turn into declarations, that is, norms not accompanied by creating a mechanism for their implementation, protection, and defense [18].

Taking into account the entire complex of characteristics of the right to health care considered above, we propose the following definition: "The right to health care represents one of the fundamental human rights that is ensured at the level of international legal documents and national legislation of Ukraine and consists in the possibility for a person to use all available social goods to preserve health in a state as close to ideal as possible, considering individual possibilities of the person regarding maintaining the proper level of physical, mental, and social health determinants, as well as, when needed, obtaining qualified medical assistance and applying other means of health restoration and protection."

Research on the right to health care cannot be considered complete without determining its substantive content. Thus, in particular, every citizen possesses the right to health care, which includes: a) standard of living that encompasses nutrition, clothing, housing, medical care, and social protection necessary to maintain personal health; b) ecologically safe environment; c) sanitary-epidemiological well-being of territory and place of resi-

dence; d) safe and healthy conditions of work, education, daily life, and recreation; e) quality medical assistance, including the right to free choice of doctor, treatment methods according to their recommendations, and medical institution; f) objective and prompt information about their own health condition and population health, including data on existing and potential risk factors; g) participation in discussing draft laws and making proposals regarding state policy in the field of health care; h) participation in managing the health care system and conducting public expertise according to legislation; i) possibility of creating public organizations to promote health care; j) legal protection from illegal discrimination based on health status; k) compensation for health damage; l) appealing unlawful decisions of medical workers and institutions; m) possibility of independent medical expertise when disagreeing with official conclusions or when applying compulsory treatment; n) right of hospitalized patients to visits by medical workers, relatives, guardians, notary, lawyer, and clergy.

Based on the formulated definition of the right to health care, all its essential characteristics considered above, and legislatively established provisions, let us determine the content of the right to health care through forming a complete list of powers that constitute it. Based on the content of the normatively established definition of the concept of health care, we propose to classify all existing rights in the field of health care according to the nature of legal relations arising in this sphere into the following categories: the right to health preservation and the right to health restoration. Additionally, as noted earlier, an inseparable component of every subjective right is the right to protection, therefore we consider that the third category is formed by powers that in content are encompassed by the right to protection and compensation for health damage.

Thus, we propose to distinguish in the architectonics of the right to health care: the right to health preservation, the right to health restoration, as well as the right to protection and compensation for health damage. Each of these components includes certain powers. In particular, the right to health preservation encompasses such powers as: the right to an adequate standard of living, including nutrition, clothing, housing, medical care, and social protection necessary to maintain human health; the right to an ecologically safe natural environment; the right to sanitary-epidemiological well-being of territory and place of residence; the right to safe and healthy conditions of work, education, daily life, and recreation; the right to objective and prompt information about one's own health condition and population health, including existing and potential risk factors and their level.

The right to health restoration in content includes the right to qualified medical assistance and, accordingly, the entire complex of patients' rights, particularly the right of hospitalized patients to access by other medical specialists, family members, guardian, caretaker, notary and lawyer, as well as clergy for conducting worship and religious rites.

The right to protection and compensation for health damage encompasses: legal protection from any illegal forms of discrimination based on health status; the right to participate in discussing draft laws and making proposals regarding formation of state policy in the field of health care; the right to participate in managing the health care system and conducting public control according to legislation; the right to create public organizations to promote health care; the right to independent medical expertise when disagreeing with conclusions of state expertise, application of compulsory treatment, and in other cases of human rights violations by actions of medical workers; the right to appeal unlawful decisions and actions of medical workers, institutions, and health care bodies; the right to compensation for health damage; the right to medical insurance.

The inclusion of the constitutional right to medical insurance requires separate argumentation. In support of this position, legislative norms testify that insurance is characterized as a type of civil legal relations regarding protection of property interests of physical and legal persons upon occurrence of defined events (insurance cases) established by insurance contract or current legislation, at the expense of financial funds created through payment by physical and legal persons of insurance payments (insurance contributions, insurance premiums) and profits from investing funds of these funds.

CONCLUSIONS

The conducted research has allowed formulation of a comprehensive understanding of the constitutional and legal content of the right to health care as one of the fundamental human rights. It has been established that the right to health care represents a complex legal formation that is ensured at the level of international legal documents and national legislation and consists in the possibility for a person to use all available social goods to preserve health in a state as close to ideal as possible, considering individual possibilities of the person regarding maintaining the proper level of physical, mental, and social health determinants, as well as, when needed, obtaining qualified medical assistance and applying other means of health restoration and protection.

Analysis of the content of the right to health care has allowed identification of three main structural components: the right to health preservation, the right to health restoration, and the right to protection and compensation for health damage. The right to health preservation encompasses powers regarding ensuring adequate standard of living, ecologically safe environment, sanitary-epidemiological well-being, safe working and living conditions, as well as access to reliable information about health status. The right to health restoration includes the right to qualified medical assistance and the entire complex of patients' rights. The right to protection and compensation for damage ensures legal protection from discrimination, participation in forming health care policy, possibility of appealing unlawful actions of medical workers, and compensation for damage caused.

The issue of practical implementation of the right to health care becomes of particular significance, since

even the most perfect legal norms without an effective system of their provision remain declarative. Therefore, further research should be directed toward developing mechanisms for guaranteeing and protecting the right to health care, improving the medical insurance system as a component of the right to health protection, as well as adapting national legislation to contemporary challenges in the field of health care. The proposed structuring of the right to health care can serve as a theoretical foundation for further development of medical law and improvement of constitutional and legal regulation of relations in the field of health care in Ukraine.

The research results confirm the necessity of a comprehensive approach to understanding the right to health care as a multi-aspect constitutional right that requires not only normative consolidation but also creation of effective mechanisms for its implementation, protection, and defense under conditions of contemporary socio-economic and environmental challenges.

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CONFLICT OF INTEREST

The Authors declare no conflict of interest

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