



## **SCIENTIFIC-THEORETICAL ANALYSIS ON THE CONTENT AND FORM OF THE MEDICAL SERVICE CONTRACT**

**Abdullaev Jamshid Djamilovich,**  
Doctor of Philosophy (PhD) in  
Law, "Excellence in Justice"  
E-mail: [jamshidb003fb@gmail.com](mailto:jamshidb003fb@gmail.com)

<b>Article history:</b>	<b>Abstract:</b>
<b>Received:</b> 14 <sup>th</sup> August 2024 <b>Accepted:</b> 6 <sup>th</sup> September 2024	The article provides a scientific-theoretical analysis of the content of the medical service contract, the concept of a medical service contract, the concepts of medical care, medical services, the legal nature and subject of these contracts, and describes the results of the study on the issue of the form of the medical service contract within the framework of this relationship.
<b>Keywords:</b> Medical information and consulting services, medical services, "medical care", basic terms of the medical service contract, simple terms of the medical service contract, type, quality, assessment of medical services, dental medical services, offerta in the field of medical services.	

Within the framework of the content and form of the medical service contract, the content and form of the medical service contract, the analysis of the legal relationship between the customer (patient) and the Medical Organization (executive), the protection of the rights and legal interests of the parties arising at the end of the medical service practice and the issues of mutual obligations of the Private medical institutions related to the types of medical services contractag visiting and signing by mutual agreement or Model official documents, a number of medical services: Reconstructive Plastic Surgery Practice, Aesthetic Plastic Surgery Practice, liver transplant, heart and lung transplant, kidney transplant practice, ECU (artificial insemination), YoRT (assisted reproductive technologies), surrogate motherhood, the social relationship associated with cardiac stocking and other medical services and medical practices being carried out on the basis of the parties' free and even verbal agreements on the price is studied.

Discussing the opinions of scientists on medical service contracts, as a result of scientific-scientific analysis of its classification criteria, within the scope of existing contracts in the field of Medicine:

- 1) rights and obligations of the parties to the contract;
- 2) remuneration issue;
- 3) the issue of compensation based on the quality of the medical services provided;
- 4) the satisfactory condition or death of the patient due to the fault or carelessness of the medical organization, which is considered a party to the contract after the indicated medical service;
- 5) to analyze the issue of the payment to the medical organization for quality medical services and others, to provide a legal solution to the necessary

disputed issues, should be analyzed as a function of the science of civil law.

In the process of classifying civil legal contracts for the provision of medical services, we propose to conditionally divide medical service contracts into the following groups, depending on the subject of these contracts or the medical services provided to the wider population:

**I.** The first group includes medical services contracts related to human internal organs. Such health care contracts cover liver transplantation, heart and lung transplantation, heart stocking, kidney transplant practices, and other medical practices;;

**II.** The second group includes medical care contracts related to Reconstructive and Aesthetic Plastic Surgery related to the cosmetological, facial and facial areas of a person, including appearance, beauty and body organs visible to the outside world. As an example, the reduction of the lip, ear, chest and other body organs yiki is rather related to the enlargement and other medical surgeries are understood;

**III.** In the third group, we can include health care contracts related to the treatment of the childlessness factor. Examples of contracts of this group include ECU (artificial insemination), YoRT (assisted reproductive technologies), surrogate maternal practices.

**IV.** To the fourth group, it is advisable to understand the medical service contracts related to a narrow range of diseases dentistry, ENT (Ear), Throat and other diseases;

**V.** The fifth group should include contractual relations related to analysis of the health of the patient (client), examination with the support of a computer and other electronic equipment, carried out in order to



diagnose the state of general health and in order to proceed to the next stage of complex medical care.

In the case of a contract, on the basis of the information given above, relations regarding the contract are formed on the basis of the freedom of the parties, compliance with the form and other requirements. Individuals and legal entities usually feel the need to conclude a contract due to reasons of one content or another that arise naturally. From contracting, it is usually assumed that the parties to the contract will use the service, make a profit, etc. In this regard, the contract for the provision of medical services arises on the basis of ensuring the constitutional rights of the individual to ensure his own health.

General provisions on the issues of drawing up, terminating, finding a contract invalid are established in the Civil Code. Real factors, such as the rapid development of a market economy, large-scale privatization of the economy, indicate that the method of bureaucratic command of an administrative nature, formed over many years, does not justify itself all the time. Existing contractual relations in civil law provide an opportunity for legal regulation of the content of mutual agreements arising between subjects of civil law.

For the fact that the content and form of the medical service contract are directly related to the concept of medical care, it is appropriate to cite the following points of O.Ye.Jamkova. "In order to understand the essence of the concept of medical service, it must be analyzed through its relationship with other relevant definitions used in the field of medical services for the population, in particular, "medical care", "medical work". As a result, it justifies the conclusion that the content of a medical service is determined by actions of a medical nature, which include the provision of medical care, therefore, in relation to "medical care", the concept of "medical service" is broader"<sup>1</sup> is. It should also be taken into account that medical care itself also records the meaning of support, which is mainly provided by the state. As noted above, the concept of medical services is broadly referred to the set of medical services that

take into account the existing needs of the wider population in the field of Medicine.

In scientific publications approved in the relevant order in our country, the medical services as well as the contracts for services for a fee described above are described as follows. "Medical service is a system of services provided for free or for a fee by individuals engaged in public or private practice. A contract for the provision of services for a fee is a civil – legal contract concluded on the performance of a service (making certain actions or carrying out certain activities) that is not in the material form"<sup>2</sup>. Based on the content of medical services contracts, which are agreed with the opinion of the team of authors, the main large group of this contract includes also elements of the service contract for a fee.

I.B.Zokirov's "the content of the contract is made up of its clauses (terms, props). Under current legislation, a contract is considered concluded If an agreement has been reached between the parties on all important terms of the contract in the form required in such cases"<sup>3</sup>. In medical services contracts, too, a proposal is made by the medical organization to the patient (client)for the signing of the contract, which aims to provide for the implementation of the offerta i.e. a specific medical practice. The client (patient) who has applied to the medical provider is entitled to receive oral and written explanations from the medical organization on issues not contained in the offerta clauses of the medical service offered to him. Article 367 of the CC States: "a proposal sent to one or more specific persons, sufficiently specific, and expressing the intention of the person who made the proposal to consider himself as contracted by the person to whom the proposal was made and who would accept it is an offer offer"<sup>4</sup>.

It is in paragraph 6 of Decision No. 203 of the plenum of the Supreme economic Court of December 18, 2009 "on certain issues of applying the norms of civil legislation regulating the conclusion, Amendment and termination of economic contracts"of the Supreme

---

<sup>2</sup> Civil law: textbook. Part II-team of authors. - Tashkent: tdyu publishing house, 2019. P 9-10.

<sup>3</sup> I.B.Zakirov. Civil law: textbook. Part I. Editor in charge: H.Rahmonqulov: reworked and the completed fifth edition. - T.: Tdyui publishing, 2009. P.588.

<sup>4</sup> Bulletin of the OECD, 1996., Appendix No. 2; national database of Legislative Data, No. 03/22/765/0332, P.30.06.2022., 03/22/782/0576; 08.11.2022-y., 03/22/801/0998; 25.10.2023-y., 03/23/871/0797; 22.02.2024-y., 03/24/911/0142; 28.02.2024-y., 03/24/914/0161

---

<sup>1</sup> O.E.Zhamkova. Legal regulation of the provision of medical services under the legislation of the Russian Federation. Specialty 12 00 03 — Civil law, business law, family law, private international law. Abstract of the dissertation for the degree of Candidate of Law. Moscow - 2007. P.12. <https://www.dissercat.com/content/pravovoe-regulirovanie-okazaniya-meditsinskikh-uslug-po-zakonodatelstvu-rossiiskoi-federatsii>



economic Court for Legal Regulation and the resolution of disputes in judicial practice with the correct interpretation that a contract is concluded at the time If the term of the accent is indicated in the offert, then the contract is considered concluded if the accent is received by the person who addressed the offert within the period indicated in it<sup>5</sup>. In this case, it is advisable to sign the patient personally or by his legal representative, based on the factor that the consequences of the medical service contract are significant for human health. In medical service contracts, the issue of the stage of preparation for medical analysis or treatment may also be agreed before certain types of medical service practices (for example, transplantation and artificial insemination medical services).

It is also very important to highlight the issue of the content of the medical service indication agreement. However, it should be remembered that the subject of the contract in the medical service contract is that the subject of the contract must be fulfilled, that is, there may be structural changes in the content of the contract, taking into account the features and other aspects of the medical service, which are associated with the current or periodic examination even after the provision of For example, with the contract for the provision of dental medical services, the content and clauses of the contract for the provision of cosmetological medical services are fundamentally different from each other. Because in the dental care contract, the main focus is on eliminating existing dental diseases or maintaining the tooth, as well as the installation of a new tooth (implant, mold), in the medical practice of Cosmetology, the main focus is on ensuring that the human facial area, in particular the eyes, ears and other organs, acquires a beautiful appearance. The content of the medical service agreement should be formulated based on the special features of the provision of medical services, as noted above.

In the creativity of the existing norm, in particular, in Article 10 of the law of the Republic of Uzbekistan "on the contractual and legal basis of the activities of economic entities", The Economic contract provides for the subject of the contract, the amount, quality, assortment and price of the goods (work, service) to be delivered, the terms of execution of the

contract, the procedure for, the contract must provide for the date and place of its conclusion, as well as other important conditions for such types of contracts, which are established by law or under which mutual agreement must be reached according to the application of one of the parties<sup>6</sup>. On the basis of the above law and on the basis of the analysis of existing daily practices in the issue of medical services, the following features should be covered and specified separately in medical service contracts:

- type, quality, assessment of medical care;
- term of execution of the medical service contract;
- procedure for accounting under the contract of medical services;
- the rights and obligations of the medical organization and the patient (client) of the parties to the medical service contract;
- the question of the responsibility of the parties when the contract of medical services is not fulfilled or is not properly fulfilled;
- procedure for resolving disputed cases within the framework of the medical services agreement;
- details of the parties to the medical service contract;
- the address of the patient (client) and the medical organization (legal entity) of the parties to the medical service contract;
- date of conclusion of the medical service contract, etc.

Another feature is the general importance of these aspects for the provision of medical services and can change under the influence of the factor of the subject of medical services.

Article 366 of the CC states: "if the law does not establish a certain form for certain types of contracts, the contract can be concluded in any form provided for the conclusion of transactions. A contract subject to notarization or state registration is considered concluded from the moment of notarization or registration, and when notarization and registration are necessary — from the moment of registration of the contract. If the parties have agreed to conclude the contract in a certain form, although the law does not require such a form for these types of contracts, the contract is considered concluded after it is brought

<sup>5</sup> Decision of the plenum of the Supreme Economic Court of the Republic of Uzbekistan on certain issues of applying the norms of civil legislation governing the conclusion, Amendment and termination of economic contracts; <https://lex.uz/acts/-2026051#-2026070>

<sup>6</sup> Bulletin of the OECD, 1998., No. 9, p.170; national database of legislative information, 11.03.2020., No. 03/20/607/0279; national database of Legislative Data, 21.04.2021., 03/21/683/0375; 04.08.2022-y., 03/22/786/0705; 22.02.2024-y., 03/24/911/0142



to the established form<sup>7</sup>. We believe that medical service contracts should always be concluded in writing. The individual and private aspects of the contract must be regulated by applicable health laws. However, the parties must maintain the rights to verbally conclude certain types of contracts, such as medical analysis and others, which do not cause legal consequences for their health. In this matter, the formation of a General Register of medical service contracts by a state body with the appropriate authority, a mandatory written list of contracts, as well as the approval of medical services, which can be carried out through oral agreement, as of a recommendation, makes it possible to ensure the rights and interests of citizens in the field provided by law.

"The terms (clauses) of a contract are divided into important, regular, and casual terms. The terms on the thing of the contract are the conditions that are considered essential or necessary for such types of contracts in the legislation, as well as all the conditions that must be agreed upon on the application of one of the parties, are important conditions. Important points specific to some contracts are defined by law<sup>8</sup>.

In the medical services contract, the customer, i.e. the patient, is found to be the main initiator of this contract, and in addition to the main terms, based on the principle of freedom of the contract, additional terms may be imposed according to the mutual agreement of the parties. In this case, if, within the framework of the contract of service for a fee, the customer (patient) is obliged to reimburse the customer for its value if the nominal value of the requirements is related to money. However, it should be remembered that the additional terms of the medical service contract should not deny the basic terms or, on the contrary, completely contradict it.

We will cite some points in order to find a clear answer to the issue. In field-specific scientific research, one of the Medical Services Contracts is proposed to include in the list of the main terms of the surrogate maternity contract: "a condition on the subject of the contract; a condition on the use of genetic material by itself or donor; a condition on the presence of

additional requirements for the surrogate mother and medical organization (in addition to Other terms of the surrogate motherhood agreement, such as rights of the parties, the procedure for settlement, obligations of the parties, the procedure and conditions for termination of contractual-relationship, the conditions for conducting additional medical research, etc., should be taken as simple terms of the surrogate motherhood agreement. In addition to the above, we believe that as terms of the surrogate maternity contract, the contract must cover the following within itself:

- subject of the contract;
- costs;
- contract terms;
- rights and obligations of the parties;
- types of liability;
- security and privacy rules;
- approval. To briefly dwell on these

requirements, the "subject of the contract" is the purpose of the contract concluded with the surrogate mother<sup>9</sup>. In the medical services contract, the subject of the contract is both the purpose of the parties from this Agreement and the quality medical services provided for in the medical services process.

Reflecting on the content and form of the medical service agreement, medical service by the medical organization can be provided mainly to Citizens for a fee, as well as free of charge. In the special literature published in the column of professionally qualified reviews of the Civil Code, the following comment is given: "the meaning that the contract is for a fee (evazli) is that the material presentation of one party on the basis of the contract is made an alternative to the material presentation of the other party, respectively. being paid as an alternative presentation is the most common type of contract to be paid. An alternative presentation can also take any other form. in particular, instead of the same property, other goods of equal value, property rights, material rights, as well as such forms of compensation (payment of goods) as performance of work, service can be provided. In other forms of alternative presentation than monetary presentation,

<sup>7</sup> Bulletin of the OECD, 1996., Appendix No. 2; national database of Legislative Data, No. 03/22/765/0332, P.30.06.2022., 03/22/782/0576; 08.11.2022-y., 03/22/801/0998; 25.10.2023-y., 03/23/871/0797; 22.02.2024-y., 03/24/911/0142; 28.02.2024-y., 03/24/914/0161

<sup>8</sup> I.B.Zakirov. Civil law: textbook. Part I. Editor in charge: H.Rahmonqulov: reworked and the completed fifth edition. - T.: Tdyui publishing, 2009. P.588

<sup>9</sup> J.D.Abdullayev. Improving the contractual legal regulation of surrogate maternal relations. 12.00.03-Civil Law. Business law. Family law. Dissertation written for the degree of Doctor of Philosophy (PhD) in Legal Sciences in the specialty of international private law. Tashkent-2023. B 91. H [https:// library.ziynet.uz/? search\\_by\\_name=surrogate&page=1](https://library.ziynet.uz/?search_by_name=surrogate&page=1)



remuneration takes on an equivalence property<sup>10</sup>. As part of the content of the medical service contract, it is necessary to pay for medical services, for this fee, the medical organization is obliged to carry out the medical service prescribed in the contract.

Researcher O.V.Gorbunova believes that the terms of the medical service assessment agreement may be: "the criteria for assessing the quality of medical care, taking into account the quality of medical services, must be approved at the level of the law. It seems necessary to develop and approve the standard of medical care. Cryoconservation of embryos, gametes or tissues of the human genital organs is presented in the form of storage. Determining the quality of embryo storage through compliance with the established standards of the services provided is impossible today due to the lack of regulatory rules for the provision of appropriate medical care"<sup>11</sup>. The researcher approaches the definition of basic and additional conditions in his scientific research based on the subject of his research.

N.G.Balibardina states that the content and subject of Medical Services Contracts will consist of those below: "the characteristics of the contract include: the subject of the contract - the performance of actions or measures to test the drug in order to obtain scientific evidence of the effectiveness and safety of drugs, information about the expected side effects"<sup>12</sup>.

#### REFERENCES:

1. O.E.Zhamkova. Legal regulation of the provision of medical services under the legislation of the Russian Federation. Specialty 12 00 03 — Civil law, business law, family law, private international law. Abstract of the

<sup>10</sup> .Review of the Civil Code of the Republic of Uzbekistan. Volume 1 (Part One) Ministry of Justice. - T.: "Vector-Press", 2010. (Professional (qualified) reviews). P.752.

<sup>11</sup>O.V.Gorbunova. A contract for the storage of human embryos in the application of assisted reproductive technologies. Specialty 12.00.03 – civil law; business law; family law; private international law. Abstract of the dissertation for the degree of Candidate of Law. Ulyanovsk 2020. P.17. <https://www.dissercat.com/content/dogovor-khraneniya-embriionov-cheloveka-pri-primeneniivspomogatelnykh-reproduktivnykh-tekhno>

<sup>12</sup>N.G.Balibardina. A contract for conducting clinical trials of medicines. Specialty 12.00.03 - civil law; business law; family law; private international law. Abstract of the dissertation for the degree of Candidate of Law. Volgograd – 2006. P. 16.

- dissertation for the degree of Candidate of Law. Moscow - 2007. P.12. <https://www.dissercat.com/content/pravovoe-regulirovanie-okazaniya-meditsinskikh-uslug-po-zakonodatelstvu-rossiiskoi-federatsi>
2. Civil law: textbook. Part II-team of authors. - Tashkent: tdyu publishing house, 2019. P 9-10.
3. I.B.Zakirov. Civil law: textbook. Part I. Editor in charge: H.Rahmonqulov: reworked and the completed fifth edition. - T.: Tdyui publishing, 2009. P.588.
4. Bulletin of the OECD, 1996., Appendix No. 2; national database of Legislative Data, No. 03/22/765/0332, P.30.06.2022., 03/22/782/0576; 08.11.2022-y., 03/22/801/0998; 25.10.2023-y., 03/23/871/0797; 22.02.2024-y., 03/24/911/0142; 28.02.2024-y., 03/24/914/0161
5. Decision of the plenum of the Supreme Economic Court of the Republic of Uzbekistan on certain issues of applying the norms of civil legislation governing the conclusion, Amendment and termination of economic contracts; <https://lex.uz/acts/-2026051#-2026070>
6. Bulletin of the OECD, 1998., No. 9, p.170; national database of legislative information, 11.03.2020., No. 03/20/607/0279; national database of Legislative Data, 21.04.2021., 03/21/683/0375; 04.08.2022-y., 03/22/786/0705; 22.02.2024-y., 03/24/911/0142
7. Bulletin of the OECD, 1996., Appendix No. 2; national database of Legislative Data, No. 03/22/765/0332, P.30.06.2022., 03/22/782/0576; 08.11.2022-y., 03/22/801/0998; 25.10.2023-y., 03/23/871/0797; 22.02.2024-y., 03/24/911/0142; 28.02.2024-y., 03/24/914/0161
8. J.D.Abdullayev. Improving the contractual legal regulation of surrogate maternal relations. 12.00.03-Civil Law. Business law. Family law. Dissertation written for the degree of Doctor of Philosophy (PhD) in Legal Sciences in the specialty of international private law. Tashkent-2023. P 91. H [https://library.ziyonet.uz/?search\\_by\\_name=surrogate&page=1](https://library.ziyonet.uz/?search_by_name=surrogate&page=1)
9. 9.Review of the Civil Code of the Republic of Uzbekistan. Volume 1 (Part One) Ministry of



**World Bulletin of Management and Law (WBML)**  
**Available Online at:** <https://www.scholarexpress.net>  
Volume-39, October -2024  
**ISSN: 2749-3601**

- Justice. - T.: "Vector-Press", 2010.  
(Professional (qualified) reviews).P.752.
10. O.V.Gorbunova. A contract for the storage of human embryos in the application of assisted reproductive technologies. Specialty 12.00.03 – civil law; business law; family law; private international law. Abstract of the dissertation for the degree of Candidate of Law. Ulyanovsk 2020. P.17.  
<https://www.dissercat.com/content/dogovor-khraneniya-embrionov-cheloveka-pri-primeneni-vspomogatelnykh-reproduktivnykh-tekhno>
11. N.G.Balibardina. A contract for conducting clinical trials of medicines. Specialty 12.00.03 - civil law; business law; family law; private international law. Abstract of the dissertation for the degree of Candidate of Law. Volgograd – 2006. P. 16.