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COMPATIBILITY OF CONSUMER RIGHTS WITH PATIENT RIGHTS IN MEDICAL SERVICES

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CONCEPTUAL RESEARCH GUIDELINES

Relevance and importance of discussed topic. It is certain that the protection of human health is a matter of the utmost importance to mankind, hence the due attention given everywhere at the present stage to theoretical and practical issues, aiming at the fundamental rights and freedoms of the beneficiary of medical services. Addressing the issue of the rights of the consumer of medical services involves taking into account a wide range of issues and implications of a political, economic, cultural nature, as well as the particularities of historical development and stages of development.

The reasoning regarding the application of consumer status in relation to health services derives from two completely opposite views. First of all from a protectionist perspective, which refers to the use of consumer law to protect patients, beneficiaries of health services, ie a legal instrument of guarantee, a set of public policy rules that allows the weakest part of the a contractual relationship to be regulated by the normative provisions, and on the other hand, from the perspective aimed at introducing the health sector in a market logic, by the same conception. We believe that this approach is not directly related to the objectives of the state, as its objectives are openly different, so that the latter approach can be extremely difficult from a practical point of view.

In this regard, it is necessary to approach this research topic from two perspectives, which will be confronted in conclusion to determine the compatibility or rejection of the existing legal regimes governing patient rights as a consumer.

First of all, it is required to carry out a study on consumer rights and consumer status, relatively recent issues in national legislation, and in order to consolidate an in-depth study of the subject, it is necessary to know the general health system of the Republic of Moldova. a quick and concise analysis of its evolution in the 1990s.

Indeed, one of these transformations is related to the participation of individuals in the provision of public services and which gave way to the liberal economic model that was separated from the interventionism that our state had preached until then. The entry of individuals in this broad sphere, integrated by the provision of public services, also sheltered the health sector, being favored by the competition that generated a better quality of services.

The variety, but also the ever-increasing complexity of health systems, the high level of bureaucracy, as well as technological progress in medicine, awareness and information about their health needs, progress in medical ethics, are just some of the factors that have influenced the recent concern for regulating patients' rights.

In other words, it can be said that the issue of research visits refers to the clarification of the situation regarding the possibility of applicability of Law 105/2003 on consumer protection in order to protect consumers of health services, given that the concept of patient is equivalent to the consumer of this type of services. In this regard, it is worth asking whether there is legal certainty for the consumer of health services, in terms of legal and contractual protection.

Regarding the degree of study of the research topic, we mention that, although the issue of determining the compatibility of consumer rights with patients' rights in medical services concentrates a whole series of specialized works, the approach is punctual, lacking a global and multidisciplinary approach. the mechanisms and strategies by which this concordance of the institutions concerned is investigated. In these conditions, within the chosen research topic we aimed to deepen the issue of the evolutionary position of the beneficiaries of medical services in relation to the position of the providers of such services, especially of the doctor. Without claiming that we have completely dissected and exhausted this topic, we are convinced that the study of the topic at this time is doctrinal, very broad and well structured, serving as a starting point for further research of the topic, according to the structured plan.

Carrying out a study on doctoral theses in the Republic of Moldova for the years 2019 - 2000, we can mention tangents of our research topic with other works such as: Gulian M. "Responsibility and legal responsibility in the field of health care", we also mention that the topic lies in the conceptual formalization of the novelty elements at national level. Among the local authors who have dedicated scientific papers to consumer protection are: V. Cojocaru, A. Baieșu, O. Plotnic, D. Cimil, I. Demerji and others. In the legal doctrine of the Republic of Moldova is indisputable the contribution to the study of liability in the medical field of Prof. D. Baltag, V. Obadă, M. Gulian, A. Cerbu, B. Olaru, I. Dodon, T. Novac-Hreplenco, N. Sadovei, I. Garam., T. Vîsoțcaia. Medical liability has been treated in the Romanian legal literature by the authors A.T. Moldovan, G. Năsui, R. Ozun, E. Poenaru, I. Turkish, A.B. Trif, V.A. Astărăstoae C. Etco, V. Midrigan, L.R. Boilă, A.C. Boilă, A. Faigher, etc.

At the same time, it should be mentioned that there is no complex study that would address this interdisciplinary issue, which would analyze patients' rights and how to protect them in terms of consumer protection legislation, which led to research in this area.

The aim of the paper is to conduct a multi-faceted research on the compatibility of consumer rights with patients' rights in medical services, in terms of elucidation, subjects, legal basis and legal means of protection related to medical services, and the impact of consumer law enforcement, in order to develop effective measures to improve the legal and practical framework in the field of research.

Research objectives.Achieving the proposed goal involves achieving the following objectives:

1. analysis of the historical and philosophical-legal evolution of the institution of the institution of medical services;
2. elucidation of doctrinal approaches in the matter of the rights of the beneficiaries of medical services;
3. scientific presentation of the beneficiaries of medical services through the prism of legal terminology by identifying the subjects of the health care system in both the public and private domain;
4. the legal approach of the rights of the beneficiaries of medical services within the health care system through the prism of the public and the private system;
5. comparative analysis of consumer protection legislation as beneficiaries of medical services;
6. determining the extrajudicial modalities for resolving disputes in the field of medical services by analytically presenting the characteristics of liability for violation of the rights of consumers of medical services;
7. study of the jurisprudence of the ECtHR regarding liability for violation of the rights of consumers of medical services;
8. formulating conclusions and elaborating recommendations for improving the legal and practical framework in the field of applying legal liability in the field of medical services.

Research hypothesis consists in reformulating the notion of patient and service provider, highlighting their particularities and forms, from the double perspective of the theoretical-practical analysis of the subject subject to research through the prism of consumer legislation and medical

services. By submitting the research hypothesis, we aimed to ascertain the current situation regarding the legal liability of service providers for violating the rules for the provision of medical services, this being possible by studying existing practical cases in the field including legislative gaps, for to finally formulate recommendations and proposals of lege ferenda to improve the situation in the field of research.

Synthesis of the research methodology and justification of the chosen research methods. In order to carry out a multi-faceted research on the compatibility of patients' rights with those of consumers, different scientific research methods were used:

- *the historical method,* which was used to research the historical and philosophical-legal evolution of the institution of medical services;
- *the logical method,* being indispensable in the study and analysis of notions, forms of responsibility in the field of medical services, as well as the formulation of conclusions and recommendations;
- *the method of systemic analysis*, with the help of which the basic concepts relevant for the research field were structurally analyzed; - the method of examination, which allowed us to study the legal practice regarding liability for breaches of the rules on consumer protection in the field of medical services;
- *the comparative method,* with the help of which an analysis of the national legal framework was made in relation to the regulations from other states regarding the protection of the rights of the beneficiaries of medical services from Romania, Spain, France, Russian Federation, USA, etc .;
- *the quantitative method,* which facilitates the systematization and recording of legislation and legal-scientific information with reference to the rights of consumers of medical services;
- *the forward-looking method,* used to identify the most effective ways to optimize legislation and improve its enforcement mechanism in the field of protection of the rights of consumers of health services;
- *the pedagogical and statistical method,* which allowed a scientific research of the issue;
- *the method of synthetic / generalizing analysis*, which consists in formulating general conclusions and proposals of lege ferenda in order to improve the national legislation

regulating the particularities of the protection of the rights of consumers of medical services, etc.

The novelty and scientific originality of the thesis, as well as the results obtained consist in addressing the phenomenon of compatibility of consumer rights with patients' rights from the perspective of theoretical and practical research of all factors and circumstances relevant to the research topic. The innovative elements are determined by the recommendations formulated to close the existing gaps in the national regulatory framework related to the institution of consumer protection as beneficiaries of medical services, being offered improvements and proposals of *lege ferenda* in this regard.

The novelty elements are manifested by the following fundamental theses:

1. *the wording of the notion of service providers in the broadest sense in the following sense: service providers are to include public law institutions,* or according to art. 1 of Law no. 105/2003, service providers are only private entrepreneurs, which to be adapted for the field of medical services;
2. *elucidation of the notions of patient of medical services through the prism of art.1 of the Law on the rights and responsibilities of the patient 263/2005* with the completion of the phrase in the following formula: patient is any natural person ... [the wording of the law is kept] .. ., and who enjoy the rights of compensation as a consumer of medical services according to Law no. 105/2003*;*
3. *the settlement of disputes in the field of medical services or divergences which arise in medical institutions by extrajudicial means, namely with the involvement of state bodies or through the use of alternative methods of dispute settlement,* namely through mediation;
4. *the extension of the legal liability for the violation of consumers' rights as beneficiaries of medical service as a distinct form of liability in the medical field,* with the necessary adjustments to the Law on Patient's Rights and Responsibilities no. 263/2005 by completing art. 5 letter q) would regulate the patient's right to be compensated not only for health damages, but also for material damages incurred according to art. 32 of the Law on consumer protection no. 105/2003.

The results obtained that contribute to solving the important scientific problem lie in demonstrating the compatibility of consumer rights with patients 'rights from the perspective of theoretical and practical research, by nuanced the importance of consumer protection and

highlighting patients' rights through consumer legislation, elucidating particularities and forms for violations in the field, as well as the formulation of recommendations and proposals for the law ferenda aimed at improving the field of regulation of consumer rights and the efficient use of patient rights in the context of medical services.

Theoretical significance: the theses, conclusions and recommendations on the subjects, the legislative basis and the legal means of consumer protection as patients in terms of the specific responsibility in the field of medical services complete the theoretical basis of this institution. In the Republic of Moldova there are a small number of scientific papers, which would focus exclusively on liability for violation of consumer rights as patients, except for a modest number of scientific articles or certain paragraphs exposed in textbooks and university courses.

The applicative value of the paper is determined by the possibility of applying in practice the conclusions and recommendations formulated, the theses of the study being useful in substantiating and guiding strategies aimed at highlighting methods and means of consumer protection as a final goal of this paper. The scientific ideas and conclusions contained in the thesis can also be used: doctrinally-theoretically, as initial material for a further in-depth approach to the issue of consumer protection as patients, in the university teaching process on medical law, namely liability for breach of patients' rights.

The implementation of scientific results consists in the fact that the recommendations formulated serve, mainly, for the elaboration of study programs, courses in the discipline of Consumer Protection Law and Medical Law, in the improvement of specialists in the field and in the harmonization of the legislation in the field of consumer protection.

The theoretical-methodological and practical results elaborated in the paper were reported to the national and international scientific-practical conferences such as:

- International Scientific Symposium of Young Researchers Ed. XVI from April 27-28, 2018, ASEM, Chisinau;

- National Scientific Conference with international participation Integration through Research and Innovation, November 8-9, 2018, USM, Chisinau ,;

- Eurint International Conference 2018, Alexandru Ioan Cuza University, Iași; EUFIRE International Conference 2018, Alexandru Ioan Cuza University, Iași;

- National Conference on Law and Economics in Transition Countries, 25-26 October 2018, Baku, Azerbaijan;

- International Scientific Conference "Competitiveness and Innovation in the Knowledge Economy" September 27-28, 2019, ASEM, Chisinau;

- International Interdisciplinary Scientific Conference "Neuromarketing: new approaches in knowing consumer behavior", November 21, 2019, ASEM, Chisinau.

Publications on the topic: The results of the paper were published in a number of 12 scientific papers. The author contributed to the modification of the legal framework characteristic of the protection of the consumer of medical services.

Approval of results. The thesis was developed within the Department of Private Law, Doctoral School of Law, Political and Administrative Sciences of the Consortium of Educational Institutions Academy of Economic Studies of Moldova and the University of European Political and Economic Studies "Constantin Stere" The main aspects of the research were approved in publications and communications presented at national and international scientific conferences.

Volume and structure of the thesis: introduction, four chapters, general conclusions and recommendations, bibliography of 297 titles, 198 pages of basic text, 4 figures, 5 tables. The obtained results are published in 12 scientific papers.

Keywords: rights, protection, medical services, beneficiary, patient, consumer, service provider, civil liability, compatibility.

THESIS CONTENT

The doctoral thesis consists of Introduction, annotations in three languages, 4 chapters, Conclusions general and recommendations, as well as Bibliography. The **INTRODUCTION** presents the general characteristic of the paper, argues the topicality of the research topic and object, determines the main object and purpose of the doctoral thesis, its scientific novelty, indicates the empirical basis, methodological and theoretical-scientific support, informative basis, theoretical importance and practice of the paper, the essential theses for support are formulated.

The first chapter entitled **"ANALYSIS OF THE INSTITUTION OF MEDICAL SERVICES UNDER DOCTRINAL ASPECT"** has a doctrinal and theoretical character. It is divided into four sections. In **compartment 1.1. Doctrinal approaches in materials to the rights of beneficiaries of medical services** was analyzed the place and role of beneficiaries of medical services in their relationship with health care providers in terms of evolution, demonstrating the evolutionary nature of the patient-physician relationship, and the growing role of the passive actor, the patient , in this relationship. This study was based on the analysis of the historical and philosophical-legal evolution of the institution of medical services, the research of doctrinal approaches to the rights of beneficiaries of medical services through the prism of contemporary philosophical doctrines and currents supported by a characteristic of Marx K.'s philosophical views. , Hippocrates, Aristotle, Socrates, T. Szasz, M. Hollender, Ludwig Edelstein C. Singer, N.K. Jewson, Láín P., Freud S., Breuer J., Gracia D., Percival T., Shorter E ..

Section **1.2 The historical and philosophical-legal evolution of the institution of medical services** has been devoted to doctrinal reflections on the rights of beneficiaries of medical services through the prism of contemporary philosophical doctrines and currents. Presenting the evolution of the doctor-patient relationship from paternalism to autonomy and then to a kind of partnership, we note that all these changes are positive, the author realizing after the research an axis of evolution of the patient-doctor relationship, presented in fig.1. The author found that the patient is no longer a passive subject, but an interlocutor who must have at his disposal all the necessary data, this information comes from his doctor, the only professional figure able to do so. From a legal and deontological point of view, informing the patient is a right of the patient and a professional obligation of the doctor. In some countries, the quality of information given to patients is one of the criteria for accreditation of hospital institutions. Last section 1.3. The purpose, objectives, scientific problem concerns the formulation of the research **problem and the**

directions for solving them. The concept of the patient's condition as a consumer opens up in different legal systems, not as a synonym for the economic privatization of the care relationship, but rather as a legal instrument of empowerment in the service of the patient. This, logically, implies a radical change in the ancestral way of understanding the clinical relationship, once it has been affected by medical, fiduciary and beneficiary paternalism. The patient is considered an accumulation of situations in which he tends to become a consumer of medical services, and the doctor tends to be more and more similar to a simple service provider. Respectively, from the point of view of the mentioned situation, it is necessary to determine the place occupied by the patient as a double subject both of the health services and of the economic and commercial circuit, a study necessary to be performed in terms of determining and the medical services as well as its legislative framework for the protection of its rights.

Chapter 2 **"SCIENTIFIC BASIS OF LEGAL DEFINITIONS AND DOCTRINATION ON SUBJECTS OF MEDICAL SERVICES**" is an examination of the main actors present on the medical services market starting from the analysis of the terminology used in the field of medical service beneficiaries, research approached in **2.1. Scientific values regarding the beneficiaries of medical services in terms of consumer protection**. From a doctrinal point of view, there are several opinions and debates about what we should call people receiving medical care. The question arises as to whether they are "patients" according to traditional terminology for anyone receiving medical care from doctors, nurses, pharmacists, therapists, dentists and other providers, or are "consumers", people who purchase goods and services for personal gain.

In addressing the rights of health care providers, the terminology used matters a lot, so when the legislative language is applied to the health system, it seems natural to transform patients into consumers, as well as the use of patients' rights as consumer rights. But patients are not the consumers who would be able to make free choice between doctors and treatments based on price and quality. Patients are sick and vulnerable people, who are often affected by a disease, I am not in their natural state and are unable to make the choice between the best offer on the medical services market.

At first glance, the term consumer seems to be incompatible with the term patient. However, a closer approach to their scope, namely the patient-physician relationship, or the beneficiary / provider of medical services, and the protectionist purpose of consumer rules, shows

that the justification of the notion of consumer of health services in within the medical services is a practical utility.

Within the compartment **2.2. Scientific considerations on the subjects of the health care system**, the author has developed extensive research on the main subjects in the market of medical services, these being approached from the point of view of their status, mainly by analyzing public institutions and acts related to their activity in the sub-compartment **2.2.1. Medical service institutions within the compulsory health insurance system** and private institutions in sub-compartment **2.2.2 Medical institutions as providers of private medical services**.

Today most of the financial costs for medical services are covered by consumers and insurance companies. The freedom to choose the medical institution, the appearance of the new private providers of medical services and the widening of the spectrum of services stimulate the competition on the medical services market and the development of marketing strategies in the field. The need to attract new patients and the formation of a circle of loyal customers of the medical institution determines a major interest in marketing communication strategies. The increase in the number of private medical institutions has led to an increased demand for the high quality of medical services provided. "Yesterday's" patients have become "today's" consumers with demands on the medical act and its quality.

The World Health Organization also defines the health system as a health care system or health system, as a set of 3 elements: people, institutions and resources that provide health care services to cover the health needs of target populations. The analysis of the main actors on the medical services market will allow us to determine the noticeable tangency between the applicability of the consumer protection law within the beneficiary / provider of medical services relationship.

As mentioned, both public and private medical institutions can be providers of medical services. Enterprises, institutions and organizations registered in the established manner that have as their type of activity the provision of medical and pharmaceutical assistance services may appear as medical-sanitary and pharmaceutical units.

However, an explanation would be welcome, what are actually private health services and who are those providers. The private or independent health sector consists of hospitals and clinics that are administered independently. They are normally run by a company, although some may be run by charities or non-profits. If you want to use the services of a private health care provider,

you are responsible for the fees paid, because the state only subsidizes some of the costs for private health care. The Public-Private Partnership (hereinafter PPP) is another form of contracting private providers in order to provide medical services regulated by the legislation of the Republic of Moldova. Law no. 179 of 10.07.2008 regarding the public-private partnership, defines PPP as a long-term contract, concluded between the public partner and the private partner for carrying out activities of public interest, based on the capabilities of each partner to properly allocate resources, risks and benefits.

Currently, a person who has a compulsory insurance policy and needs to access the health system has several options: address to a public or private medical institution. In the case of a referral to a doctor in a public institution, there are a number of challenges, including waiting, overworking medical workers, which often leads to indifferent treatment and diminishing the quality of the medical act. Another option is to use the services of private medical institutions, where the waiting list is usually shorter and the medical staff is more motivated, including due to better working conditions and decent pay. Unfortunately, a small number of policyholders know about the second option, which is that they can benefit from more services that are covered by the policy in some private clinics. The latter were contracted by the National Medical Insurance Company to provide services that, as a rule, state clinics cannot provide. However, the number of services covered by MHI in the private sector is very small.

Thus, it becomes clear why, by contacting the police in private, most of the time patients receive a refusal and are forced to pay in full the cost of services provided. In the end, quite a few patients end up paying double: for the insurance policy (which they do not use due to the many impediments and shortcomings of the system) and for the services they choose directly in private or public clinics, for that the specialists and services given can only be found in private clinics. The patient has the right to an informed choice of the service for which he pays, so it would be fair for each insured person to know the full range of services and the list of all institutions, public and private, contracted by the NHIC.

Particular attention was paid to the issue of patient compatibility with the consumer in Chapter 3 "**LEGISLATIVE CONCORDANCE OF CONSUMER RIGHTS WITH PATIENT RIGHTS IN MEDICAL SERVICES**". Compartment **3.1. Legislative regulations on the protection of beneficiaries in the field of medical services** is a study of the main legislative regulations on consumer and patient protection. During the existence and development of human

society, man has been concerned with the problems of securing material and financial resources. The intensive development of the society has led to the creation of the possibilities of human intervention in order to prevent or reduce the negative consequences of some phenomena generating damages. Of all the ways and methods used by people to prevent loss-making events, the most suitable have been proven to be insurance. From this point of view, insurance has become quite widespread in the states of the world, becoming, lately, a branch of the world and national economy. In view of the diversification of insurance services, on the national market in 1997 were introduced in the package of services of insurance companies, optional health insurance. And on February 27, 1998, the Parliament of the Republic of Moldova approved Law no. 1585-XIII "*On compulsory health care insurance*", published in the Official Gazette no. 38-39 of the same year. The approved law entered into force on January 1, 2004, with the aim of promoting the social policy of the state and reforming the health care system. Thus, since January 1, 2004 in the Republic of Moldova all public health institutions in the country operate within the system of Compulsory Health Insurance (MAH).

Compartment **3.2. Legal approaches to the rights of health care providers in the healthcare system.** In a 1963 paper, Kenneth Arrow demonstrated that nursing has a number of characteristics that violate the principles of a perfect market. Healthcare consumers do not have enough information to know when and to what extent medical care is needed or to compare alternatives. Externalities are not built into decision-making, and patients risk catastrophic losses in the event of serious illness. Attempts to address this issue by presenting the possibility of private healthcare present other risks in terms of adverse selection and moral hazard. Consequently, all modern healthcare systems have a certain public involvement in the regulation, financing or provision of services. The implication is that healthcare is provided in highly regulated markets, with different combinations of public and private actors. Although our national system provides the same normative acts regarding the rights of beneficiaries of medical services, an in-depth research is required on the specifics of providing health care services in both public and private systems, highlighting in particular the rights enjoyed by health care providers. within these systems.

As noted, the term consumer is often used in the field of healthcare, and refers to people with the potential to consume a certain good or medical service. So practically, as mentioned

above, any person who needs a medical service can be considered a potential buyer. This being the case, the entire population of a state is a market of at least one type of health care service.

Healthcare organizations have generally failed to think of consumers in this way. The idea that individuals are not true consumers when it comes to health services until they are ill has been a barrier to the development of the healthcare market. Until recently, the generally accepted hypothesis was that none of the 2681.7 thousand inhabitants of the Republic of Moldova is a target segment for health services, until an individual shows signs of illness and goes to a medical institution. for diagnosis, care or treatment. Consequently, it is assumed that healthcare providers have so far not taken any steps to develop relationships with individuals who do not have official patient status.

The similarities found in research between consumers of healthcare and other types of services are also a key point in determining that there is that compatibility we want to demonstrate.

Like other consumers, consumers of medical services who could distinguish between needs and desires when it comes to the consumption of services. Obviously, most healthcare consumers would consider angioplasty to correct a cardiac condition and therefore prior information and research would be needed for this type of laser surgical services.

Consumers of medical services are like other consumers, insofar as the level of demand for services is elastic. We can make a parallel between a consumer who recently found out about the most modern translation services offered by some applications that can be downloaded from the internet and decided to try them, although until then he did not feel the need for such services. , with a consumer of health services, who decided to take advantage of the promotion of an investigator, and later found out that he was suffering from a disease. Until then, both consumers did not feel the need to call one type of service or the other, but when presented with an offer, it was decided to interact with a service provider, and then after the initial consumption. the need for repeated consumption.

A similarity also applies to the ability to pay for services. The majority of patients pay for care in medical institutions through a type of insurance. Those without insurance have to pay out of pocket.

Within this section were listed the rights of beneficiaries of medical services both from the point of view of Law no. 263/2005 and Law no. 105/2003, the author drawing a parallel between them and demonstrating the applicability of Law no. 105 on consumer protection thus, by

appealing to consumer protection legislation, the beneficiary of medical services automatically receives additional rights, such as: the right to sue at his place of residence (and not at the place of residence of the defendant, as in ordinary cases) ; the right to charge the cost of the service provided without quality; the right to claim damage caused by the use of non-quality medicines and materials, regardless of whether the defendant knows or not of such properties; the right to receive compensation; the right to compensation for moral damage even in the absence of damage to life and health. The parallel drawn between two distinct laws at first sight, subsequently demonstrates an obvious tangency between the rights of consumers and patients, emphasizing the use of the application of consumer protection legislation in medical reports.

It also arouses increased interest in comparative research conducted in section **3.3. Comparative legislation on consumer protection as beneficiaries of medical services**, which addressed a number of legislation on comparative law, among the main legislation aimed at protecting consumer health and safety, such as the Treaty of Lisbon, the Treaty of Lisbon Nice, Declaration on the Rights of the Patient, adopted in Amsterdam in 1994, Council Directive 85/374 / EEC of 25 July 1985, Directive 1999/34 / EC, Directive 2001/95 / EC, Directive 76/768 / EEC, Directive 2002/98 / EC, Directive 2004/23 / EC, Directive 93/42 / EEC, the analysis of which has shown that the primary responsibility for the protection of the rights of beneficiaries of medical services and, in particular, health systems, lies with the Member States, which harmonize their legislation. according to EU directives, recognizing from the outset the consumer status of health services provided in both the public and and in the private sector, a trend recommended for the Republic of Moldova as well.

Chapter 4 **"LEGAL MEANS FOR THE PROTECTION OF THE RIGHTS OF CONSUMERS OF MEDICAL SERVICES**" reveals in the foreground the extrajudicial ways of resolving disputes in the field of medical services, highlighting the new alternative method, mediation within the compartment **4.1. Extrajudicial ways of resolving disputes in the field of medical services.** Alternative dispute resolution methods support the judiciary and include a category of tools for preventing and resolving disputes outside the courts. These methods include: facilitation, conciliation, negotiation, mediation, arbitration, as well as other hybrid techniques - mediation-arbitration, early neutral evaluation, neutral evaluation of medical malpractice, etc. Mediation is therefore an alternative way of resolving the amicable dispute between the parties, with the help of a third person. Mediation and the method of resolving disputes "*are based on the*

trust on the part of the parties to the mediator, to the person able to facilitate the negotiations between them and to provide them with a solution, a third party, certified in the conditions of this law, who ensures the development of the mediation process in order to resolve the dispute between the parties " according to art. 2 of the Law on mediation.

In the Republic of Moldova, mediation is a relatively new institution established in 2007 by the Law on Mediation. The first draft law on mediation was adopted in 2007 and entered into force in 2008. In 2015, 9 years after the adoption of the first law on mediation, a new law was adopted, which regulates the competence of the institution in the field of mediation, establishes additional conditions for acquiring the quality of mediator, delimits the possibility of practicing mediation for a fee or free of charge (on a voluntary basis), with an emphasis on mediation in specific fields (social / commercial).

The compatibility that is to be demonstrated in the thesis is also substantiated by analyzing the responsibility for violating the rights of consumers of medical services, demonstrating the possibility of applicability of law no. 102/2003 on resolving disputes in the medical field, in section **4.2. Legal liability for breach of consumers' rights as beneficiaries of medical services**. Medical errors have always attracted the attention of society. Due to errors and omissions in the work of an army, the doctors were subjected to various sanctions. In principle, we can say that liability for the provision of medical services is subjective, so that a certain level of guilt or negligence must be involved in the conduct of the medical service provider. Legal regulation of medical activity is currently not necessary to study law in the process of professional training of doctors.

Issues related to the legal protection of human life and health have become very common. The necessary bases for the realization of the constitutional right of every citizen regarding the protection of health have been laid by the implementation of a series of laws and regulations that have been adopted in recent times. The right to health care is found in a special regime of realization, being a right enshrined in the Constitution, although it also presupposes the existence of a separate mechanism for its insurance. Responsibility for the protection of citizens is assumed unconditionally and directly by the State.

In the field of health care, legal liability is a complex phenomenon that involves both private and public sources. As the state is the bearer of public power, it is obviously not on an equal footing with its citizens or other subjects of private law, a position of inequality felt in the

usual relations between a consumer and a trader.

The essence of the state consists in the realization and organization of public power. In this sense, the materialization of the state in a practical sense is realized through its organs and civil servants. The order, the limits of reparation of the damage caused by the state bodies and / or civil servants to the private person, are based on the norms of the private law and imply dispositive elements. By entering into legal relations under private law, the state loses its authority to be an authoritarian subject and becomes a subject of law equal to others. The quality of the subject of civil legal relations derives from the legal status of the state and from its criminal status. The very possession of sovereignty is an argument for considering the existence of the civil legal status of the state.

The issue of legal liability in the field of health care can be addressed only if there is a detailed analysis of medical legal liability, which is a form investigated only in part in the Republic of Moldova. The obligations of the doctor towards the recipient of medical services, whether he is called a patient or a consumer, arise from the moment the relationship between these two key actors is established. The doctor has a legal obligation to provide health services, but he is entitled to refuse the provision of services or to perform the medical act, obviously except in cases of medical emergency. Legea ocrotirii health is actul legislativ care stabileşte obligaţiile order profesional ale asistenţilor medicali, moaşelor and lucrătorilor farmaceutici being stipulat că farmaciştii and alţi lucrători medico-sanitari are obligaţi keep secretul informaţiilor referitoare la boală, la viaţa intimate familială a pacientului of care have taken cognizance in the exercise of the profession (art.14, para.1), presume and bear responsibility for professional incompetence and breach of professional obligations (art.14, para.3). The obligations of the medical assistant and the pharmacist are laid down in a much larger volume by the Code of Ethics of the medical and pharmacist. However, on the whole, the patient-pharmacist and patient-caregiver relationships are not fully regulated, which makes it impossible to make a proper assessment. The commitment of the medical liability implies proof that the duties of the health care provider had to be fulfilled to a certain standard.

In the Republic of Moldova there is no specific legislation in the medical field that establishes and regulates the civil liability of the provider of health services, so we can refer only to the Civil Code and some laws of the Republic. The civil code in the field of art. 2006 provides for liability for damage caused by a public authority or a person in office. Art. 18 of the Law on

the Rights and Responsibilities of the Patient, announces the fact that the “responsibility for the violation of the social rights of the patient in the field of medical care, the health of the whole and the system of the public administration and the administration this law - the providers of health services ”.

The medical worker is also civilly liable for damages arising from non-compliance with the regulations on confidentiality, informed consent and the obligation to provide health services. The proposals also state that the medical worker is civilly liable for prejudices caused in the exercise of the profession even when he exceeds the limits of his competence, with the exception of emergency cases in which no medical assistants are available.

Regulated civil liability does not preclude liability or criminal liability from being committed for the purpose of causing the damage constituting the offense or offense. All persons involved in this medical malpractice shall be liable proportionately to the guilt of each person.

The reparation of the damage caused to the patient by contravention can be realized in the conditions of the civil procedure. Prejudiciat sănătate Consumatorul services through its infracţiune poate exercita acţiunea civilă (repararea prejudiciului) in cadrul procesului penal, where poate constitui parte civilă, sau poate introduce a civilă acţiune separată, întemeiată on răspunderea civilă delictuală, la instanţa civilă. In the case of a person practicing the medical profession, he or she causes injury to his or her bodily integrity or other harm to his or her health, or to the patient's failure to follow up on his or her case, the health care provider.

At the same time, due to the fact that the modalities of defense of civil rights reside in the essence of the individual rights of the patient and in the settlement of these encumbrances, within the media system of the Republic of Moldova and the Republic of Moldova are. Consequently, according to the civil law (art. 2028, 2029 of the Republic of Moldova), the salary or income lost due to the loss or reduction of the inability to work, the salary and the support expenses, prostheses, care by third parties, purchase of a special vehicle, professional retraining, etc.)

In the “General conclusions and recommendations” section, the main conclusions on the thesis topic are summarized and recommendations are submitted to the competent institutions regarding the adaptation of the legislative norms in order to expand the scope of protection of the rights of the beneficiaries of medical services. The conclusions presented in the paper reveal the evolved degree of study and the tendency of individualization in theoretical research in this regard, as well as the formation of useful pillars for practitioners.

Analyzing and synthesizing the doctrine, national and other normative acts, as well as international ones with distinct object in the matter of abusive clauses, I elaborated the doctoral thesis to address the conflicting aspects that will appear more frequently in practice thanks to the maturation of consumer relations in our society. by developing socio-economic factors.

CONCLUSIONS AND RECOMMENDATIONS

The important scientific problem solved in the field of protection of the rights of the beneficiaries of medical services consists in the demonstration of the compatibility and, at the same time, of the particularities of the general theory of the patient's and the consumer's rights in the medical field. beneficiary / provider of medical services, recommendation of cumulative methods of protection of consumers of medical services, modalities of elimination and divergences of application of the consensual legislation in the medical field.

Carrying out a complex study of the legal regulations regarding the compatibility of the patient's and the consumer's rights on the market of medical services, we have reached some **general conclusions:**

1. This research has been based on the analysis of the historical and philosophical-legal evolution of the institution of medical services, the research of doctrinal approaches to the rights of beneficiaries of medical services through the prism of contemporary philosophical doctrines and currents supported by a feature of Marx's philosophical views. K., Hippocrates, Freud, etc., which would allow us to state the idea that the representation of the patient as a consumer is found in various legal systems, as an instrument of empowerment in the service of the patient. The consideration of the patient as a consumer has been criticized under various arguments, such as the alleged reductionism of the doctor-patient relationship, the elimination of the principle of trust in the clinical relationship or the alleged commercialization of health services. However, the evolving role of the patient and the consumer as separate notions that have been interspersed countless times, has demonstrated both theoretically and practically that the patient is in fact a service to the consumer. The cleavage given by the public or private position of the medical institutions is not an impediment in demonstrating the ideas debated in our research, but rather, a favorable basis for the application of consumer law in particular. Both the public and private sectors are under the aegis of the same rights and obligations, which in theory guarantees equity and equality in the protection of the rights of beneficiaries of medical

services. The increased attention paid to the historical and philosophical-legal evolution of the institution of medical services, demonstrating the historical character of the patient-doctor relationship, and the increasing role of the passive actor, the patient, in this relationship allowed the author to develop as a scientific novelty a different systematization of doctor-patient relationship, presenting 3 models based on the criterion of the patient's role, the role of the doctor, the clinical applicability of the model, the prototype of the model and the period.

2. In many ways the notion of patient is associated and even overlaps with that of consumer, obviously not entirely, according to our current legislation. A more consumer-centered mindset can lead to a more cost-conscious individual, but when it comes to healthcare decisions, the client is not always right, many decisions can already be affected by the individual's precarious condition when addressing or already benefit from medical services. An incompatibility (among the many that are, but have not been the subject of this research) of labeling individuals as "consumers" could eliminate the most important element in the effective provision of care in health services, namely - the compassion of physicians, and the act would become too commercial, which is inadmissible. After a period of jurisprudential confusion, the concept of the consumer of medical services is becoming less and less evasive. The patient is only determined by definition as a consumer of medical services, but if we are to conceptualize the market for medical services, the appropriate terminology would be the beneficiary and provider of medical services, so a beneficiary can be a consumer but can also become a patient. in the text of the law.
3. The subjects on the medical services market in the Republic of Moldova are numerous and each of them has a special role in consolidating a high level of health within the country. From a legislative point of view, national normative acts do not make obvious differences between the types of providers in the public or private domain, both domains being under the aegis of the same rights and obligations. Regardless of the type or level of medical services provided, at national level we meet both public and private institutions. When we get sick we have as consumers of health, or medical services, the opportunity to choose the type of provider, whether public or private. Obviously, for the categories of persons insured according to SAOAM, there is a predilection to take advantage of the fact that contributions are paid from income sources, so initially people tend to turn to public

providers. The activity of IMSPs in this case should be subject to consumer protection legislation and recipients of services given to be considered as consumers. I might add in this regard that when they offer such services, these entities behave like businesses. They intervene in a market through involvement in an economic activity and, consequently, also fall within the competition law, which applies to companies.

4. Carrying out a conceptual analysis of the rights provided for at the present time by national legislation on the patient and the consumer, I have found a compatibility of these rights with regard to the protection of the patient and the consumer. the gaps between the beneficiaries and the providers of medical services, taking advantage of the old advantages of this practice. The author determined a set of characters on the basis of which he made a distinction between consumers of health services and consumers of other types of services, stating both the differences and the similarities between them. Namely, it was found that a beneficiary of medical services does not always have the possibility to choose between the services provided or the providers of these services, based on the price / quality ratio, especially in emergency situations or in situations where these services involve additional costs. in case of recourse to a specialist other than the one guaranteed by the state. But most of the time, any natural person who requests or is looking for medical services, has the same basic characteristics assimilated to a regular consumer of other types of services, respectively, a recognition as such of consumer status is required for these beneficiaries. of medical services.
5. The approach of a series of comparative legal provisions, among the main normative acts aimed at the protection of consumer health and safety, has allowed the author to conclude that the main responsibility for the protection of the rights of beneficiaries of medical services and, in particular, health systems, lies Member States, which harmonize their national legislation according to EU directives, recognizing from the outset the status of consumer of health services provided in both public and private systems, a trend recommended for the Republic of Moldova. And the study of the judicial practice of the European Court of Human Rights, especially in the field of medical services regarding the rights of beneficiaries of medical services, strengthened the author's hypothesis that any natural person is entitled to defend their violated rights by appealing to those normative

acts. protectionist measures whether strictly in the field of medical law or in the field of consumer protection or human rights.

6. Mediate that alternative methods of resolving disputes in the medical field, even though they have recently been introduced in our legislative framework, come as a much easier way of resolving the dissatisfaction of a patient from the service of the party. incomplete. In this order of ideas, we propose a regulation with a special character in the field of medical mediation. Friendly mediation between the doctor and the patient should be provided in the legislation as a precondition before reaching the court. This approach would require a high degree of flexibility in terms of the status of the mediator, the profession of mediator, the mediation process, which would correspond to the needs of law enforcement for medical mediation both internally and locally.
7. In the Republic of Moldova there is no specific legislation in the medical field that establishes and regulates the civil liability of the provider of health services, so we can refer only to the Civil Code and the Republic of Moldova. The main problem in the field of legal regulation of the relationship resulting from the provision of medical services (beneficiary - provider of medical services) is the lack of a unified legislative system that regulates these legal relations, which leads to serious difficulties in the implementation and implementation. broadens the way and the degree of protection of the rights of the beneficiaries of medical services on our market. Building a civil society by maximizing consumer protection requires an adequate response from the legislator in the field of regulation and in the area of civil liability of healthcare providers. Despite the temptation to present the founding principles of health and consumer relations as being incompatible, the law of consumption comes to complement the right to health, especially the protection of the rights of the patient.

Following the research carried out for the improvement of the existing situation in our country in the current stage regarding the modalities of defense of the rights of the consumers of medical services, we forward to the public power through the following **recommendations,** which also :

1. The wording of the notion of service providers in the broadest sense in the following sense: the concept of *"service providers"* is to include public law institutions, or according to art.

1 of Law no. 105/2003, *"service providers may be any natural or legal person practicing entrepreneurial activity ", which is to be adapted for the field of medical services.*

2. Elucidation of the notions of patient receiving medical services through the prism of art. 1 of Law 263/2005 on the rights and responsibilities of the patient with the completion of the phrase in the following formula: *"patient (consumer of health services) is any natural person [kept the wording of the law] ..., and who enjoys the rights of compensation as a consumer of medical services according to the Law on consumer protection no. 105 of 13.03.2003 ".*
3. Modification of the definition given in the text of the same law, in art. 1, including after the "*person who*" the word "*intends*", in order to establish a concordance with the definition given to the notion of consumer in the text of the Law on consumer protection no. 105 of 13.03.2003, which also defines the intention to purchase a product or service as a descriptive characteristic of the consumer.
4. Taking into account the legislative reality in the field of medical law, we propose *lege ferenda* to amend and supplement Law no. 105/2003 on consumer protection, in the following wording:

a. Under art. 2 which refers to the "Scope", it is proposed to introduce paragraph. (2^3) in the following formula "*This law applies in the field of medical services, in particular in the context of the relationship between beneficiaries and providers of medical services*".
b. We also propose Article 2 para. (3) to exclude the provision from letter a) which establishes that "*this law does not affect the legal provisions regarding the health aspects of consumers and the safety of products*".
c. We propose in art. 1, change the notion of economic agent to ensure full compatibility, because at present it is possible to interpret the given term only from a private point of view without referring to public institutions, in particular namely "*economic agent - any person of public or private law, legal or physical authorized for entrepreneurial activity, which manufactures, transports, sells products or parts of products, provides services (performs works)* ".

5. Considering the existence of a draft law on the creation of the Health Code promoted in 2017, namely with reference to art.642 on "*Exceptions to the legal provisions on consumer protection*", which states that "*medical staff and medical institutions - public or private*

health services, in their capacity as providers of health services, the provisions of the legislation on consumer protection do not apply to them "it is proposed to delete the article entirety or to take out the negation , as we through our research have demonstrated by law the applicability of the legislation on consumer protection in the medical relations between the beneficiaries and providers of the health system.

6. Amicable mediation between doctor and patient should be provided in the legislation as a precondition until it reaches the court. This approach would require a high degree of flexibility in terms of the status of the mediator, the profession of mediator, the mediation process, which would correspond to the needs of law enforcement for medical mediation both domestically and locally.
7. The analysis of the civil liability for the violation of the consumers' rights as beneficiaries of medical service as a distinct form of liability in the medical field, revealed some necessary adjustments to be brought to the Law on the rights and responsibilities of the patient no. 263/2005 by completing art. 5 letter q) which would regulate the patient's right to be compensated not only for health damages, but also for material damages incurred according to art. 32 of the Law on consumer protection no. 105/2003.
8. In order of the recommendations stated above, we propose to unify all the consumption norms in a Consumer Code, taking as an example the French Consumer Code, or not to go far, even the variant of the Romanian Consumer Code. We propose attached an initiative to the Government to unify the consumer code.

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ADNOTARE

Ciochina Elena, „Compatibilitatea drepturilor consumatorilor cu drepturile pacienților în cadrul serviciilor medicale", teză de doctor în drept, Chișinău, 2020

Structura tezei: introducere, patru capitole, concluzii generale şi recomandări, bibliografie din 297 titluri, 198 pagini de text de bază, 4 de figuri, 5 tabele. Rezultatele obţinute sunt publicate în 12 lucrări ştiinţifice.

Cuvintele cheie*:* drepturi, protecție, servicii medicale, beneficiar, pacient, consumator, prestator de servicii, răspundere civilă, compatibilitate.

Scopul lucrării constă în realizarea unei cercetări multiaspectuale a compatibilității drepturilor consumatorilor cu drepturile pacienților în cadrul serviciilor medicale, prin prisma elucidării, subiecților, bazei legislative şi a mijloacelor juridice de protecție ce sunt aferente serviciilor medicale, precum și a impactului aplicării legislației consumeriste, în vederea elaborării unor măsuri eficiente pentru perfecţionarea cadrului legal şi practic în domeniul temei de cercetare.

Obiective ale cercetării : analiza evoluției istorice a instituției serviciilor medicale; elucidarea abordărilor doctrinare în materia drepturilor beneficiarilor de servicii medicale; prezentarea științifică a beneficiarilor de servicii medicale prin prisma terminologiei juridice prin identificarea subiecților sistemului de ocrotire a sănătății atât în domeniul public cât și în cel privat; abordarea legală a drepturilor beneficiarilor de servicii medicale în cadrul sistemului de ocrotire a sănătăţții prin prisma sistemului public și cel privat; analiza comparativă a legislației privind protecția consumatorilor în calitate de beneficiari ai serviciilor medicale; determinarea modalităților extrajudiciare de soluționare a litigiilor din domeniul serviciilor medicale; prezentarea analitică a caracteristicilor răspunderii pentru încălcarea drepturilor consumatorilor de servicii medicale; studierea jurisprudenței CtEDO în ceea ce privește răspunderea pentru încălcarea drepturilor consumatorilor de servicii medicale; formularea concluziilor și elaborarea recomandărilor pentru perfecţionarea cadrului legal şi practic în domeniul aplicării răspunderii juridice în domeniul serviciilor medicale.

Noutatea și originalitatea științifică a tezei, precum și a rezultatelor obținute constau în abordarea compatibilității drepturilor consumatorilor cu drepturile pacienților din perspectiva cercetării teoretice dar și practice a tuturor factorilor și circumstanțelor relevante pentru tema de cercetare. Elementele inovaționale sunt determinate de recomandările formulate pentru înlăturarea lacunelor existente în cadrul normativ național ce țin de protecția consumatorilor în calitate de beneficiari finali de servicii medicale, fiind oferite îmbunătățiri și propuneri de *lege ferenda* în acest sens.

Rezultatele obținute: rezidă în demonstrarea compatibilității drepturilor consumatorilor cu drepturile pacienților prin nuanțarea importanței instituției protecției consumatorilor și evidențierea drepturilor pacienților prin prisma legislației consumeriste, elucidarea particularităților și a formelor de răspundere juridică pentru încălcările din domeniu, precum și formularea recomandărilor și propunerilor de *lege ferenda* îndreptate spre îmbunătățirea domeniului de reglementare a drepturilor consumatorilor și valorificarea eficientă a drepturilor pacientului în contextul serviciilor medicale.

Semnificația teoretică*:* tezele, concluziile şi recomandările privind subiecții, baza legislativă şi mijloacele juridice de protecție a consumatorilor în calitate de pacienți prin prisma specificul răspunderii în domeniul serviciilor medicale completează baza teoretică a acestei instituții.

Valoarea aplicativă a lucrării este determinată de posibilitatea aplicării în practică a concluziilor şi recomandărilor formulate, ideile ştiinţifice şi concluziile conţinute în cuprinsul tezei pot fi utilizate: în plan doctrinar-teoretic, ca material inițial pentru o abordare ulterioară mai aprofundată a problemei protecției consunatorilor în calitate de pacienți, în procesul didactic universitar la tematica dreptului medical, și anume la răspunderea pentru încălcarea drepturilor pacienților.

Implementarea rezultatelor ştiinţifice constă în faptul că, recomandările formulate servesc, cu precădere, pentru elaborarea programelor de studiu, cursurilor la disciplina Dreptul protecţiei consumatorilor și Dreptul medical, la perfecționarea specialiștilor din domeniu și la armonizarea legislației în domeniul protecţiei consumatorilor.

АННОТАЦИЯ

Чокина Елена, "Совместимость прав потребителей с правами пациентов в сфере медицинских услуг ,кандидатская диссертация по юриспруденции, Кишинев, 2020

Структура диссертации*:* оглавление, четыре главы, заключение, и библиография (297 п.), итого 198 страниц.. *Полученные результаты* были опубликованы в 12 научных работах.

Ключевые слова: права, медицинские услуги, пациент, потребитель, поставщик, ,гражданская ответственность, гражданское посредничество, совместимость.

Целью данной докторской диссертации состоит в проведении многоаспектного исследования совместимости прав потребителей с правами пациентов в медицинских услугах, посредством выяснения, субъектов, законодательной базы и правовых средств защиты, связанных с медицинскими услугами, а также влияния применения законодательства о потребителях, чтобы увидеть эффективные меры по совершенствованию правовой и практической базы в области исследований.

Задачи исследования: анализ исторической эволюции института медицинских услуг; выявление доктринальных подходов в области прав бенефициаров медицинских услуг; научное представление бенефициаров медицинских услуг посредством юридической терминологии путем определения субъектов системы здравоохранения как в публичной, так и в частной сфере; правовой подход прав бенефициаров медицинских услуг в рамках системы здравоохранения через государственную и частную систему; сравнительный анализ законодательства о защите прав потребителей как бенефициаров медицинских услуг; определение внесудебных разрешительных процедур и споров в сфере медицинских услуг; аналитическое представление характеристик ответственности за нарушение прав потребителей медицинских услуг; изучение судебной практики ЕСПЧ в отношении ответственности за нарушение прав потребителей медицинских услуг; формулирование выводов и выработка рекомендаций по совершенствованию правовой и практической базы в сфере применения юридической ответственности в сфере медицинских услуг.

Новизна и научная оригинальность диссертации, а также полученные результаты состоят в рассмотрении совместимости прав потребителей с правами пациентов с точки зрения теоретического, а также практического исследования всех факторов и обстоятельств, имеющих отношение к теме исследования.

Достигнутые результаты: состоят в том, чтобы продемонстрировать совместимость прав потребителей с правами пациентов, разъяснив важность института защиты прав потребителей и подчеркнув права пациентов через призму законодательства о потребителях, выяснив особенности и формы юридической ответственности за нарушения на местах, а также сформулировав рекомендации и предложения по *„lege ferenda*”, регулировать права потребителей и эффективно использовать права пациентов в контексте медицинских услуг.

Теоретическая значимость: тезисы, выводы и рекомендации по предметам, законодательной базе и правовым средствам защиты потребителей как пациентов посредством особой ответственности в сфере медицинских услуг дополняют теоретические основы этого учреждения.

Практическая ценность диссертаций Определяется возможность применения на практике к сформулированным выводам и рекомендациям, научные идеи и выводы, содержащиеся в диссертации, могут быть использованы: в теоретико-теоретической плоскости, в качестве исходного материала для дальнейшего подхода к проблеме защиты согласных как пациентов, учебный процесс в университете по теме медицинского права, а именно ответственности за нарушение прав пациентов.

Внедрение научных результатов заключается в том, что сделанные рекомендации служат, в частности, для разработки учебных программ, курсов по дисциплине «Закон о защите прав потребителей» и «Медицинское право», по совершенствованию специалистов в данной области и по гармонизации законодательства в области защиты прав потребителей.

ADNOTATION

Ciochina Elena, "Compatibility of consumers rights with patients rights in medical services", PhD thesis, Chisinau, 2020

Structure of the thesis: introduction, four chapters, conclusions and recommendations, bibliography of 297 items, 198 pages of basic text.*The results* are published in 12 scientific papers.

Key words: rights, medical services, patient, consumer, provider, civil liability, civil mediation, compatibility

The purpose of the paper is to carry out a multi-aspect research of the compatibility of the rights of consumers with the rights of patients in the medical services, through the elucidation, the subjects, the legal basis and the legal means of protection that are related to the medical services, as well as the impact of the application of the consumer legislation. developing effective measures to improve the legal and practical framework in the field of research.

Research objectives: analyzing the historical evolution and the institution of medical services; elucidating the doctrinal approaches in the field of the rights of the beneficiaries of medical services; scientific presentation of the beneficiaries of medical services through the legal terminology by identifying the subjects of the health protection system both in the public and in the private domain; the legal approach of the rights of the beneficiaries of medical services in the framework of the health protection system through the public and private system; comparative analysis of the legislation on consumer protection as beneficiaries of medical services; determining the out-of-court settlement procedures and disputes in the field of medical services; analytical presentation of the characteristics of liability for infringement of the rights of consumers of medical services; studying ECtHR jurisprudence regarding liability for infringement of the rights of consumers of medical services; formulation of conclusions and elaboration of recommendations for improving the legal and practical framework in the field of applying legal responsibility in the field of medical services.

The novelty and scientific originality of the thesis and the obtained results consist in addressing the compatibility of consumer rights with patients' rights from the perspective of theoretical but also practical research of all the factors and circumstances relevant to the research topic. The innovative elements are determined by the recommendations formulated to remove the existing gaps in the national normative regarding the protection of the consumers as final beneficiaries of medical services, being offered improvements and legal proposals in this respect.

The obtained results: resides in demonstrating the compatibility of consumer rights with patients 'rights by clarifying the importance of the consumer protection institution and highlighting patients' rights through the prism of consumer legislation, elucidating the particularities and forms of legal responsibility for the violations in the field, as well as making the recommendations and proposals of *lege ferenda* towards improving the field of regulation of consumer rights and the efficient use of patient rights in the context of medical services.

Theoretical significance: theses, conclusions and recommendations on topics, the legal basis and the legal means of consumer protection as patients through the specific responsibility of the medical services field complement the theoretical basis of this institution.

The applicative value of the work is determined by the possibility of applying in practice to the conclusions and recommendations formulated, the scientific ideas and the conclusions contained in the thesis can be used: in the doctrinal-theoretical plane, as an initial material for a later approach to the problem. of patients, in the university teaching process on the topic of medical law, namely the responsibility for violating patients' rights.

The implementation of the scientific results consists in the fact that, the recommendations made serve, in particular, for the elaboration of the study programs, the courses in the discipline of the Law of consumer protection and the Medical law, in the training of specialists in the field and in the field of law.

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