



CONSUMER PROTECTION IN THE PROVISION OF HEALTH SERVICES

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Article history:	Abstract:
<p>Received: December 10th 2023 Accepted: January 8th 2024 Published: February 10th 2024</p>	<p>The article provides a comprehensive overview of consumer rights within the healthcare sector, emphasizing the importance of legal and ethical frameworks in safeguarding patient interests. It highlights the legislative efforts in Uzbekistan, alongside international perspectives, to ensure that healthcare delivery aligns with established standards and respects patient autonomy. The discussion acknowledges the challenges inherent in the healthcare service market, including the variability in medical service quality and the complexities introduced by telemedicine. The article advocates for enhanced medical and legal literacy among consumers to empower them in exercising their rights effectively. It also underscores the necessity for healthcare providers and insurance companies to uphold high standards of care, guided by ethical practices and regulatory compliance, to foster a healthcare environment that prioritizes patient well-being and transparent communication.</p>
<p>Keywords: Law, medical service, consumer protection, rights and responsibilities, digital medicine and health care of citizens.</p>	

INTRODUCTION

In an era where health is viewed as a fundamental right, the emphasis on consumer protection within the healthcare sector has gained unprecedented momentum. Countries worldwide are continuously evolving their healthcare policies to ensure that the rights of patients are not just recognized but also rigorously protected. This article delves into the complexities of consumer protection in health services, examining the theoretical underpinnings, legislative frameworks in Uzbekistan, and the emerging challenges in telemedicine.

The rights of subjects using medical services are in accordance with the Laws of the Republic of Uzbekistan "On Protection of Citizens' Health", "On Protection of Consumer Rights", "On Sanitary and Epidemiological Peace of the Population", "On Protection of the Population from Tuberculosis", "On Personal Data" It is specified in the laws, the Civil Code of the Republic of Uzbekistan, the President of the Republic of Uzbekistan and the Government's "decisions on the coronavirus pandemic"¹.

DISCUSSION

It's crucial for society to be aware of and comprehend the rights they possess when accessing healthcare

services. However, there's a significant disparity between merely knowing about these rights and actively exercising them. To bridge this gap, it's essential to elevate both medical and legal literacy and culture to a level where the protection of every individual's health and needs is paramount. Understanding these rights should transcend legal jargon, becoming part of a broader medical ethos and a societal push towards actualizing these rights. Despite the primary goal of both public and private healthcare institutions being to serve public health, there are instances where the emphasis shifts towards revenue generation. Consequently, the treatment of individuals seeking medical care often mirrors the dynamics of customer service. In such scenarios, the terminology used to describe individuals seeking medical care—ranging from consumers and patients to clients and customers—reflects their legal standing from the point of seeking assistance from private healthcare providers to the actual receipt of medical services.

In the healthcare service market, entities offering medical services and individuals seeking those services engage as active participants. According to the "Law on the Protection of Consumer Rights" in the Republic of Uzbekistan, the entities involved in the service sector are categorized as "executor" and "consumer," with

¹ Lex.uz. National Database of Legislation of the Republic of Uzbekistan



clear definitions provided for each. Within the context of medical services, when parties engage in mutual agreements, the presence of a right for one party necessitates a corresponding obligation for the other. This legal framework ensures a balanced and equitable interaction between healthcare providers and patients, underpinning the ethical and operational standards of healthcare delivery in Uzbekistan.

According to the "Law on the Protection of Consumer Rights" in the Republic of Uzbekistan, consumers have the following rights:

getting correct and complete information about the product (work, service), as well as about the manufacturer (executor, seller);

free choice of goods (work, service) and its quality;

safety of goods (work, service);

goods (work, service) with dangerous defects for life, health and property, as well as material damage, moral damage caused due to the illegal action (inaction) of the manufacturer (executor, seller) full coverage;

apply to the court and other competent state bodies for protection of violated rights or interests protected by law;

creation of public associations of consumers.

The perspectives offered by J.Babayev² and N.Said-Gaziyeva³ on the definition of a consumer in the context of civil legal relations provide insightful but distinct viewpoints on who qualifies as a consumer in the provision of goods and services, including healthcare.

J.Babayev's strict delineation of the consumer status to natural persons—citizens—highlights the traditional view of consumer rights protection, focusing on the individual's rights in personal and domestic contexts.

This approach is beneficial in clearly identifying the protected parties in consumer transactions, ensuring that the legal framework is tailored to the needs and vulnerabilities of individuals in their capacity as end-users of goods and services.

On the other hand, N.Said-Gaziyeva's inclusion of individual entrepreneurs as consumers recognizes the evolving nature of economic activities and the blurring lines between personal and professional consumption. This broader definition acknowledges that individual entrepreneurs, often operating in capacities akin to natural persons, also require protection in their consumption of goods and services for their business activities. This approach is particularly relevant in

today's gig and freelance economies, where personal and professional consumption frequently intersects.

Both viewpoints are valid and underscore the need for a flexible and inclusive legal framework that can adapt to changing economic realities and consumption patterns. A balanced approach that protects traditional consumers while acknowledging the consumer activities of individual entrepreneurs could provide comprehensive coverage, ensuring that all parties engaging in market transactions are adequately protected. This adaptability is crucial in areas like healthcare, where the lines between personal and professional services can be particularly nuanced, and the stakes—in terms of health outcomes—are significantly higher.

In Japan, the landscape of consumer law is characterized by the absence of a unified code specifically dedicated to consumer protection. Instead, the foundation for consumer rights and policies is established by the Basic Act on Consumer Policies. This act outlines the core principles guiding consumer policies and delineates the responsibilities that businesses have towards consumers. However, it primarily sets forth non-binding objectives and governmental policies, without explicitly defining the legal rights and avenues for citizens to seek redress through judicial processes. Consumer protection in Japan is further articulated through a variety of individual statutes that address specific aspects of consumer rights and business regulations. Notably, laws tailored to regulate particular industry sectors play a significant role, such as the Act on Specified Commercial Transactions, also known as the ASCT, and the Installment Sales Act. Additionally, certain provisions of the Civil Code are augmented by specialized laws like the Consumer Contract Act and the Product Liability Act⁴, which offer more targeted protections for consumers. These sector-specific laws are often accompanied by detailed rules outlined in subordinate legislation, including Cabinet Orders and Ministerial Ordinances. Moreover, the interpretation of these laws and regulations is frequently clarified through guidelines issued by regulatory bodies. For practitioners, legal professionals, and consumers alike, gaining a comprehensive understanding of consumer protection in Japan necessitates familiarity with these guidelines and interpretations, as they are instrumental in

² Babayev J.I. Iste'molchi huquqlari va ularni buzganlik uchun fuqarolik-huquqiy javobgarlik muammolari: Yurid. fan. nomz. ... dissertatsiyasi. – Toshkent, 2005. 19-b.; Babayev J.I. Iste'molchiga yetkazilgan zararni qoplashni fuqarolik-huquqiy tartibga solishni takomillashtirish: Yurid. fan. doktori. ... dissertatsiyasi. – Toshkent, 2021. 23-b.

³ Said-Gaziyeva N.Sh. Aholiga xizmat ko'rsatish sohasida iste'molchilarning huquqini qimoya qilish: Yurid. fan. nomz. ... dissertatsiyasi. –Toshkent, 2003. 16-17-b.

⁴ Morimoto M. Japanese consumer rights //Routledge Handbook of Japanese Business and Management. – Routledge, 2016. – C. 251-259.



navigating the complexities of the legal framework governing consumer rights and business conduct⁵.

French law has a notable history of extending protections to "non-professionals," thereby ensuring that individuals and entities not engaged in professional capacities receive certain safeguards, particularly in contractual agreements. This approach effectively levels the playing field between professionals and non-professionals, ensuring that the latter can invoke consumer protection measures in instances where contractual terms might be prejudicial or contain unfair clauses.

The evolution of this protective stance saw a significant development in 2016, when French legislators introduced a new definition to clarify the status of non-professional subjects. Under this revised framework, any legal entity is considered a non-professional subject when it engages in activities outside the commercial, industrial, craft, or agricultural domains. This broadened scope ensures that such entities are afforded consumer protection in contractual and other legal engagements, reflecting a more inclusive understanding of who constitutes a non-professional in the eyes of the law.

In contrast, Chinese law⁶ traditionally centered the distinction of consumer protection on the purpose of the purchase, specifically aiming to meet personal, daily life needs. This definition, however, faced criticism for not accommodating the reality that legal entities might also have consumption needs not linked to commercial or business endeavors. Responding to this critique, the Chinese legal framework underwent amendments in 2013, refining the consumer protection definition to exclude legal entities, except for aspects of their operations that are unrelated to commercial or business activities. This adjustment aimed to more accurately delineate the boundary between personal and professional consumption, ensuring that consumer protection laws are applied in a manner that reflects the true intent of safeguarding non-commercial consumer interests.

Patient rights are fundamentally intertwined with human rights, embodying the minimal expectations for how individuals should be treated within healthcare settings. While human rights provide a broad framework for the treatment of individuals, morality delves into the

normative ethics of how individuals ought to treat one another. This distinction underscores that patient rights are underpinned by both legal entitlements and ethical considerations⁷.

The foundation of patient rights can be traced back to a confluence of ethical principles, religious beliefs, and international norms. Core principles such as patient autonomy, non-maleficence (the duty to do no harm), the establishment of a trusting relationship between patients and healthcare providers, and integrity are prevalent in various ethical codes, religious doctrines, and global standards. These principles serve as the ethical bedrock upon which patient rights are built, guiding the behavior and decisions of healthcare professionals.

However, the application of these ethical categories can sometimes lead to conflicts, as different beliefs and moral viewpoints may prioritize certain rights over others. For instance, the principle of patient autonomy, which emphasizes the right of patients to make informed decisions about their own care, might clash with religious or cultural beliefs that place a greater emphasis on community or familial decision-making.

In response to these potential conflicts and the complexity of healthcare interactions, legal regulations play a crucial role in defining and enforcing patient rights. Each jurisdiction crafts its own set of patient rights based on legal principles, balancing ethical considerations with cultural, social, and religious norms. This legal framework ensures that patient rights are not just theoretical concepts but are actionable rights that can be upheld and defended within the healthcare system. As a result, the legal codification of patient rights helps to navigate the intricate interplay between ethical principles, cultural beliefs, and the practical realities of healthcare delivery, ensuring that patients are treated with dignity, respect, and fairness.

The discrepancy in adherence to quality medical standards, particularly between different healthcare providers, raises significant concerns. Patients who seek care from private clinics often report variations in diagnoses and treatment standards, which should ideally be consistent with the guidelines developed by authoritative bodies such as the World Health Organization (WHO)⁸. WHO provides standardized

⁵ Аскарлов Ж. Правовое регулирование и сравнительный анализ деятельности субъектов предпринимательства в сфере оказания медицинских услуг в зарубежных странах //Review of law sciences. – 2020. – Т. 4. – №. Спецвыпуск. – С. 72-81.

⁶ People's Republic of China Law on Protection of the Rights and Interests of Consumers / <http://www.npc.gov.cn/zgrdw/englishnpc/Law/200712/12/c>

[ontent_1383812.htm#:~:text=Article%20The%20State%20shall,rights%20and%20interests%20of%20consumers.](#)

⁷ Askarov J. T. OZBEKISTONDA TIBBIY XIZMATLAR KO'RSATISH VA QONUNCHILIK ASOSLARI //Proceedings of International Conference on Modern Science and Scientific Studies. – 2023. – Т. 2. – №. 9. – С. 79-83.

⁸ <https://www.who.int/publications/who-guidelines>.



treatment guidelines for a myriad of diseases, intending these to be universally adopted by its member states to ensure a consistent level of care.

The existence of non-compliance, especially in private medical clinics, underscores a critical gap in the healthcare delivery system. This disparity may stem from various factors, including the pursuit of profit, lack of regulatory oversight, or inadequate professional training. Regardless of the cause, the onus is on healthcare professionals and institutions to ensure that patients are informed about the standard treatment protocols, methodologies, and tools recommended for their conditions.

Patients, often in a vulnerable state due to illness, may not possess the requisite knowledge to understand or question the standard of care being provided. This lack of awareness places them at risk of receiving suboptimal or incorrect medical interventions. The ethical responsibility of healthcare providers is to bridge this knowledge gap, ensuring that patients are not only treated according to the highest available standards but are also actively informed about their care.

Moreover, the scenario where a patient receives varying diagnoses from different physicians further complicates the issue, leaving the patient in a quandary about the accuracy of their diagnosis and the appropriateness of the proposed treatment. This situation highlights the need for more transparent communication within the healthcare system and stronger patient advocacy to protect individuals from potential medical errors.

Addressing these challenges requires a multifaceted approach, including stricter regulatory enforcement of medical standards, enhanced patient education initiatives, and a stronger commitment to ethical practices by healthcare providers. By fostering a healthcare environment that prioritizes adherence to established medical guidelines and transparent communication, the likelihood of patients receiving disparate levels of care can be significantly reduced.

The enforcement of consumer rights within the realm of medical services in the Republic of Uzbekistan is primarily governed by the Civil Code. The domain of medical services is inherently unique due to several distinct characteristics that set it apart from other service types. The execution of a medical service contract does not guarantee the achievement of the desired or anticipated outcome by the patient (referred to as the "customer" in this context). Several factors contribute to this variability in outcomes:

Individual Health Conditions: The effectiveness of medical services is closely linked to the physical and mental state of the patient, which can significantly influence treatment outcomes.

Diagnostic Accuracy: An incorrect medical diagnosis can lead to inappropriate treatment plans, adversely affecting the patient's health.

Medicine and Treatment Quality: The efficacy of the provided medical service can be compromised by substandard quality of medications or other influential factors.

Disease Progression: The success of medical interventions can be hindered if the treatment is initiated after the optimal window for effective intervention has passed.

Scientific Limitations: In some cases, the absence of scientifically developed methods and tools for treating a specific disease can limit the effectiveness of medical interventions.

These conditions highlight the inherent uncertainties and challenges in the provision of medical services, emphasizing the need for a robust legal framework that adequately protects consumer rights while taking into account the unique aspects of medical service delivery.

CONCLUSION

In our view, using the term "customer" to describe individuals in the context of medical service agreements, as outlined in the Civil Code, may not be fitting or reflective of the nature of medical services. It would be more accurate to refer to the parties involved in a medical service contract as "executor," "patient" (or "client"), and "third parties." Specifically, within the framework of health insurance contracts, individuals are involved both as beneficiaries of insurance services and recipients of medical services, thereby holding consumer rights in both contexts. Given that insurance companies facilitate health insurance services, and in doing so, entrust the medical care of their clients to healthcare providers, it is crucial for these companies to ensure the delivery of high-quality medical services to the insured individuals. Thus, it could be argued that insurance companies act as consumers of medical services on behalf of their insured clients. However, the legal intricacies governing the insurance market and its regulatory framework would necessitate a dedicated examination.

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