ORIGINAL ARTICLE

CONTENTS

Certification of a patient's will in healthcare institutions: Medico-legal challenges and practical application

Anzhela B. Berzina[1], Serhii S. Rozsokha[2], Zoia A. Zahynei-Zabolotenko[3], Olena P. Makhmurova-Dyshliuk[4], Serhii S. Ovcharuk[5], Mykhailo M. Rudenko[4], Nataliia I. Nekrasova[6]

[1] BOGOMOLETS NATIONAL MEDICAL UNIVERSITY, KYIV, UKRAINE
[2] SCIENTIFIC RESEARCH INSTITUTE OF MARITIME AND SPACE LAW, KYIV, UKRAINE
[3] V.M. KORETSKY INSTITUTE OF STATE AND LAW OF THE NATIONAL ACADEMY OF SCIENCES OF UKRAINE, KYIV, UKRAINE
[4] KYIV UNIVERSITY OF INTELLECTUAL PROPERTY AND LAW, KYIV, UKRAINE
[5] RESEARCH INSTITUTE OF PUBLIC LAW, KYIV, UKRAINE
[6] «KANDIIA MED» LLC, KYIV, UKRAINE

ABSTRACT

Aim: To analyze medico-legal challenges and the practical application of patients' will certification in healthcare institutions during inpatient care.

Materials and Methods: A retrospective medico-legal analysis of court decisions from the Unified State Register of Court Decisions of Ukraine (2015–2026) was conducted. Of more than 450 identified cases, 60 met the inclusion criteria related to disputes over wills certified in healthcare institutions. Statistical analysis included Pearson's χ^2 test, Fisher's exact test, and odds ratios (OR) with 95% confidence intervals (CI). Additionally, a survey of 28 medical professionals assessed practical aspects and challenges of will certification in clinical settings.

Results: Wills certified by medical professionals and healthcare institution officials accounted for 60.0% of cases, while 40.0% were notarized. The proportion of wills declared invalid or void was significantly higher in the medical group (41.7%) compared to the notarial group (12.5%). A statistically significant association was identified between the certifying subject and court outcomes ($\chi^2 = 5.83$; p=0.016; Fisher's exact test p=0.031). Certification by medical personnel was associated with a fivefold increase in the likelihood of invalidation (OR=5.0; 95% CI: 1.24–20.15). Survey findings revealed insufficient legal knowledge and difficulties in assessing testamentary capacity and voluntariness.

Conclusions: Wills certified in healthcare settings demonstrate lower legal reliability compared to notarized wills. This may be attributed to clinical, organizational, and legal factors, including challenges in capacity assessment and limited legal training of medical staff. The findings highlight the need for improved interdisciplinary protocols.

KEY WORDS: public interest, legal validity, expression of will

Wiad Lek. 2026;79(6):1306-1311. doi: 10.36740/WLek/222566 DOI

INTRODUCTION

Contemporary medical law doctrine and legal practice are increasingly confronted with issues related to the realization of patients' rights during inpatient care. One such right is the freedom to dispose of one's property upon death through the execution of a will. The Law of Ukraine "Fundamentals of Health Care Legislation" (1992) guarantees a patient undergoing inpatient care the right to be visited by, among others, medical professionals and a notary [1]. At the same time, a number of factors must be taken into account, as they may affect the patient's free and conscious expression of will [2]. These are medical, psychological, ethical, and ultimately legal factors [3-5].

Ukrainian legislation provides for a specific procedure for the certification of wills of persons undergoing treatment in hospitals or other inpatient healthcare institutions. According to Article 1252 of the Civil Code of Ukraine [6] and Article 40 of the Law of Ukraine "On Notariate" [7], wills of such persons may be certified by chief physicians, their deputies for medical affairs, or duty physicians of these institutions, as well as by heads of military hospitals, directors, or chief physicians of residential care institutions for the elderly and persons with disabilities [7]. Such wills are legally equated to notarized wills.

Certification of a will by these officials is permitted only in respect of individuals with full civil legal capacity and must be conducted in the presence of witnesses [8]. However,

determining the legal reliability of the testator's expression of will remains problematic. The patient's physical condition – due to pain, medication effects, cognitive impairment, psycho-emotional stress, delirium, depressive states – as well as potential influence from third parties, may call into question the authenticity and legal validity of the expressed will [9]. This refers to the ability of a person to understand the nature and consequences of making a will, to be aware of the extent of their property and the circle of potential heirs, and to make decisions without coercion. Otherwise, the will may be declared invalid or ineffective by the court.

From a medico-legal perspective, the certification of a patients will lie at the intersection of two fundamental values: individual autonomy and public interest. This is particularly important. A will is a unilateral legal act with a deferred legal effect, and therefore its authenticity and validity are often assessed posthumously in the context of legal disputes. Under such circumstances, medical professionals and healthcare institution officials are effectively required to perform functions that extend beyond clinical care and involve ensuring the legal reliability of the patient's expression of will. This necessitates a comprehensive analysis of the issue.

AIM

The aim of this study is to examine the legal nature of will certification in healthcare institutions, to identify the main medico-legal challenges associated with verifying the authenticity of the testator's expression of will and testamentary capacity, and to analyze approaches to addressing these challenges in practice.

MATERIALS AND METHODS

The study was conducted as a retrospective medico-legal analysis. The primary data source was the Unified State Register of Court Decisions of Ukraine [10]. The search was performed using the following keywords: "recognition of a will as invalid," "void will," "will certification by doctor," and "healthcare institution" for the period from January 1, 2015 to April 1, 2026.

The inclusion criteria were:

1) certification of a will in a healthcare institution;

2) the presence of a legal dispute concerning the recognition of the will as invalid or void;

3) identification of the certifying subject (medical professional, healthcare institution official, or notary); and

4) availability of the full text of the court decision in open access.

The exclusion criteria included:

1) absence of information regarding the place of will certification;

2) inability to identify the certifying subject;

3) appellate and cassation decisions; and

4) cases not related to disputes over the validity of wills.

Out of more than 450 identified court decisions, 60 cases met the inclusion criteria and were included in the analysis. Statistical analysis was performed using Pearson's chi-square (χ^2) test and Fisher's exact test in IBM SPSS Statistics (version 31.0.2.0, IBM Corp., Armonk, NY, USA). The strength of association was assessed by calculating the odds ratio (OR) with 95% confidence interval (95% CI). The level of statistical significance was set at $p<0.05$.

Additionally, a survey of 28 medical professionals from a healthcare institution in Kyiv was conducted between January and February 2026 to assess practical aspects of will certification. Participation in the survey was voluntary and anonymous. The questionnaire included items aimed at assessing:

1) respondents' awareness of the legal grounds for will certification in healthcare institutions;

2) their understanding of the range of authorized persons under current legislation;

3) their practical experience with will certification;

4) their attitudes toward performing such functions; and

5) their perception of legal liability risks, etc.

ETHICS

The authors declare that in preparing this article, all ethical principles and rules of academic integrity were observed. Bioethics: Study was conducted in accordance with the provisions of the Helsinki Declaration of the World Medical Association, Council of Europe Convention on Human Rights and Biomedicine, and Ukrainian legislation. Aggregated statistical data without disclosure of personal information was used. The survey was conducted on a voluntary and anonymous basis, in compliance with confidentiality principles. All respondents were informed about the purpose of the study and provided oral consent to participate.

FRAMEWORK

The study was conducted as a fragment of the complex scientific project of the Bogomolets National Medical University (state registration number 0125U000571 «Forensic medical assessment of the impact of subclinical alcohol intoxication on human cognitive functions»; term: 2025-2027); scientific project of the Department of Criminal Justice and Criminology at the V. M. Koretsky Institute of State and Law of the National Academy of Sciences of Ukraine: «Criminal Justice in the Context of Transitional Justice» (state registration number RK 0125U003191; term: I quarter 2026 – IV quarter 2028).

Table 1. Outcomes of wills certified in healthcare settings

Category	Medical professionals (n=36)	Notaries (n=24)
Declared void	7	1
Refusal to declare void	3	2
Declared invalid	8	2
Refusal to declare invalid	18	19

Source: compiled by the authors of this study

Table 2. Summary of will validity outcomes depending on the certifying subject (for statistical analysis)

Certifying subject	Will declared invalid / void	Claims dismissed	Total
Medical professionals	15 (41.7%)	21 (58.3%)	36
Notaries	3 (12.5%)	21 (87.5%)	24

Source: compiled by the authors of this study

RESULTS

A total of more than 450 court decisions issued between January 1, 2015 and April 1, 2026 were initially identified. Of these, 60 cases met the inclusion criteria and involved disputes concerning the recognition of wills certified in healthcare institutions as invalid or void.

The analysis showed that wills in healthcare settings were certified by medical professionals, healthcare institution officials, as well as notaries.

Although this category of disputes is relatively infrequent in judicial practice, the final sample comprised only 60 cases despite the extended study period. Nevertheless, the very existence of such disputes indicates the presence of medico-legal problems associated with the certification of wills in healthcare institutions, especially under the influence of clinical and psycho-emotional factors.

Among the analyzed cases:

- wills certified by medical professionals and healthcare institution officials accounted for 36 cases (60.0%);
- wills certified by notaries accounted for 24 cases (40.0%).

The corresponding results are presented in Table 1.

The summary of the results demonstrates substantial differences in court outcomes depending on the subject certifying the will. Among wills certified by medical professionals (n=36), 19.4% were declared void, 22.2% invalid, while in 58.3% of cases the claims were dismissed. Thus, the overall proportion of successfully challenged wills (declared void or invalid) in this group amounted to 41.7%.

In contrast, among wills certified by notaries (n=24), 4.2% were declared void and 8.3% invalid, whereas in 87.5% of cases the court rejected the claims. The overall rate of successful challenges in this group was 12.5%.

These findings indicate a significantly higher frequency of wills being declared invalid or void when certified by medical professionals or healthcare institution officials in a clinical setting compared to those certified by notaries. This may reflect the influence of medical, cognitive, and organizational factors on the adequacy of the certification procedure.

The aggregated results used for further statistical analysis are presented in Table 2.

Statistical analysis revealed a significant association between the certifying subject and court outcomes (χ^2=5.83; p=0.016). The results of Fisher's exact test also confirmed a statistically significant relationship between these variables (p=0.031). A higher proportion of wills declared invalid or void was observed among those certified by medical professionals and healthcare institution officials compared to those certified by notaries.

The assessment of the strength of association showed that certification of a will by a medical professional or healthcare institution officials was associated with substantially higher odds of it being subsequently declared invalid or void (OR=5.0; 95% CI: 1.24–20.15; p=0.031). The wide CI indicates limited precision of the estimate, likely due to the relatively small sample size.

The analysis of judicial practice indicates that wills in healthcare institutions are certified not only by notaries but also by medical professionals or healthcare institution officials. These include medical directors of public non-commercial enterprises, chief physicians, their deputies, acting heads of institutions, heads of departments, duty physicians, and general practitioners. Such a broad range of authorized persons may adversely affect the legal reliability of the testator's expression of will and contribute to inconsistencies in judicial practice.

To assess the practical aspects of exercising these powers, a survey of medical professionals, including general

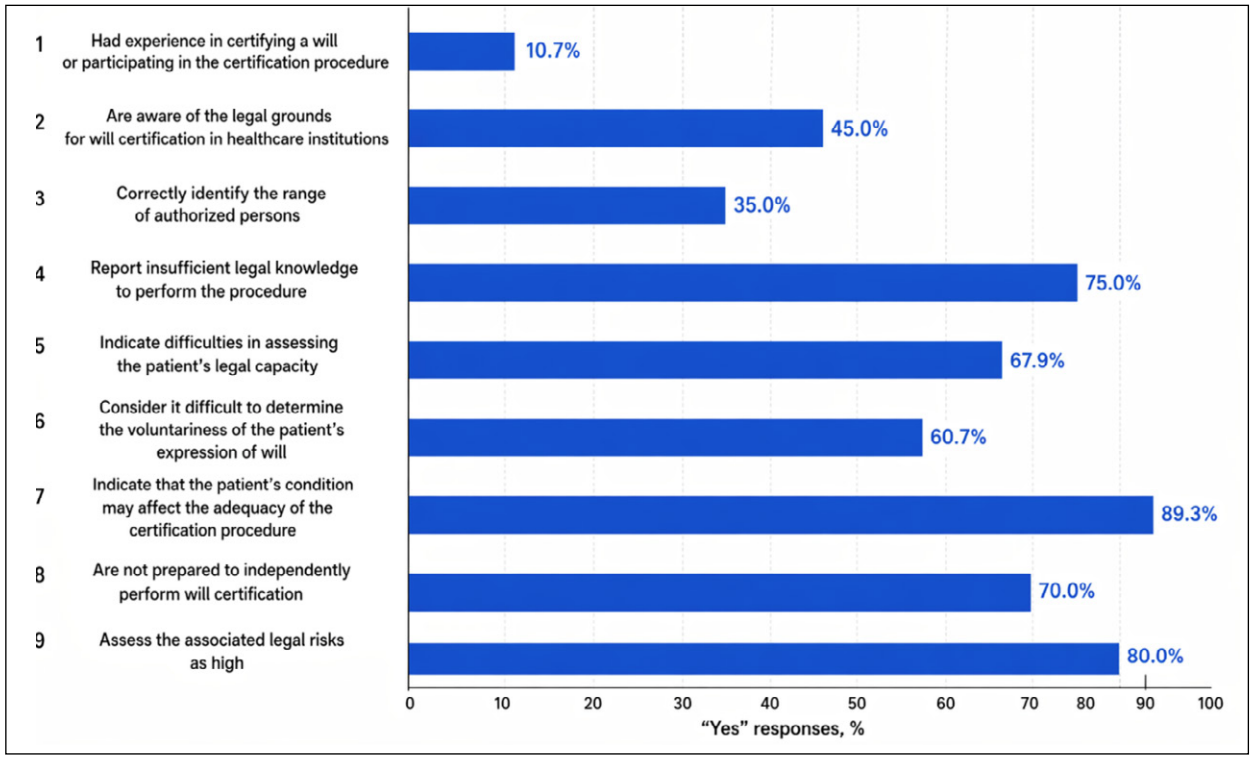

Fig. 1. Survey responses of medical professionals regarding will certification in healthcare settings (n=28)
Picture taken by the authors

practitioners (family physicians), surgeons, anesthesiologists, and healthcare administrators, from a healthcare institution in Kyiv was conducted. The study involved 28 respondents and was carried out between January and February 2026. The sample was created using a convenience sampling approach, driven by the specifics of access to respondents in the medical environment, including shift work, on-call duties, and clinical workloads. The survey results are presented in Fig. 1.

The survey results indicate substantial challenges in the practical implementation of will certification in healthcare institutions. Only 10.7% of respondents reported having experience in certifying a will or participating in such a procedure.

The majority of respondents reported significant professional and legal barriers. Specifically, 75.0% indicated insufficient legal knowledge, 67.9% reported difficulties in assessing the patient's legal capacity, 60.7% noted challenges in determining the voluntariness of the patient's expression of will, and 89.3% emphasized that the patient's physical and mental condition may affect the adequacy of the certification procedure.

The data also demonstrate a limited level of awareness among medical professionals regarding the legal grounds for will certification in healthcare settings. Only 45.0% of respondents were aware of the existence of such powers, while 35.0% correctly identified the range of authorized persons. Furthermore, 70.0% reported that they were not prepared to independently perform will certification, and 80.0% assessed the associated legal risks as high.

Taken together, these findings indicate the presence of significant organizational, legal, and clinical challenges in the implementation of legally prescribed powers. These results are consistent with the analysis of judicial practice, which demonstrated that wills certified by medical professionals or healthcare institution officials are significantly more likely to be declared invalid or void compared to those certified by notaries. These findings have substantial practical significance. They indicate a lower level of legal robustness of wills certified in clinical settings. This may be explained by insufficient legal training of certifying individuals.

DISCUSSION

Certification of a will is an intersectoral legal obligation arising from civil and notarial legislation, which is imposed on medical professionals in specific circumstances. It is a legally complex procedure requiring proper identification of the testator, verification of civil legal capacity, explanation of legal consequences, and strict compliance with formal requirements [11, 12]. Notaries perform these functions within a specialized legal framework. In contrast, medical professionals carry out will certification in the context of providing healthcare, where the primary focus is clinical care rather than ensuring legal validity. This difference increases the likelihood of procedural deficiencies.

In a comparative perspective, the medico-legal challenges identified in this study are consistent with global trends in the regulation of testamentary capacity and will execution in clinical settings. In many jurisdictions, including the United States, the United Kingdom, and EU countries, the assessment of testamentary capacity in hospitalized patients is recognized as a complex interdisciplinary issue involving both legal and medical expertise [9]. However, unlike the Ukrainian model, certification of wills is generally reserved for notaries or legal professionals, while physicians play a supporting role by providing clinical assessments of cognitive status and decision-making capacity rather than directly certifying legal acts.

Ukrainian legislation allows the certification of wills in healthcare facilities during inpatient treatment. Such wills are registered by authorized officials in a special register of wills and powers of attorney equivalent to notarized acts, the form of which is established by the Ministry of Justice of Ukraine [13]. Maintaining such a register constitutes a mandatory organizational requirement for healthcare institutions.

The clinical environment may influence the adequacy of will certification procedures [14, 15]. There are significant difficulties in assessing a patient's capacity to make a conscious decision regarding the execution of a will. Somatic and mental disorders may substantially influence this capacity. In many cases, a decisive factor is the limited legal knowledge of medical professionals in this area.

A limitation of this study is the lack of systematic official statistics in Ukraine on the invalidation or nullity of wills certified in healthcare institutions. Available data concern general categories of invalid transactions or wills without distinguishing between notarized and medically certified documents. This highlights the relevance of the present study in addressing this gap. The evidentiary value of medical documentation in subsequent litigation increases [16].

Medical professionals and healthcare institution officials effectively act as primary gatekeepers of legal capacity [4, 13]. However, survey results demonstrate that they often lack sufficient legal training, experience difficulties in assessing capacity and voluntariness, and perceive significant legal risks. This indicates a mismatch between delegated legal responsibilities and actual professional competencies.

Physicians are often the first to assess whether a patient's condition may impair their capacity for a valid legal expression of will. Evidence from Central European forensic practice further supports these findings. Studies indicate that expert evaluations in will disputes rely on a comprehensive analysis of the will's content, medical documentation, clinical history, witness statements, and behavioral characteristics of the testator near the time of execution [9]. Notably, a significant proportion of contested wills are made during periods of severe illness, often in hospital settings, underscoring the critical role of the clinical context.

CONCLUSIONS

1. The study identified a statistically significant association between the certifying subject and the likelihood of a will being declared invalid or void, based on a retrospective analysis of court decisions from the Unified State Register of Court Decisions of Ukraine (2015–2026). Wills certified by medical professionals and healthcare institution officials were invalidated significantly more often (41.7%) compared to notarized wills (12.5%), with approximately fivefold higher odds (OR = 5.0; 95% CI: 1.24–20.15; p=0.031).
2. These findings have important practical implications, indicating a lower level of legal robustness of wills certified in clinical settings. Survey data from medical professionals (n = 28) confirmed the presence of substantial professional, legal, and organizational barriers, including insufficient legal knowledge, limited awareness of legal grounds for certification, and difficulties in assessing testamentary capacity and voluntariness.
3. The findings reveal a gap between formal legal regulation and its practical implementation in healthcare institutions. Difficulties in assessing voluntariness and legal capacity–also noted in international practice–reflect a broader tension between patient autonomy and the legal validity of end-of-life decisions, highlighting the need for stronger safeguards, including interdisciplinary protocols and greater involvement of notaries.

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CONFLICT OF INTEREST

The Authors declare no conflict of interest

CORRESPONDING AUTHOR

Anzhela B. Berzina
Bogomolets National Medical University
13 Taras Shevchenko Ave., 01601 Kyiv, Ukraine
e-mail: anzhela.kasumova@gmail.com

ORCID AND CONTRIBUTIONSHIP

Anzhela B. Berzina: 0000-0002-9885-309X A B C D
Serhii S. Rozsokha: 0000-0001-6039-3174 B C D F
Zoia A. Zahynei-Zabolotenko: 0000-0002-8679-124X A D E F
Olena P. Makhmurova-Dyshliuk: 0000-0002-0969-8797 A E F
Serhii S. Ovcharuk: 0009-0009-4053-2152 A C F
Rudenko M. Mykhailo: 0009-0008-8983-8470 C D E
Nekrasova I. Nataliia: 0009-0001-5089-8803 A E F

A – Work concept and design, B – Data collection and analysis, C – Responsibility for statistical analysis, D – Writing the article, E – Critical review, F – Final approval of the article

RECEIVED: 05.01.2026
ACCEPTED: 22.05.2026