



Original research article

# Status and prospects of improvement of health care in Ukraine: Legal aspects

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## Abstract

The purpose of the article is a comprehensive analysis of the current legislation of Ukraine and the scientific works of Ukrainian and foreign scientists in the field of health care. The study makes it possible to consider the realization of equal opportunities in receiving healthcare services according to the state healthcare policy. In particular, this research outlines that the state shall ensure the availability of free medical assistance and medical services. The article pays special attention to the problem of financing. It is noted that work in this direction should include two components – internal and external, which affect the factors of improving health care management. In general, due to the modern development of the medical industry of Ukraine being complicated by COVID-19 and military actions, the search for additional sources of funding for health care is becoming especially urgent. The article also analyzes how medical institutions perform their functions under the conditions of COVID-19 and warfare in Ukraine.

**Keywords:** COVID-19; Financial support; Health care; Legal support; Medical reform; Right to health care

## Introduction

The effective healthcare system is critical for the well-being of a country's population because it is a key factor in addressing health challenges, providing medical services, and promoting public health. According to the definition of the World Health Organization, the health care system is a set of activities whose main purpose is to strengthen, restore, and maintain health (World Health Organization, 2000). Health care systems (in one form or another) can be found in all countries of the world, and the more developed a country is, the more attention it pays to health care. As for Ukraine, the medical reform carried out in recent years has caused significant changes in the health care system, both positive and negative. In general, it is worth stating that the domestic sphere of health care, despite the reform, is in a protracted crisis caused by chronic political, economic, and social instability within the state. As an example, we can cite a number of major negative transformations that existed in Ukraine and that were set as a goal to overcome over the past 10 years, namely: instability and imperfection of the existing infrastructure; economic fluctuations and imbalances; the uncertainty of successive steps on the part of the state authorities and the absence of a unified policy; lack of unity when making important management de-

cisions; lack of commitment to reforms and the impossibility of quality functioning of the medical system in this connection; aging of the population and deterioration of the demographic situation; presence of a high level of social disparities; increase in the level of poverty among the population; emigration of labor and intellectual potential of the state (Ivats-Chabina et al., 2021). In addition, in connection with hostilities that covered a large part of the country, the problem of availability of services aimed at protecting the health of the population only worsened, reaching catastrophic proportions.

The modern health care system has shown its inability to withstand the following challenges: the increase in forced migration; the full-scale invasion; the need to provide internally displaced persons and combatants with medical, social, and financial support; the destruction of infrastructure; the need to treat physical injuries and mental disorders among military personnel; an increase in instances of drug and alcohol abuse; an increase in the level of antisocial behavior; and an increase in manifestations of aggression and anger among the population, etc. In this connection, Korolchuk et al. (2019) highlights the need to modernize the healthcare system taking into account these new challenges. As a result, the effectiveness of today's health care sector has the worst indicators for the entire period of Ukraine's independence. It is known that the effectiveness of the health care sector is related to the lev-

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el of life expectancy of the country's population (Borysova et al., 2019; Sarana et al., 2019;). All methods of assessment of measures aimed at preserving and restoring physiological and psychological functions, optimal working capacity, and social activity of a person at the maximum biologically possible individual life span are based to one degree or another on the life expectancy indicator. In Ukraine, the average life expectancy of both men and women is lower than the world average (including African countries). The average life expectancy of men in Ukraine is 63 years, and women 73 years. It should be noted that such a low rate is caused by a high level of premature mortality. In Ukraine in 2019, out of every thousand 40-year-old men, 343 did not live to the age of 65, while in Switzerland that number was 81, and in Poland it was 210. At the same time, the military actions carried out on the territory in 2019 did not have a significant impact on this indicator. The losses of the Armed Forces of Ukraine during this period amounted to 111 servicemen (Alliance for Public Health, 2020).

In Ukraine, a negative trend can be observed: an increase in the overall level of morbidity, and the situation is aggravated by the development of chronic diseases in the population, caused by a decrease in the number of requests for medical help and a general decrease in the availability of medical care (which is related to both the medical reform carried out in the country and military actions); a growing level of public dissatisfaction with medical care and sanitary-epidemiological examination; an increase in the number of cases of premature death and acquired disability caused by low-quality medical care, *etc.* (Vaitheeswaran, 2009). The health sector does not fully and efficiently use the resources at its disposal. Estimates of losses in the production of the gross national product of Ukraine, associated with the temporary incapacity of workers, according to various sources, range from 1.5% to 2.1% of GDP. This level of underproduction equals, on average, 50% of budget expenditures for health care (Ivats-Chabina et al., 2021).

Currently, in our country, there is a need to identify specific ways of developing a holistic concept of the development of the health care sector and solving its legal problems. The specificity of the organization of the development of the medical field during the COVID-19 pandemic and hostilities on the country's territory should be taken into account when forming the policy of the state in the field of health care and modernization of the health care system, which determines the relevance of the conducted scientific research (Improving the legislation on health care..., 2023). To date, scientists have conducted a number of studies on the issues presented in this scientific work. Thus, Romaniuk and Semigina (2018) have analyzed features of health care reform, the challenges facing it, and its rationality and feasibility. Moreover, barriers that must be eliminated to ensure the proper implementation of the basic medical services package in the conditions of COVID-19 have been identified (Edelman et al., 2021; El-Jardali et al., 2019). In addition, the impact of pandemic restrictions on the quality of medical services has been explored (Ivats-Chabina et al., 2021). Furthermore, Avila (2021) has studied the reforms of the payment system for medical services in Ukraine to increase their efficiency, *etc.* At the same time, the analysis of domestic and foreign sources showed that the systematic methodological approach to solving the problems inherent in the medical system of Ukraine under the conditions of the coronavirus pandemic and ongoing hostilities in the country is reflected at an insufficient level in modern literature, which leads to the need for in-depth scientific research on this topic.

As part of our research, the following methodology was used to fulfill the tasks, as it is based on the application of general scientific methods (systemic, system-structural, logical), private scientific methods (statistical and synergistic), and special methods (comparative and formal-legal) research.

## Materials and methods

The study was conducted using general scientific, private scientific, and special methods of scientific knowledge. General scientific methods, such as the systemic method, contributed to the analysis and further understanding of multicomponent systemic interrelationships in the health care sector. In turn, this contributed to seeing the health care system as a holistic entity where various components interact with each other; the systemic-structural method, which contributed to the analysis of the organisational structure and functioning of the health care system, which gave us the basis for characterising the structural links and relationships between various elements of the system; the logical method ensured the formulation of legal conclusions based on the analysed information and the provision of proposals for further legal developments in this area and reforms.

Private scientific methods are represented by the static method, which was used to collect and analyse statistical data in the medical field, on the basis of which the authors' conclusions on further reforms in this area were formulated; the synergistic method, which helped to understand the interaction and emergence of new phenomena in the medical system.

A special method of scientific knowledge, namely the comparative method is used to compare and analyse various aspects of health care systems in European countries, which allows us to formulate general conclusions and proposals for further improvement of the health care system in Ukraine. The formal-legal method of research allows us to analyse legal aspects, legal regulatory framework, and to identify legal aspects in the field of health care for the formation of further perspective actions.

## Results

The Constitution of Ukraine (1996) guarantees every citizen the right to health care, medical assistance, and medical insurance. To ensure this right, a health care system was created, which, from the first days of its existence, was faced with tasks that remain relevant to this day:

- ensuring all citizens can access medical care;
- meeting the needs and modern requests of the population in medical services;
- improving the efficiency of medical care and the use of resources allocated to the health care system;
- improving the quality of medical care.

In her scientific work, Kovalova (2021) notes: "Guarantees of ensuring human rights and freedoms are a set of all elements of the political, economic, domestic, cultural and other spheres that help in the realization and ensuring of human rights and freedoms. The right to proper medical care, receiving professional medical services and health care are inherent to a person from birth, it is exercised by a person every day, it is protected and ensured by the state, and has a system of protection of the right in case of its violation or encroachment."

The implementation of these tasks is carried out with the help of state financing of certain social, economic, health-prophylactic, and medical-sanitary programs. The sources of funding for health care of citizens in Ukraine are the state and local budget, funds of individuals and legal entities, including income from other sources not prohibited by law. As you know, medical field spending is an important indicator of the development of society and the effectiveness of the implementation of the state's social policy. The state, with the help of laws, determines the sources of health care financing depending on the needs of society, the type and real capabilities of the country's economy. According to the calculations of experts of the World Health Organization, if health care costs in the country are effectively developed, they should be equal to at least 6% of GDP. Ideally, this indicator should be at the level of 12% or more of GDP, which indicates the provision of modern medical care with a high level of quality to the population.

Today, Ukraine is significantly inferior to the post-industrial countries of the world in the level of financing of the health care sector. According to Part 5 of Art. 4 of the Law of Ukraine "On state financial guarantees of medical services of the population" (Law of Ukraine No. 2168-VIII..., 2023), at least 5% of Ukraine's GDP is directed to the medical guarantee program and is determined annually. However, Table 1 demonstrates that expenditures on the medical guarantee program did not exceed 4% of GDP in 2012–2021. Despite the fact that the allocated funds are not enough to ensure even the minimum necessary level of providing medical care of appropriate quality and a wide scope of these services to the entire population of the country, the Cabinet of Ministers of Ukraine is developing the Draft Law on Amendments to the Budget Code of Ukraine dated 15.09.2021 No. 6062 (On amendments to the Budget Code of Ukraine, 2021), by which the Medical Guarantee Program should be financed only within the limits of available resources.

Thus, the volume of financing of the health care sector in Ukraine is significantly lower than in European and other developed countries of the world. The low level of funding is recorded both in relative and absolute terms. This means that with regard to issues of providing state guarantees of medical care, countries with a developed market economy are more socially oriented than Ukraine. Inadequate funding is compounded by the inequitable distribution of funds allocated for medical care and services between the city and the country-

side. The administrative-territorial reform with the universal unification (consolidation) of the regions of Ukraine, as well as the final unification of the remaining local councils into territorial communities, led to the closure of a number of medical institutions throughout the country, which negatively affected the availability of medical care for the population (mainly rural). In many ways, the reform contributes to the reduction of public health indicators of the country's population (indicators of morbidity, disability, physical health, *etc.*).

The principle "money follows the patient" was the basis of the reform (Law of Ukraine No. 2469-IX..., 2021; Law of Ukraine No. 2573-IX, 2022; Law of Ukraine No. 2911-IX..., 2023). The essence of the principle was that the patient himself chooses the doctor and the medical institution, and the state pays for the services they provide. It was believed that the specified approach would contribute to the optimization of the financial mechanism and bring the general indicators of the health care system in line with the real need of the population for medical care. And the medical institutions and doctors themselves would try to provide services of decent quality in order to receive appropriate financial support. But the implemented reform provoked negative consequences. Thus, in the presence of an insignificant demand for medical services, health care institutions located in rural areas (mainly low-capacity and single-specialty inpatient institutions) did not receive adequate funding, which actualized the question of the feasibility of their existence. Consequently, citizens living in these sparsely populated areas have lost constitutional guarantees regarding the preservation of conditions for effective and affordable medical care.

Without a systematic solution to the financing problem, by attracting additional funds to this area (at least twice as much as already available), in our opinion, significant improvements in the health indicators of the population are unlikely. As for the allocated funds, they require an increase in the level of their effective development. Increased funding, as shown by international experience, is directly related to preventing future population losses due to morbidity, disability, and mortality. Today's state investments in the field of health care are future income in the form of "human capital". In the case of Ukraine, reaching the legally established financing barrier of 5% of GDP should be the first step in this direction.

Due to weak funding, the modern health care field is mainly focused on the treatment of diseases, rather than on their prevention. There is also no coordination of measures for the development of the healthcare system, aimed at improving the culture of a healthy lifestyle among the population. It is necessary to review the state policy on healthcare, with special attention to the prevention of diseases. Accordingly, it is necessary to strengthen propaganda regarding the implementation of the principle of "a healthy lifestyle – a healthy Ukrainian nation" among the masses, the need for vaccinations, and early and systematic diagnostics, both individual and collective (for example, at enterprises and organizations of various forms of ownership).

First, we consider it expedient to restore the primary links of the health care sector, which include medical institutions in remote, hard-to-reach, and sparsely populated areas. A developed and sustainable health care infrastructure is the basis for filling the current gaps between the promises regarding the health of the country's population and the real state of affairs, as well as for the early identification of the main problems in the health care sector.

Primary health care facilities will contribute to the preservation the health of the country's population since people

**Table 1. General expenditure of the Ukraine health care budget**

Year	% of GDP
2012	4.1
2013	4.2
2014	3.6
2015	3.6
2016	3.2
2017	3.4
2018	3.3
2019	3.2
2020	4.2
2021	3.9

Source: Calculated by the author based on the data of the State Treasury Service of Ukraine and the State Statistics Service of Ukraine.



who have acute health conditions do not have the opportunity to resort to central medical institutions in the shortest possible time. When carrying out medical reform, it is necessary to consider the size of the country, the state of its transport infrastructure, and the general well-being of residents of pre-retirement and retirement age.

At the beginning of 2022, there were 10.9 million pensioners in Ukraine, most of whom received the minimum pension and, quite often, do not have the funds to get to state medical institutions outside their place of residence. Thus, assistance to such persons can be provided only in the nearest state medical institutions at their place of residence (Law of Ukraine No. 2168-VIII "On the state financial guarantees of medical service of the population", 2018).

Allocation of funds for the above-mentioned institutions should be based not only on the principle of "money follows the patient", that is, be tied to the final results of the activity of the medical institution (which undoubtedly increases the interest of the staff in the effectiveness of treatment), but also take into account the need to ensure the availability of medical care for the population. In this regard, individual expenditure items should be financed independently of the treated patients. In general, in order to improve the internal efficiency of the use of financial resources, the financing mechanism itself must change. The financing mechanism should be flexible and take into account the types of medical institutions that exist in Ukraine and the services they provide.

Medical institutions can be divided into the following types, taking into account the types of services they provide:

Basic health care facilities – provide primary medical care. The provision of primary medical care is a series of medical actions, including consultation, diagnosis, and subsequent treatment of the most common diseases, including injuries and poisonings, physiological conditions, and preventive measures. As part of primary medical care, a patient may also be referred, in accordance with his or her medical indications, to receive secondary or tertiary medical care, in the event of mental or physical disorders.

Specialized health care facilities – provide secondary medical care. This includes medical assistance that is provided regardless of the declared/registered place of residence of a person in outpatient or inpatient conditions by doctors of the appropriate specialization (except family doctors) in accordance with the established plan or in emergency situations, and includes consultation, diagnosis, treatment, and prevention of diseases, injuries, poisoning, physiological or pathological (during pregnancy and childbirth) conditions; referral of the patient in accordance with their medical indications for the provision of specialized medical care from another specialization or highly specialized medical care.

Highly specialized health care facilities – provide tertiary medical care. Tertiary or highly specialized medical care is help that is provided regardless of the declared/registered place of residence of a person in outpatient or inpatient conditions in a planned manner or in emergency cases. It includes consultation, diagnosis, treatment of diseases, injuries, poisoning, pathological conditions, conducting physiological conditions (during pregnancy and childbirth) with the use of high-tech equipment and/or highly specialized medical procedures of high complexity, referral of the patient according to medical indications for provision of secondary (specialized) medical care, or tertiary (highly specialized) medical care from another specialization (Law of Ukraine No. 2801-XII..., 1992).

In our opinion, the financing of basic health care facilities should take into account the number of attached population

and the *per capita* income. In turn, financing of specialized and highly specialized health care facilities should be carried out on the basis of agreed volumes, with established permissible deviations expressed in the number of treated patients.

Secondly, it is necessary to introduce a system of mandatory health insurance. To date, this area of health care remains unregulated by law, despite the fact that during the years of independence, more than 20 specific draft laws were submitted to the Verkhovna Rada of Ukraine, which proposed the introduction of a system of mandatory health insurance. However, none of them passed the discussion stage. After the introduction of the system of mandatory health insurance, all changes in the health care field should be dictated by the need to transfer part of the functions of the governing body to the structures of the created system of health insurance with a corresponding reduction in budget funding to the level of providing only socially significant diseases, high-tech diagnostics of diseases and expensive types of treatment, as well as financing of capital investments. The administrative apparatus of the Ministry of Health of Ukraine will undergo a significant reduction. In the presence of an excessively inflated ministerial apparatus, there is no systematic control over the quality of services in health care institutions. Therefore, it is necessary to revise (or rather, to improve) the mechanism of joint activity of health care management bodies with the administration of health care institutions in terms of quality management of medical care. Currently, the problem of quality assessment is solved at the formal level: the administration is entrusted with functions related to the availability and maintenance of documentation that defines the requirements for the provision of medical services and assistance, and not to control the standards themselves.

Further medical reform should move towards strengthening the social responsibility of both the subject and the object of medical care. To a large extent, this is caused by a certain lack of political consensus regarding changes in the provisions of Art. 49 of the Constitution of Ukraine. It declares unlimited medical care, free of charge, and the impossibility of reducing the medical infrastructure for the provision of this care. Because of this, in Ukraine there is still no clearly defined scope and limits of state guarantees for providing citizens with free medical care. Therefore, the health care financing system needs to be modernized, which should provide clear, understandable state guarantees regarding the provision of medical care, better financial protection for citizens in case of illness, effective and fair distribution of resources in the field, reduction of informal payments and achievement of the main goal, which aims to control the quality of the provision of medical care, namely: so that every citizen – a potential recipient of such care – feels that the medical care is provided in a high-quality and efficient manner (Ustimchuk, 2020).

## Discussion

As part of our research, it is worth analyzing the measures introduced by the EU countries in the health care field, because this will help us to form a single correct approach for further improvement of the legal regulation of relations in the field of providing medical services. First, many European states have introduced universal health care systems, the main task of which is to provide basic standard medical services to all citizens. Such a system is financed at the expense of state subsidies, subventions, and directly at the expense of paid taxes. Health insurance is also quite common in EU countries (Po-

land, Germany, Belgium, Italy, *etc.*). At the same time, this can be purely state insurance, or it can combine state and private forms of insurance for additional coverage of costs when receiving medical services.

The legal framework of European countries in the health care field includes provisions on the inherent rights of patients, the rights and obligations of doctors and their qualifications, the licensing of providers of medical equipment and medical services, and the protection of personal data of each patient, *etc.* These measures are aimed at ensuring the quality and safety of medical services, the protection of patient privacy and compliance with ethical standards – and should become the basis for Ukraine during future reforms. At the same time, several directives regarding cross-border medical care have been developed at the EU level. A number of adopted documents contain provisions on the responsibility of medical workers on the use of relatively new procedures and technologies. Considering the most effective experience of European states in the health care field, it is necessary to emphasize that the foundation of legal support in the health care field in Ukraine should be progressive legislation. Legislation should be based on, and take into account in its structure, international norms on human rights, and consider various declarations and recommendations of the World Health Organization, the World Psychiatric Association, the World Heart Federation, the World Gastroenterological Organization, and the World Sexual Health Association, *etc.*

As part of the study, it should be noted that the basis of legal support and regulation of relations in the medical field is the Fundamentals of Ukrainian legislation on health care, dated November 19, 1992, No. 2801-XII (Law of Ukraine No. 2801-XII, 1992). This document was created to regulate the social, economic, and directly legal foundations of relations in the health care field. It aims to develop spiritual and physical forces, ensure the longevity of the population, increase work capacity, reduce anxiety among the population, and eliminate circumstances which can negatively affect the implementation of the following tasks. The document is a direct declaration of citizens' rights to health care. It is important to add that it is not only citizens of Ukraine who have the right to receive appropriate medical services, but also foreign citizens and stateless persons permanently residing on the territory of Ukraine. The provisions of the Foundations were disclosed and developed in such acts as: Law of Ukraine "On countering the spread of diseases caused by the human immunodeficiency virus (HIV), and legal and social protection of people living with HIV", dated 12.12.1991, No. 1972-XII (Law of Ukraine No. 1972-XII, 1991), Law of Ukraine "On Ensuring Sanitary and Epidemic Welfare of the Population", dated 24.02.1994, No. 4004-XII (Law of Ukraine No. 4004-XII, 1994), Law of Ukraine "On Basic Principles and Requirements for the Safety and Quality of Food Products", dated 23.12.1997, No. 771/97-VR (Law of Ukraine No. 771/97-VR, 1997), Law of Ukraine "On Psychiatric Assistance", dated February 22, 2000, No. 1489-III (Law of Ukraine No. 1489-III, 2000), Law of Ukraine "On the Protection of the Population from Infectious Diseases", dated 04.06.2000, No. 1645-III (Law of Ukraine No. 1645-III, 2000), Law of Ukraine "On Implantation of Electrocardio Stimulator", dated 14.09.2001, No. 1950-III (Law of Ukraine No. 1950-III, 2000), Law of Ukraine "On Countermeasures tuberculosis", dated 05.07.2001, No. 2586-III (Law of Ukraine No. 2586-III, 2001), Law of Ukraine No. 4565-VI "On combating tuberculosis" (2012), and others. As we can see, some laws entered into force before the Constitution of Ukraine. Therefore, some of their norms do not correspond to the constitutional ones, and

also reflect outdated approaches that prevailed in the early 90s of the last century in the health care field.

The analysis of legal acts in the health care field showed that there are currently many unsettled issues that face the heads of medical institutions, medical personnel, and in general, the entire domestic health care system of the country. Here are some of them (Alliance for Public Health, 2020):

- unsettled legal, organizational, economic, and social principles of functioning of the public health system in Ukraine;
- action plans for the implementation of the State Strategy in the field of combating HIV infection/AIDS, tuberculosis, and viral hepatitis for the period up to 2030 have not been developed;
- the functions of the relevant institutions regarding the formation of medical care standards and the development of clinical recommendations/protocols are not separated at the legislative level;
- the rights of certain categories of the population (persons who do not have documents confirming citizenship or other special status) to access the program of state financial guarantees of medical care for the population have not been implemented;
- an unregulated mechanism for the realization of the rights of persons who are in prisons and detention centers of the State Security Service of Ukraine, temporary detention centers of the National Police of Ukraine, to access the program of state financial guarantees of medical care for the population;
- there are no tools and mechanisms to protect the rights and legitimate interests of patients, in particular, from financial risks from the demand for payment for medical services paid by the state;
- the specification for the provision of medical services for the treatment of tuberculosis does not include a list of medical services and medicines necessary for the provision of services within the limits of a certain type of medical care, to which uniform specifications, procurement conditions, type of tariff and base rate are established, the payment for the provision of which is carried out by the National Health Service of Ukraine in accordance with the agreement;
- the distribution of medicines for the treatment of patients with viral hepatitis C is not regulated by law;
- liability for refusal of vaccination is not regulated;
- an unregulated mechanism for the realization of the rights of persons detained in residential institutions subordinated to the Ministry of Social Policy (geriatric institutions), in particular, to receive medical services under the medical guarantee program;
- inconsistency of the provisions of the legislation on the right to medical assistance and the right to refuse treatment;
- lack of systemic legal regulation at the level of the law on the quality of medical services and assessment of the quality of medical care;
- the algorithm for terminating the declaration at the request of a doctor providing primary medical care is not regulated;
- relations that arise in connection with the involvement and use of international technical assistance are not regulated by the specific legislation of Ukraine.

As legal forms of treatment and preventive activities continue to develop, the number of unsettled issues will only in-

crease. At the same time, while the legal basis of the health care sector in Ukraine, consisting of basic legal acts, is quite complete, it has lost its flexibility. In the process of carrying out reforms and establishing Ukraine as a legal state with the perspective of integration into the EU, the need to modernize legal relations in the field of health care is obvious (Artemenko et al., 2021). Legal medicine is impossible without medical law and modern medical legislation. To implement these provisions in the practice of medical law-making, specialists are needed who are equally well versed in medical specifics and in legal issues of the activities of medical institutions and health care management. Only the presence of these specialists will be able to raise the standard-setting activity related to the field of health care to the appropriate level. What problems can be solved by experts in legal relations in the field of health care, if the state really cares about this issue?

First, the problem is the lack of a new version of the Fundamentals of Ukrainian legislation on health care, or a new basic law (for example, the Law of Ukraine "On the Health of the Nation") in place of the 1992 Fundamentals. The updated act should define: first, the principles and limits of legal regulation of the health care sector, taking into account both foreign experience (primarily, the countries of the European Union, which will have a positive effect on the approximation and adaptation of domestic legislation to European standards), and international norms agreements, requirements, and recommendations of international organizations related to the field of health care. Secondly, that sphere of social space in which the norms of this legal act would have the most progressive and transformative effect on social life, would direct Ukrainian society on the path of protecting the health of the population and promote its development. It is worth noting that the Ministry of Health of Ukraine has developed a draft of a new version of the Fundamentals. It includes the following innovations: a clear interpretation of the definitions used in the health care field (medical care, medical services, free medical care, paid medical services, availability of medical care, quality of medical care, patient, family doctor, etc.); the vagueness and lack of definitions which negatively affect the provision of free medical care in Ukraine; separation of powers in the field of health care between the Verkhovna Rada of Ukraine, the Cabinet of Ministers of Ukraine, the Council of Ministers of the Autonomous Republic of Crimea, local state administrations, local self-government bodies and the specially authorized central executive body in the health care field; regulates the issue of introducing hospital funds as associations of citizens, the main task of which is the implementation of measures aimed at improving the medical care of its members (as well as promoting the development of health care); the issue of emergency and urgent medical care is regulated; the issue of banning human cloning is regulated. The Ministry of Health of Ukraine notes that the adoption of the new edition of the Fundamentals of the Legislation of Ukraine on Health Care will adequately ensure the constitutional rights of Ukrainian citizens on health care (Law of Ukraine No. 2801-XII "Fundamentals of Ukrainian legislation on health care", 1992). One cannot but agree with this thesis. Despite the mentioned draft law, the absence of a coherent policy in the field of health care is notable in Ukraine, which only contributes to the adoption of ill-considered decisions and dead ends when attempting to reform the health care field.

We believe that it is essential to update the healthcare legislation in accordance with the modern realities. Moreover, the issue requires a speedy solution as the legislator is paying more and more attention to legislative work in the field we are

investigating. Several projects related to the improvement of the health care sector are already under consideration by the Verkhovna Rada of Ukraine:

The Draft Law on the financial provision of health care and mandatory medical insurance in Ukraine, dated May 12, 2020, No. 3464 (Draft Law No. 3464, 2020), proposes a qualitatively new financing system. The newly created system should provide the health care system with additional and sufficient financial resources, and establish appropriate rules and financial principles for providers of medical services that can provide guarantees for equal access of all citizens to a full, necessary, and sufficient amount of medical care (medical services) of appropriate quality.

The Draft Law on the Public Health System, dated 22.09.2020, No. 4142 (Draft Law No. 4142, 2020) aims to regulate the process of creation and development of the public health system in its effective direction, which in turn will become the basis for improving the health of the population, contribute to the implementation of preventive measures against various diseases, and contribute to increasing life expectancy. We cannot fail to note that the creation of this public health system in Ukraine will also contribute to the effective use of budget funds in the framework of monitoring and surveillance of the epidemiological situation in the country, will become the basis for the correct and effective performance of local authorities' responsibilities regarding health care issues, and will also ensure the implementation of a comprehensive approach to solving urgent issues in the medical field. Moreover, the above measures and their implementation will ensure the formation of a certain public health information fund.

The Draft Law on personal protective equipment (due to COVID-19, caused by the SARS-CoV-2 coronavirus), dated 09.12.2020 (Draft Law No. 4476, 2020) is aimed at reducing the level of disease and mortality of the population of Ukraine. Moreover, it regulates the issue of using the personal protective equipment and establishes the responsibilities of manufacturers and sellers of such equipment regarding the quality of products. These measures should prevent the emergence and spread of infectious human diseases, localize, and eliminate the pandemics outbreaks.

The Draft Law on Medicinal Products No. 5547, dated 21.05.2021 (Draft Law No. 5547, 2020), which proposes the regulation of legal relations in the field of medicinal products, namely: creation, pharmaceutical development, preclinical research, clinical trials (research), quality control, state registration of medicinal products, production (manufacturing) in the conditions of a pharmacy, distance trade, appointment, use, import, wholesale and retail trade, implementation of pharmacovigilance and determination of the rights and obligations of legal entities and individuals, as well as the powers of state authorities and officials in relevant field, and harmonization of national legislation with the legislation of the European Union.

The Draft Law on Assisted Reproductive Technologies, dated 28.12.2021, No. 6475 (Draft Law No. 6475, 2021), aimed to regulate the mechanism, procedure, and conditions for conducting treatment programs of assisted reproductive technologies. The project envisages establishing (at the level of law) the legal foundations for the regulation of medical programs of assisted reproductive technologies, including the method of surrogacy (substitute motherhood), the definition of the rights and obligations of persons who conduct medical programs of assisted reproductive technologies, the conditions and procedure for donating reproductive cells, cryopreserva-



tion conditions, storage and use of reproductive cells, embryos and tissues.

Considering global trends in healthcare reform, the most effective is the process of reorganising healthcare institutions from state to municipal non-profit institutions, which are separate independent institutions with their own property that they can use and dispose of (Artemenko and Lytvyn, 2021). The introduction and expansion of private medical practice in the form of opening private clinics is also a rather effective way to reform the health care sector, but it is still advisable to control their activities by a state body (Sarana et al., 2019). In accordance with the growth of the number of private health care institutions (by the beginning of 2022, there were about 30,000 of them), there is a need to develop and adopt the Law of Ukraine “On Regulation of Private Health Care Institutions”. In this act, it is necessary to establish the rights and obligations of private health care institutions; determine the order of relations between the private health care subsystem and the state health care system; establish such norms that would stimulate the development of private health care institutions; determine the legal status of private practicing doctors; and establish the possibility of participation of institutions of the private health care system in the implementation of state guarantees in the field of health care of citizens. We agree that, at the legislative level, there should be clearly prescribed restrictions for subjects of private medical activity on the provision of medical services and medical assistance of a certain type, since the implementation of such a restriction is not only fully justified, but also a necessary measure (Kolosov and Koshova, 2021). We believe that the adoption of other laws in the health care field in our country is also necessary. One cannot ignore the absence of the following specific laws: “On the rights of patients”, “On mandatory professional liability insurance of medical workers”, *etc.*

The need for the earliest possible development and adoption of draft laws, which are already under consideration by the VRU, is due to the fact that under the current conditions, the existing legislative framework can no longer adequately ensure the regulation of new relations that arise in the field of health care. Moreover, it is worth noting that in accordance with Part 3 of Article 49 of the Constitution of Ukraine, the state must create and ensure appropriate conditions for effective access to quality health care for all its citizens. Free medical care is provided in the relevant municipal and state medical institutions. The number of such institutions and the established network shall not be reduced. It is important to add that the state should actively promote the development of healthcare institutions of all forms of ownership (Constitution of Ukraine, 1996).

In Ukraine, the independent development of three separate subsystems of health care is foreseen – state, communal, and private, and special laws regulating various aspects of the activity of these subsystems (primarily, this applies to communal and private) have not yet been adopted. Based on this, the new edition of the Fundamentals of Ukrainian legislation on health care or a new basic law (for example, the Law of Ukraine “On the Health of the Nation”) should be aimed at eliminating disunity in the existing health care system, and clear allocation of all three subsystems with determination of the priority of their state regulation. In our opinion, it is necessary to proclaim the primacy of equal opportunities for medical institutions, regardless of their forms of ownership. Apart from that, it is important to enshrine the responsibility of public authorities for the population’s health in the principles of state policy

on healthcare. Finally, the legislation should guarantee free medical services for the country’s population, *etc.*

## Conclusion

The health care system in Ukraine has many interrelated systemic problems, which are complicated by an acute shortage of material, labor and, of course, financial resources, which has already led to the development of large-scale volunteer activities in this area. However, the problems are not limited to the lack of resources. Due to bureaucratic obstacles, those finances that are directed to the field of health care are used with low efficiency. In general, the state fails to choose the right priorities of state policy in the field of health care, both at the highest level and at local levels. This points to the need for systematic and coordinated actions at all levels of government that is aimed at updating health care institutions. The health care sphere needs urgent adjustment of all legal decisions that are made in the state and that directly affect the health of the nation. It is necessary to carry out a clearly defined, political, organizational, managerial, and financial strategy of the state aimed at improving the health of the country’s population.

Legal issues should concern the adoption of a new version of the Fundamentals of Ukrainian legislation on health care, or the adoption of a new basic law (for example, the Law of Ukraine “On the Health of the Nation”) in the area we analyzed. This legal act should eliminate the existing disunity in the domestic health care system, which is especially relevant in light of the conditions of the COVID-19 pandemic and the destruction of the health care infrastructure caused by hostilities on the territory of the country. It is necessary to declare equal opportunities for medical institutions regardless of their forms of ownership, determine the responsibility of public authorities for the population’s health, provide free medical assistance and services, *etc.* Today’s challenges and the ongoing medical reform require a review of the current regulatory legislation with the aim of its improvement, including the adoption of the draft laws on healthcare and the creation of new ones.

## Ethical approval

All procedures in studies involving human participants were performed in accordance with the ethical standards of the institutional and national research committee, and in accordance with the 1964 Helsinki declaration and its later amendments or comparable ethical standards.

## Authors contributions

Authors’ contributions are equal.

## Availability of data and materials

Data is available on request.

## Consent to participate

Informed consent was obtained from all individual participants included in the study.

## Consent for publication

All individual participants agreed to be included in the study.

## Conflict of interest

The authors have no financial or competing interest to declare.

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