



MEDICAL CORRUPTION: CAUSES AND MEASURES OF COMBATING

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ABSTRACT

KEYWORDS

Corruption; medical field; anti-corruption; COVID-19

After the Ukrainian crisis, many renewal processes took place in Ukraine. One of the most important reforms was anti-corruption. The issue of medical corruption has gotten worse in the context of the global pandemic caused by Covid-19. The aim of the article is a criminological characteristic of the causes and measures to combat corruption in the medical field in Ukraine. Methodology is a conjunction of approaches, principles, and specific methods, which are used by the scientist. We used exactly those elements of the methodology that allowed us to ensure the consistency and objectivity of the combating corruption in the medical field in Ukraine study. The authors outline and characterize the main causes of medical corruption in Ukraine. Measures to combat medical corruption are proposed as follows: modernization of the model of medical field financing; commissioning of a special procedure for purchasing pharmaceuticals at public expense; overcoming the corruption component in the cooperation of pharmaceutical companies and medical workers; reforming the remuneration system of medical workers; educational activities.

INTRODUCTION

According to the Constitution of Ukraine, Ukraine is a state governed by the rule of law (constitutional state) (Article 3 of the Constitution of Ukraine), where the principle of the rule of law is recognized and effective (Article 8 of the Constitution of Ukraine) (Constitution of Ukraine, 1996). Reducing the corruption level is one of the most important and significant reforms for Ukraine today. After the Ukrainian crisis, many novelization processes took place in Ukraine. Anti-corruption reform became one of the most important reforms. The medical field was recognized as one of the main directions of the reform, as medical corruption is second only to political corruption in terms of the public danger level. Such a significant negative "key opinion leader" of corruption in this field is due to the fact that, along with management relations, it has a negative impact on the highest social value in the state – human life and health (Perelyhina & Kozyr, 2019).

Major levels of corruption in the medical field are typical for many countries in the world, as annual spending on this sector is about 4 trillion dollars. This fact is extremely attractive for corruption schemes (Reznik & Ovcharenko, 2017). Assessing medical corruption abundance is extremely complicated by the social and legal ambiguity of informal relations in this field. However, despite the latency of corruption practices in the medical field, more than 90% of the more than UAH 120 million in damage caused to the state and exposed by detectives of the National Anti-Corruption Bureau of Ukraine during investigations of corruption criminal offenses in the social sphere relate to criminal offenses in the medical field (National Anti-Corruption Bureau of Ukraine, 2020). Corruption in the medical field can be divided into the following main levels: from the patient to the doctor or other health worker; within the hospital - from the medical institutions' employee to the management of the hospital; at the state level on public procurement of pharmaceutical drugs (Bilyk & Novikova, 2016). The aim of the

article is a criminological characteristic of the causes and measures to combat corruption in the medical field in Ukraine.

RESEARCH METHOD

The right methodology selection is one of the important elements for successful research conducting. The methodology is a conjunction of approaches, principles, and specific methods, which are used by the scientist. We used exactly those elements of the methodology that allowed us to ensure the consistency and objectivity of the combating corruption in the medical field in Ukraine study. The main principles of this study were determinism, objectivity, specificity, complexity, relevance, and a combination of achievements in theory and practice. In addition, institutional and systemic approaches were used. As to research methods, its branched complex and the multilevel structure was proposed. First, philosophical methods were used: analytical, phenomenological, hermeneutic, and dialectical. Three levels in the structure of general scientific methods were defined. The first is the methods of empirical research (descriptive, comparative, generalization). The second level is represented by the methods of theoretical cognition: ascent from the abstract to the concrete and hypothetical deductive. The third level of general scientific methods is general logical methods (method of system analysis; analysis and generalization; modeling; system-structural method; abstract-logical). The last type of methods that were used are specifically scientific methods: formal-legal, comparative, statistical analysis).

RESULT AND DISCUSSION

Causes of Corruption in The Medical Field in Ukraine

First, we would like to highlight that the task of combating corruption in the medical field is particularly acute for the need to confront the global threat of COVID-19. The pandemic has forced the redirection of funds from other government needs to the medical field, and therefore the possibility of corruption has also shifted. In Ukraine, Anti-COVID-19 Fund was established. This Fund was established ad hoc to prevent the spread of this disease in Ukraine, and within 30 days from the date of cessation the quarantine. In addition to the new direction of corruption practices in the medical field, the “old” ones remained. We offer to analyze each of them.

Despite the declarative catchwords, free health care has never existed in our country. According to research, every second patient refuses treatment or postpones it due to a lack of money. Experience over the past 12 months shows that a third of those who applied to healthcare settings reported that they had not encountered situations involving informal payments or practices that could be considered corrupt. At the same time, almost every second (47.9%) clients of healthcare settings confirmed that they had to buy pharmaceutical drugs for emergency care at their own expense 40% indicate that unofficial expenses that were direct payments to doctors, managers, and other health care workers (National Agency on Corruption Prevention, 2020).

In 2020, at the request of the Kharkiv Regional State Administration, a regional study on the existence of corruption in the medical field was conducted. The study showed that improper advantage from patients or their relatives were provided for the following services: a) for obtaining a sick leave certificate or other certificates – 75% of respondents; b) for high-quality patient surgery, medical services, consultations – about 50% of respondents (in this case, the patient was assured that he was guaranteed quality pre- and postoperative care, the use of the best pharmaceutical drugs, medical devices, out of turn checkup, the best conditions of stay in a health care institutions); c) for a doctor prescribing the required medication order – 10% of respondents; d) for confirmation or concealment of certain medical facts – less than 10% (more often than not, doctors can confirm / hide the presence of maims, bodily blows, etc.); e) for halfway discharge of the patient from the hospital or, conversely, extension of his stay

– 5%; f) for the issuance of the necessary certificates of the patient’s mental health – 15%; g) for distorting the true cause of death. In this case, the size of the improper advantage is the largest in the medical field, as it may be concealment of criminal death. There are only a few such cases (Corruption in the medical sphere: eradicate, prevent, defeat, 2020). In our opinion, a change in the national approach to defining the essence and approach of financing the provision of healthcare will be able (if not completely eradicate) at least to limit corruption abusive action the part of medical professionals and patients.

The healthcare field in Ukraine is one of the lowest-paid fields and it is another issue. According to the State Statistics Service of Ukraine, the average wages of medical professions are about 224 Euros, less received only in the field of temporary accommodation (hotels) and catering – 221 Euros (Radio Liberty of Speech, 2021). Low wages are combined with high liability for human life and health and the possibility of infecting COVID-19. All of this also increases the tension within the medical system. All these reasons led to the mass lay-offs of qualified health workers in 2020 and the need to review the health workers’ level of wages. At the same time, the promises of officials about a significant increase in the level of material security, unfortunately, were declarative. After all, as always, the bureaucratic component intervened, because from April 1, 2020, hospitals began to get the financing from the budget institution– the National Health Service of Ukraine, with which hospitals directly executed contracts. So, if previously the source of funds were government subsidies, which were distributed by region according to the number of places in hospitals, now the money is charged by the National Health Service for specific services provided. The issue of upgrading and rebooting the Soviet-style health care system is long overdue. One of the key directions of such an update was the introduction of compulsory state social health insurance. Compulsory state social health insurance will be an effective and forceful means to cover the costs of treatment, prevention, aftercare in case of ill ileum or accident. At the same time, despite the glaring urgency of this issue at the regulatory level, it is still not regulated. Several legislative drafts exhibited to the Verkhovna Rada of Ukraine, however, none of them has been adopted yet. According to S. Kozmenko and I. Okhrimenko, the main issue hindering the adoption of the law final version is the lack of a holistic comprehensive approach to reforming the modern mechanism of financing the domestic health care sector based on compulsory health insurance (Kozmenko, 2012).

The experience of one of the former socialist states, the Republic of Poland, has been demonstrative in introducing compulsory health insurance. According to the Law on Compulsory Health Insurance, from January 1, 1999, every citizen pays a compulsory insurance premium, which is compensated by a corresponding reduction in income tax, which means a reduction in state budget revenues by contributions to compulsory health insurance. Initially, this contribution was paid in the amount of 7.5% of gross income, and since January 2001 - in the amount of 7.75% of this indicator. Specified funds are accumulated by the Pension Fund, which apportioned them among the 16 fully autonomous regional (at the level of each of the provinces) and 1 departmental (designed to waiting for military population, police, and employees of other paramilitary formations) compulsory health insurance funds (16 regional) and 1 branch of the so-called “sick pay”). Herewith, each of the patients has the right to choose the patient’s health insurance, which is limited to one of two possibilities. However, most commonly, the choice is limited to the regional fund of patients in the territory of residence of the insured. Unemployed members of the contributors’ families are also considered the insured. Retirees pay a contribution from the pension they receive. The unemployed during the period they receive state unemployment assistance, independently pay the insurance premium for this benefit, which is considered income, and after the termination of benefits, the cost of medical services provided to them is covered by the budget. For health care provided by persons without a specific place of residence not covered by the system of compulsory medical insurance, the

fee is paid from the budgets of the lowest level of self-government at the request of the relevant medical service providers (*The Experience of European Countries in Financing Healthcare Lessons for Ukraine*, 2021).

We are positive that improving the health care of all persons involved in health insurance through the introduction of health insurance as an independent system of commodity-market relations in the medical field is a priority of the modern health care system of Ukraine. The implementation of compulsory insurance in our country should be based on the attachment of the insured person to a certain territory served by the insurance institution, at the same time, it is necessary to determine the procedure for providing transfers to certain territories to equalize the financial capabilities of different regions (Danyl'chenko, 2017). All of this will remove the corruption component in the relationship between the health worker, as a subject of medical services and the patient, as a person receiving such service or third parties (relatives of the patient).

Measures to Combat Corruption in The Medical Field in Ukraine

As to the areas of combating corruption in the medical field, we propose to apply a comprehensive approach, which will include several main directions. First, Ukraine for a long period of time had an outdated command-and-control model of health care inherited from the Soviet Union. Health care facilities were budget institutions and were owned by the state or local communities. Estimates of the revenues and expenditures of these health care facilities were approved by the same authorities in which they were located, consequently, the authorities are encouraged to act in the interests of the institutions concerned and not in the interests of the individual patient. These institutions were financed according to a strict itemized budget based on outdated infrastructure standards. This deprived health care managers of managerial flexibility and motivation to improve outcomes (Reform, 2016). Therefore, the Ministry of Health has started funding the medical field so that every Ukrainian can receive quality medical care. Thus, under the Law of Ukraine "On State Financial Guarantees of Medical Care" from January 1, 2020, the implementation of state guarantees of medical care under the program of medical guarantees is carried out for all types of medical care through the authorized central executive body implementing state policy in the sphere of state financial guarantees of medical care – the National Health Service of Ukraine. Institutions operating in the form of a municipal non-profit enterprise will be able to sign an agreement with the National Health Service of Ukraine and join the program of medical guarantees under the Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine to Improve Legislation on Health Care Institutions". The creation of this executive body will remove the corruption component in the distribution of budget funds in the financing of certain health care facilities. It is possible because the National Health Service as a strategic purchaser analyzes the needs of citizens in medical services, determines the most effective methods of payment for various types. services, as well as select those medical institutions that can provide safe and quality care. With direct contracts with health authorities, the National Health Service can respond quickly to what happens with the provision of services. This is a particular advantage for countries in difficult situations, such as the COVID-19 pandemic.

By now the National Health Service of Ukraine has entered contracts for the patient's care management with COVID-19 and suspected case with 25 emergency medical care centers, 316 inpatient care authorities treating patients with COVID-19, and 935 medical authorities, in which mobile teams are formed, and go to people with a suspicion of COVID-19 (these authorities employ almost 1,600 mobile teams). Payments from the National Health Service were also received by 151 health care facilities that provided institutional care to patients with COVID-19 in April, but were not included in the list of hospitals designated for hospitalizing (*Government Portal*, 2021). Now, therefore, the first step towards the transformation of the

medical field into a service field is considered successful. Organizational innovation will really serve to eliminate the corruption component in the distribution of funding in the medical field.

Secondly, it is important to implement maximum publicity during public procurement procedures of pharmaceutical drugs. The field of public procurement has always been the most attractive for corruption practices. Due to non-transparent and inefficient public procurement procedures, a significant amount of budget allocations is spent with numerous violations. A significant number of violations are accompanied by public procurement procedures of pharmaceutical drugs and medical devices, which are a special subject of public procurement, as the quality of purchased drugs depends on the health and even life of people (Tarasenko, 2016).

According to experts, the annual losses from corrupt abuses in public procurement amount to 10-15% of the state budget expenditure, or UAH 35-50 billion (Ivanov, 2014) A similar situation is typical of most post-Soviet states. Thus, according to a survey by EU representatives, up to 40% of the budget of all public procurement in Moldova settles in the pockets of corrupt officials. In this country, the most prone to corruption is the purchase of pharmaceuticals and medical equipment (Surzhiu, 2019).

In Ukraine, corruption offenses in the field of public procurement take place both by managers of public funds and by bidders. The most common abuses are the intentions of customers to purchase goods from a certain predetermined manufacturer. In turn, this result can be achieved both by avoiding competitive procurement procedures and by giving an undue advantage to one of the bidders (Melnikov, 2016).

In order to eliminate the corruption component during the procedures of public procurement of medicines, in 2015 the Ministry of Health of Ukraine began to carry out centralized procurement of medicines at public expense through international organizations. According to the Accounting Chamber of Ukraine, the new effective and transparent procedures have saved up to 40% of budget money and purchased some drugs ten times cheaper. The effectiveness of international procurement as opposed to procurement through the Prozorro system (online public procurement) is shown by local tenders: regional oncology dispensaries and government agencies purchase drugs up to 300% more expensive than international organizations (according to the results of monitoring drug procurement for cancer patients).

At the end of 2018, the State Enterprise "Medical Procurement of Ukraine" was established to make the most transparent procurement of medicines. This agency should become the main purchasing organization and ensure transparent, high-quality and timely supply of drugs (Ministry of Health of Ukraine, 2020). The task of the State Enterprise "Medical Procurement of Ukraine" is to facilitate the verification of needs, based on statistical and demographic data, taking into account the data provided by the regions on the type of disease, its severity, patient weight, age, etc. This year, for the first time, the need for expensive drugs is formed individually, taking into account the specific medical data of each seriously ill patient. Verification allows to form an objective and realistic need by regions and to purchase only those drugs and in the quantity in which patients really need. At the same time, despite the generally positive dynamics, there are still some delays and problems in the interaction between the Ministry of Health and the State Enterprise "Medical Procurement of Ukraine". Thus, to ensure the uninterrupted supply of medicines, the order of the Ministry of Health from February 28, 2020 brought to the State Enterprise "Medical Procurement of Ukraine" 14 areas of prevention, treatment and diagnosis. However, due to the delay by the State Enterprise "Medical Procurement of Ukraine" in preparing documents for competitive bidding, such bidding did not take place and were postponed for 46 names of drugs for cancer patients (*Ukrainian Pravda*, 2020).

Third, it is important to overcome the corruption component through the cooperation of pharmaceutical companies and doctors. It is a common situation in Ukraine when a doctor prescribes a specific drug, guided not by the interests of the patient, but by the selfish purpose of receiving gifts or illegal benefits from employees of pharmaceutical companies. In Ukraine the activities of medical sales representatives of pharmaceutical companies are widespread. Their communication with HCPs occurs regularly, but it is carried out in a legal vacuum, without any law regulation. Experts note that, as a rule, medical sales representatives are not perceived by doctors as high-level professionals, carriers of new knowledge about medicines (Gutorova et al., 2019).

This is unacceptable in the European Union, as Directive 2001/83 / EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use contains provisions on how to inform doctors of medicinal products. Paragraph 47 of the Preamble to the Directive states that the advertising of medicinal products to persons qualified to prescribe or supply them contributes to the information available to such persons. Nevertheless, this advertising should be subject to strict conditions and effective monitoring, referring in particular to the work carried out within the framework of the Council of Europe. And paragraph 50 of the Preamble to the Directive states that persons qualified to prescribe medicinal products must be able to carry out these functions objectively without being influenced by direct or indirect financial inducements. The direct prohibition of gifting or excessive hospitality for doctors is set out in Art. 94 of the said Directive, according to which where medicinal products are being promoted to persons qualified to prescribe or supply them, no gifts, pecuniary advantages or benefits in kind may be supplied, offered or promised to such persons unless they are inexpensive and relevant to the practice of medicine or pharmacy (paragraph 1). Hospitality at sales promotion events shall always be strictly limited to their main purpose and must not be extended to persons other than health-care professionals (paragraph 2). Persons qualified to prescribe or supply medicinal products shall not solicit or accept any inducement prohibited under paragraph 1 or contrary to paragraph 2 (paragraph 3). Existing measures or trade practices in Member States relating to prices, margins and discounts shall not be affected by paragraphs 1, 2 and 3 (paragraph 4) (Directive 2001/83, 2001).

To combat this type of corruption in the medical field, the Ukrainian government has launched an "Affordable Pharmaceutical Drugs" program. Under this program, patients with cardiovascular disease, asthma, or type II diabetes can receive pharmaceutical drugs free of charge or at a small additional cost. The peculiarity of this program is that doctors, when prescribing, do not indicate the trade name of the pharmaceutical drugs, but the active substance – the non-proprietary name. The pharmacy offers the patient several brands that contain the active ingredient specified in the prescription and the patient decides which brand to buy. This procedure minimizes medical lobbying of certain brands of pharmaceutical drugs.

In addition, in 2020, the Ministry of Health of Ukraine also approved the National List of Pharmaceutical Drugs – a short list of essential pharmaceutical drugs with proven effectiveness, access to which the state guarantees to all patients free of charge during inpatient treatment. The national list includes the names of international non-proprietary names of pharmaceutical drugs recommended by the World Health Organization for the treatment of the most common and most dangerous diseases. Currently, this list contains 427 actual substances. Therefore, from January this year, healthcare settings must first purchase pharmaceutical drugs according to the National List, and only after that each healthcare setting can and has the right to purchase the necessary pharmaceutical drugs that are not included in it. At the same time, healthcare settings should not buy specific trade names of pharmaceutical drugs. This rule makes the tender process– it allows bidding to buy effective pharmaceutical drugs at a lower

price, because all pharmaceutical manufacturers who have such pharmaceutical drugs can bid and offer a lower price (*Ukrainian Pravda*, 2020).

Fourth, it is important to reform the remuneration system for healthcare providers. The second stage of medical reform in Ukraine started on April 1, 2020. Traditionally, the salary system of healthcare providers has been established in terms of categories: doctors, nursing staff and medical attendants, administrative and service staff. The salary system of doctors was based on the establishment of a scheme salary, a system of promotions, and allowances. The schematic salary depends on the position (surgeon, resident, or doctors of other specialties), considering the qualification category. Salaries also depend on the location of the healthcare setting (Kemarska, 2015). At the same time, the new medical reform stipulates that those who work harder, who are chosen by patients, will receive more money for the specific work performed. That is, being a mediocre hospital or mediocre specialist will be unprofitable, because there will be no fixed salary, and the patient will have a choice – and will go for a consultation or a planned operation to the specialist he chooses, whom he considers the best. And the National Health Service of Ukraine will pay for the medical service provided to the hospital of the patient's choice.

In addition to medical reform, in 2020 the medical system of Ukraine faced another acid test – the COVID-19 pandemic. At the regulatory level, the issue of remuneration of medical and other employees of healthcare settings was settled on March 23, 2020, № 246 in the resolution of the Cabinet of Ministers of Ukraine "Some issues of remuneration of medical and other employees directly involved in the elimination of acute respiratory disease COVID-19 caused by the coronavirus SARS-CoV-2". This document established for the period of implementation of measures aimed at preventing the occurrence and spread, localization and elimination of outbreaks, epidemics and pandemics of acute respiratory disease COVID-19 caused by coronavirus SARS-CoV-2 determined by the Cabinet of Ministers of Ukraine spread on the territory of Ukraine of coronavirus disease (COVID-19), until the completion of these measures is an additional surcharge of up to 300 percent of salary (salary with increases), taking into account the statutory mandatory surcharges and allowances: in health care facilities, who provide medical care to patients with coronavirus disease (COVID-19) and have concluded an agreement on medical care under the program of state guarantees of medical care according to the relevant list and scope of medical services with the National Health Service, medical and other employees who directly busy and on the provision of medical services to patients with coronavirus disease (COVID-19); medical and other employees of emergency and disaster medicine centers involved in responding to coronavirus cases (COVID-19), and entered into a contract for medical care under the program of state guarantees of medical care according to the list and scope of medical services with the National Service health; in public health facilities identified in the decisions of the relevant central executive bodies for the provision of inpatient care for patients with coronavirus disease (COVID-19), medical and other workers who are directly engaged in the provision of medical care to patients with coronavirus disease (COVID-19). These surcharges are made at the expense of funds received by healthcare facilities per contracts for medical care under the program of state guarantees of medical care according to the relevant list and volume of medical services concluded with the National Health Service and local budgets (Some issues of remuneration of medical and other workers directly involved in the elimination of acute respiratory disease COVID-19 caused by coronavirus SARS-CoV-2, 2020).

Afterward, to incentivize health professionals and overcome the level of layoffs that arose after the pandemic, on June 19, 2020, the Cabinet of Ministers of Ukraine adopted Resolution № 610. In this document, the Cabinet of Ministers of Ukraine established from September 1 to December 31, 2020, medical and other employees of communal health care facilities (except for doctors and / or primary care teams) and health care facilities belonging

to the Ministry of Health that provides medical care to patients with acute respiratory disease COVID-19, caused by the coronavirus SARS-CoV-2, and providing livelihoods: 1) doctors (regardless of position) in the amount of 70 percent of the salary determined by the 14th tariff category of the Unified Tariff Grid; 2) specialists who meet the qualification requirements approved by the Ministry of Health in the amount of 50 percent of the minimum wage established in Article 8 of the Law of Ukraine “On the State Budget of Ukraine for 2020”; 3) assistant nurses in the amount of 25 percent of the minimum wage established in Article 8 of the Law of Ukraine “On the State Budget of Ukraine for 2020. However, co-payments under this document are already made at the expense of funds allocated in the prescribed manner from the Fund for the control of acute respiratory disease COVID-19 caused by coronavirus SARS-CoV-2, and its consequences (Some issues of remuneration of medical and other employees of health care institutions, 2020). Thus, the new approach to the remuneration of medical professionals will become an important element in preventing corruption in the medical field.

Fifth, it is important to carry out various educational and explanatory measures on the inadmissibility of tampering doctors. This task is exceedingly difficult because our society has historically been accustomed to thanking doctors. We are accustomed to age-old traditions *ut des* (I give for you give). Overcoming this factor in practice is the most difficult because it is necessary to change not only the law but also the mentality of the people, which, of course, requires a huge amount of time and constant targeted influence, which in today's reality is extremely difficult (Bondarenko et al., 2018). Reforming consciousness and forming an appropriate level of legal culture is a complex and time-consuming process. Expecting satisfactory results only by imposing strict bans is certainly not effective. What is important is a comprehensive, balanced approach, a key place in which is the education of legally conscious youth, for whom the provision of illegal benefits will be not just an anti-legal, but completely unacceptable phenomenon.

CONCLUSION

In summary, we believe that tackling health corruption requires a combination of legal and other social efforts. Only in this case can we hope for real success. We suppose that the mixing of medical and anti-corruption reform measures will be able to ensure the real overcoming of corruption in the medical sphere in Ukraine.

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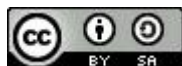
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