
Application of Information Technologies in Implementing the Constitutional Right to Medical Care and Health Protection in Russia

Rimma Rashitovna Amirova¹, Olga Mikhailovna Smirnova², Alsu Machmutovna Khurmatullina³

¹Kazan Federal University
Associate Professor of Constitutional and Administrative Law
Law Faculty of KFU
arimma60@mail.ru,

²Medicine Kazan State University
Associate Professor of Department of Bio-Ethics in Medicine, Medical Law and History of Medicine,
smirnova_olga06@mail.ru

³Kazan Federal University
Senior Lecturer of the Department of Constitutional and Administrative Law
Law Faculty of KFU
akm551@mail.ru,

Abstract

The change in the technological order that is taking place today brings medicine and healthcare to the drivers of economic development of any society, while leaving behind medicine its main function – social.

The key role of the welfare state lies in the fullest possible implementation of the idea of social justice, which at the prevailing stage implies the possibility for representatives of each social stratum to have access to high-quality medical care, as indicated in article 41 of the Constitution of Russia.

The economic crisis caused by the pandemic made it possible for the Russian healthcare system to see in these difficult conditions an opportunity for a qualitatively new level of mass implementation of telemedicine technologies in the medical process: telemedicine remote technologies were the most popular in situations of rapid response by medical workers to critical situations, requiring urgent intervention in conditions of acute need to localize foci of coronavirus infection.

This article analyzes the problems of the legal mechanism for regulating each stage of the treatment and diagnostic process through remote technologies, which is associated with the problem of preserving the human right to **personal secrecy** in a pandemic.

Keywords: digital technologies, telemedicine, right to medical care, COVID-19, state, law, personal secrets, health.

Introduction

The modern phase of civilizational growth is featured by colossal changes not merely in the arena of political and social structures, but also in the field of public consciousness: the health promotion value gets predominant [1].

Indeed, in the contemporary high-tech, digital actuality, all public institutions must meet not only the personal, but also the social need to be cheerful, active, and active. That is why the state in its social function is way much in need. In 2019, on April 17, WHO will adopt the first document with recommendations on digital health measures. "Harnessing the potential of digital innovations and tools appears indiscernible for attaining global health coverage," said Dr. Ghebreyesus, WHO Director-General. - In the end, digital tools and means aren't an end in themselves; they are only the most relevant tool for improving health, maintaining security in the world, and reaching vulnerable groups of the population" [2].

The solution to this issue on a global scale should be found in cooperation with other international organizations. This is reflected in the experience of WHO in 2012, when WHO was already working with the International Telecommunication Union to develop guidelines for a national e-health strategy.

Methods

The research methodology is expressed by systematic, structural-functional, descriptive, institutional methods of scientific knowledge, collecting and analyzing of scientific and practical materials.

Results and Discussion

The use of the historical approach in the study enabled us to determine the role of WHO in the shift from conventional to digital healthcare.

The 101st WHO session proposed the following explanation of health: "a dynamic phase of complete spiritual, physical, social, and mental well-being, not merely the absence of infirmity or disease" [1]. This definition sparks plenty of discontent and discussions even when it was discussed as a preamble term to the Constitution of WHO, there were many questions about the need to include the category of "social" well-being.

In 2020, during the pandemic, it turned out that the health of every citizen is provided by the state's health system, the implementation of its social function.

Given Article 7 of the Constitution of Russia, Russia is a social state [3]. New technologies create conditions for expanding the state's ability to provide everyone with medical care.

Today, telemedicine is one of these technologies. Telemedicine is clarified as the usage of state-of-the-art integration technologies, with respect to clinical health, delivering care through significant physical distance [4]. That kind of technologies engulf a wide range of computerized, advanced equipment, permitting nurses, physicians, and other health professionals to offer complicated healthcare several miles away from the service location [5,6].

The Basic Law of Russia in article 41 establishes the citizens' rights to medical care and health protection, which shows a close relationship: they have one function-to maintain and preserve human health.

Taking into account the fundamental constitutional principle, in Russia, already in 2006, a draft federal law "On Information and Telecommunications Technologies in Medicine" was submitted to the State Duma of Russia for consideration [7], which attempts to define the key terms of telecommunications medicine and outline the legislative boundaries of a new information environment that contributes to the implementation of the principle of public health protection at a qualitatively new level.

The Federal Law "On the Fundamentals of Public Health Protection in Russia" [8] defines the mechanism for implementing the right of citizens to health protection and medical care through the Scheme of State Guarantees of free medical care to citizens. In the context of commercialization of healthcare and medical services, this becomes particularly important: economic interests should not be considered as basic in the healthcare sector, and all medical organizations in Russia should offer **free medical care** with no regard to the patient's financial status. Therefore, information and communication technologies provide the best possible opportunity for all citizens to get access to the necessary medical care, including high-quality and high-tech ones.

To grow the constitutional provisions content on the preservation of people's medical care and health, Russia has implemented several bylaws and legislative at nearly all levels.

The Russian Government has implemented some particular federal schemes in the arena of healthcare according to that legislation. By Decree of the Russian Government No. 365-r dated March 3, 2018, within the framework of the state program "Information Society (2011-2020)", all medical organizations of Russia should be integrated into a single information system using high-speed Internet. Rostelecom PJSC will be engaged in connecting medical organizations of the state and municipal healthcare systems to the Internet [9].

The address list of medical organizations and their structural divisions for connection was formed by the Ministry of Health of Russia together with the authorities of the constituent entities of Russian. This is also supported by the federal project "Creation of a unified information loop in healthcare based on the Unified State health information system" (USHIS) within the framework of the national project "Healthcare" [10].

For example, by 2024, a system of electronic prescriptions and automated management of preferential drug provision will be operational throughout Russia. In the personal account of the patient "My Health" on the portal of public services, you will be able to make an appointment to a doctor and for a medical examination, apply for a compulsory health insurance policy, and other medical documents, regardless of the region where the patient is located.

To this end, on July 29, 2017, the Federal Law "On the Basics of public health protection in the Russia" introduced a new article – 36.2. "Features of medical care provided using telemedicine technologies" [8]. It establishes the possibility of providing medical care, patient consultations, and remote monitoring of the patient's health status, while it notes that the use of telemedicine technologies in this area is carried out in compliance with the requirements established in the field of personal data and compliance with medical secrecy. This process also uses a single identification and authentication system. Documentation of the received data is also carried out using an enhanced qualified electronic signature of a medical professional.

Three years have passed since the adoption and entry into force of this legal norm. During this period, the procedure for organizing the provision of medical care using telemedicine technologies was determined [11].

It should be noted that at the beginning of 2017, only two medical services were in demand for telemedicine: interpretation, description and interpretation of electrocardiographic data and description and interpretation of X-ray data in 81.4% and 15.4%, respectively. Thus, the "doctor-doctor" format was mainly developed, and the "doctorpatient" format was not in demand at a distance (and this particular format became vital in the context of a pandemic).

By mid-2018, there were no organizations in the Vladimir Region, the Republic of Altai, Ingushetia, and the Chukotka Autonomous District that had access to systems that provide telemedical services. For comparison in the world the vast range of applications for telemedicine consists of patient care [12], training, research, and public health to diagnose, administer care [5], send and receive health information [13], analyze x-rays, and educate health professionals [14].

This study confirms the demand for medical services using modern telecommunications technologies among potential patients. The Constitution of Russia defines in Article 72, part 1: the coordination of health issues (item g), the implementation of measures to combat epidemics, and the elimination of their consequences (item h) are under the joint jurisdiction of the Russia and the constituent entities of Russia [3].

By March 2020, it became obvious that in the conditions of self-isolation during COVID-19 coronavirus pandemic, technologies for providing medical care using information and telecommunications systems became hyperdemanded. As Li Du and Meng Wang point out, in China Internet-based healthcare platforms were developed to provide residents with telemedicine and online consultation services [15].

Conclusion. The already existing legislative framework in Russia in the field of telemedicine services for healthcare allowed to quickly create a system of remote consultation centers: the Order of the Ministry of Health of Russia No. 198n "On the temporary procedure for organizing the work of medical organizations in order to implement measures to prevent and reduce the risks of spreading the new coronavirus infection COVID-19" was promptly adopted [17]. In the current global situation of the threat of uncontrolled spread of a new infectious disease, the State Duma of Russia amended Article 43 of Federal Law No. 323-FZ dated November 21, 2011 "On the Basics of public health protection in Russia" [8]. A new part 4 "Features of the organization of medical care in the event of a threat to the spread of diseases that pose a danger to others, as well as the procedure for collecting and recording information on the spread of diseases that pose a danger to others, and the composition of such information are established by the Government of Russia". This provision provides for granting the Russian Government the authority to determine the specifics of providing medical care, including with the use of telemedicine technologies, in an emergency situation and (or) when there is a threat of spreading diseases that pose a danger to others.

The implementation of the norm set out in Part 4 of Article 43 of Federal Law No. 323 will allow the Government of Russia to promptly regulate the specifics of providing medical care, including interdepartmental ones, during an epidemic and emergency situation in the context of a shortage of medical workers, which will create stability of legal regulation in the arena of health protection.

These changes are due to the fact that in the event of emergencies or threats of spreading illnesses posing a menace to others, citizens of Russia should have affordable medical care, largely due to the use of telemedicine technologies.

At the time of adoption of the norm, the medical community was very optimistic about the legal framework outlined by this norm: it was supposed to solve the problems of lack of highly qualified personnel at different stages of medical care, especially in hard-to-reach areas.

January 13, 2020 was Resolution of the Constitutional Court of Russia No. 1-P dated 13.01.2020 "In the case of checking the constitutionality of Parts 2 and 3 of Article 13, paragraph 5 of Part 5 of Article 19 and Part 1 of Article 20 of the Federal Law" On the Basics of Public Health Protection in Russia "in connection with the complaint of R. D. Svechnikova". It dealt with the issue of compliance with medical secrecy, the possibility of its disclosure, including after the death of a person. This information is information with limited access, but in the event of a patient's death, the question arises: how much of the content of this medical information can be accessed by third parties (in particular relatives). In the context of a pandemic, this becomes particularly important – on the one hand, society should be aware of the death rate from coronavirus infection, on the other hand, the patient has the right to keep his medical diagnosis secret both during life and after. Therefore, the medical community, specialists in the field of IT – technologies and representatives of the legislative and executive authorities will have to create a reliable security system for maintaining the confidentiality of personal data of citizens in Russia at all stages of the medical and diagnostic process.

Summary

Thus, Russia has already established a legislative framework regulating the provision of medical services through communication and information technologies. In the context of the pandemic, it has shown its socio-economic relevance. Furthermore, it should be noted that the emergency situation associated with the spread of the coronavirus situation contributed to the adoption in Russia of the government draft law "On the Unified Federal information Register containing information about the population of Russia", which includes all complete information about every citizen of the country – from birth to death. The federal population resource will also include information about an individual's health insurance. It should be noted that storing this data in a single information resource will further ensure the safety of "health data", which, according to the General Data Protection Regulation /GDPR 2016/679 dated April 27, 2016, are included in the concept of "personal data". Thus, we believe that the creation of a unified register of individual data will help minimize the risks of violating citizens' rights to personal privacy, including cases of using telemedicine services.

Conclusions

It was revealed that in case of emergency situations caused by the spread or danger of spreading illnesses that raise a threat to others (for example, COVID-19), citizens of Russia should have affordable medical care, which can be obtained through the use of telemedicine technologies. Therefore, the state should have appropriate legal regulation of the use of telemedicine in the doctor-patient relationship. This should be based on acts developed by the executive authority in the field of healthcare, which would establish the procedure for providing medical care by profiles, diseases or conditions, including the stages of providing medical care, rules for organizing the activities of a medical organization (its structural division, doctor) within the framework of telemedicine, and recommended staff standards for medical workers engaged in providing services using telemedicine technologies. The issue of personal data retention in telemedicine also needs to be addressed. As a way to protect the right to personal privacy, we propose to amend the laws on personal data, namely, to expand the concept of "personal data" to include "health data", based on the example of the General Data Protection Regulation / GDPR 2016/679 of April 27, 2016, adopted within the European Union.

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