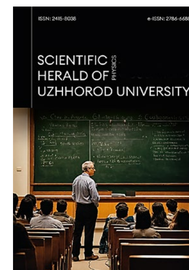
Scientific Herald of Uzhhorod University
Series "Physics"
Journal homepage: https://physics.uz.ua/en
Issue 56, 938–946
Received: 03.09.2023. Revised: 16.02.2024. Accepted: 22.04.2024



DOI: 10.54919/physics/56.2024.93dlp8

Features of the labour of medical and pharmaceutical workers

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Abstract
Relevance. The relevance of the conducted study is due to the rather low level of development of the healthcare system in Kazakhstan, in connection with which problematic aspects arise in the segment of labour relations in this industry.

Purpose. The purpose of the study is to analyse the regulatory legal acts of Kazakhstan on the legal regulation of the labour of medical and pharmaceutical workers.

Methodology. Such methods as logical analysis, functional analysis, deduction, dogmatic, formal-legal were used.

Results. It was identified that at this stage Kazakhstan ranks last in terms of financing the health sector among 63 countries according to the World Health Organisation. It was also noted that salaries of medical and pharmaceutical workers are declining. The consequence of this is that most of the latter can emigrate to countries with more acceptable socio-economic conditions. An analysis of the legislative doctrines of foreign countries, namely France, Germany, and Sweden, was conducted. This provided an opportunity to identify the most acceptable factors and norms of labour law that allow ensuring a high level of functioning of the healthcare system in general and conditions for medical and pharmaceutical workers. Collisions of the fixed norms of Kazakhstan were also noted.

Conclusions. The obtained results provided an opportunity to highlight problematic aspects of labour law in the examined industry, which helped to identify several recommendations that will improve the current legislation and increase the level of functioning of the healthcare system in general and allow Kazakhstan to reach a higher level in the international arena.

Keywords: legal regulation; legislation; comparative analysis; differentiation; qualifications; status.

Suggested Citation:
Kassymova X, Tlepina Sh, Galiakbarova G, Ormanova Sh, Mymalyapova A. Features of the labour of medical and pharmaceutical workers. *Sci Herald Uzhhorod Univ Ser Phys.* 2024;(56):938-946. DOI: 10.54919/physics/56.2024.93dlp8

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Introduction

Healthcare is one of the most important areas of the social field in Kazakhstan. The introduction of the state of emergency in 2020 gave this area special significance and demonstrated the important role of medical and pharmaceutical workers in ensuring the health of the population and the functioning of the state [1]. Due to the huge burden placed on these workers, decisions were made to provide financial incentives for their labour, and to consolidate their legal status in legislative acts. Since they are a special group of workers whose specialisation is the field of healthcare, as a result, they act as subjects of labour law, for whom there are special norms regulating their work. The specific features of the legal status are reflected both in the general provisions of the Labour Code of the Republic of Kazakhstan (RK) and in individual laws in the field of healthcare that relate to various aspects of their activities. Notably, the specific features of this category of legal relations are regulated by the Code of the Republic of Kazakhstan No. 193-IV "On public health and health care system" [2].

As B. Salkhayeva et al. [3] state, the coronavirus pandemic created many problems in the healthcare system of Kazakhstan, which had to be solved immediately for society and medical workers, who were often risking their own health and even life. During the pandemic, the Government of Kazakhstan introduced incentive payments for special working conditions and compensation in case of infection or death among doctors, but these payments were cancelled. According to M. Zhetpisbayeva and A. Beysembekova [4], differentiation of legal regulation of labour relations is the subject of study in the science of labour law and remains relevant. According to R.U. Rakhmetova et al. [5], studies in the field of labour law pay special attention to problems related to the specific features of legal regulation of labour of certain categories of workers and analyse the grounds for establishing special norms and their validity. Regulation of labour and other plan relations should be conducted in a single field of a legal nature. N. Grazhevskaya et al. [6] note that the unity of labour law is reflected in the fixed principles, in the common rights and obligations of the parties, and in providing means for their implementation.

A. Orazymbetova and G. Sultanbekova [7] write that in modern legal science, it is noted that the method of regulating labour law is characterised as a single but differentiated regulation. This means that certain labour rights and obligations apply to all employees, and based on this, the specific features of regulating certain categories are established, depending on objective and subjective factors. A. Turgambayeva, L.B. Bogatyreva, and G.T. Baisalova [8] believe that equality of persons, as one of the substantial principles, does not mean actual equality and does not exclude the influence of other elements of the constitutional and legal status on the scope of citizens' rights and freedoms. That is why each of the elements of the status of the legal plan is the basis for the differentiation of this status. The authors believe that the factors that can serve as a basis for differentiating the constitutional and legal status of individuals should include citizenship, legal capacity.

At this stage, there are problematic aspects in the field of healthcare and legal regulation of the labour of medical and pharmaceutical workers. In this regard, it is quite important to determine ways to eliminate them. Thus, the purpose of the study is to analyse the legislative doctrine on ensuring the labour of medical and pharmaceutical workers.

Materials and Methods

This study was conducted using various methods of analysis. Thus, the method of functional analysis was used to differentiate the concepts of "pharmaceutical worker" and "pharmaceutical sales representative", to consider the similarities and differences of these terms, identify the specific features of the implementation of labour activity. The method of logical analysis was used to examine the characteristic features, principles, and various aspects of the implementation of legal regulation of labour relations of medical and pharmaceutical workers in Kazakhstan. The method of statistical analysis allowed examining the indicators of financing of the healthcare sector as a percentage of the gross domestic product in the period 2018-2022 in Kazakhstan. The method of comparative legal analysis was introduced to examine the experience of foreign advanced countries, namely Sweden, France, and Germany. This method was useful for identifying the features of the functioning of the healthcare system in general and the legal regulation of labour relations of medical and pharmaceutical workers.

The formal legal method provided an opportunity to analyse the legislative acts of the Republic of Kazakhstan. Thus, the provisions of the norms Labour Code of the Republic of Kazakhstan [9], Code of the Republic of Kazakhstan No. 193-IV "On public health and health care system" [2], and Constitution of the Republic of Kazakhstan [10] were investigated. The method helped to thoroughly examine the texts of laws regulating labour relations in medicine and pharmaceuticals. The main attention was paid to the precise definition of concepts, formulations, structure of norms, and logical connections between them. The formal legal method allowed interpreting legal norms, determining their legal meaning, and detecting possible contradictions or ambiguities in the formulations. In turn, the dogmatic method allowed characterising the features of the norms set out in the acts, identifying contradictions between various norms, and identifying cases when legislation did not regulate certain aspects of the labour of medical and pharmaceutical workers.

The method of legal hermeneutics helped to examine the texts of laws, identify key norms, determine the rights and obligations of employees and employers, and establish the procedure for applying rules and sanctions. The method allowed identifying possible gaps or unavoidable ambiguities in labour legislation for medical and pharmaceutical workers that may require additional legislative regulation and comparing the norms governing labour relations of medical and pharmaceutical workers with other laws and regulations within the framework of labour law.

The deduction method was used to provide a general description of the labour relations of medical and

pharmaceutical workers based on their inherent characteristics and principles of implementation. This method was also introduced so that, based on the general norms of labour legislation, the rights, and obligations applicable to medical and pharmaceutical workers were deduced. In turn, the induction method provided an opportunity to characterise the healthcare system in general and the legal regulation of this industry based on the examination of fixed norms, features, rights, and obligations of employees. Based on the analysis of data on the legal regulation of the labour activity of medical and pharmaceutical workers, assumptions were made inductively about the need to amend laws and identify some regulatory problems.

Results

The Swedish healthcare system is considered one of the best due to its high efficiency at moderate costs. In Sweden, the state owns 92% of the healthcare system, which is highly decentralised. Responsibility for health care is distributed between the state, county councils, and municipalities. The main coordinating body is the state, which regulates the work of local self-government bodies, forms policies and strategies, enacts laws in the field of healthcare. The National Health and Social Security Council oversees all medical professionals. There are also governing bodies such as the Swedish Medical Devices Agency, the Public Health Agency, the State Pharmaceutical Corporation, the Swedish Social Insurance Agency, and the Association of Local Authorities and Regions representing the interests of regions at the central level [11].

In Germany, the healthcare system is regulated by the central government and regional authorities. However, due to price controls and fixed payments, doctors working at strict tariffs without financial incentives are reluctant to provide additional care to patients, which raises questions about the quality of services [12]. In France, the right to protect the health of citizens refers to socio-economic rights and is enshrined in the preamble of the Constitution of France [13; 14]. The key guarantor of the exercise of fundamental rights and freedoms is an independent judiciary. Article 66 of the Constitution emphasises that no one may be arbitrarily deprived of liberty, and the judiciary ensures respect for this principle in accordance with the law.

There are three types of medical institutions in France: public hospitals, private commercial hospitals, and non-profit hospitals. Public hospitals provide more medical services compared to private clinics. In addition, they conduct scientific research, training of students and medical professionals. Outpatient treatment is conducted in private clinics, in which general practitioners and specialists provide medical care in polyclinic departments located at hospitals. Notably, in France, the government finances about 75% of healthcare costs [15; 16]. Medical care is organised through insurance companies known as "cashiers". In the case of inpatient treatment of a French citizen, the first 33 days of hospital stay are paid by the cashier, and with longer treatment, the patient is transferred to free hospitals. Special attention in France is paid to the problems of occupational medicine. For this purpose, health services have been created at workplaces. The main task of these services is to prevent the deterioration of the health of employees in the course of their work. As a result of the reforms conducted, the foundations were laid for the functioning of a modern system of public health protection in the workplace in France [17-19].

In the Basic Law for the Federal Republic of Germany [20] there is no direct consolidation of the right of citizens to health protection. The country pays considerable attention to the protection of citizens' health, which is manifested in the attitude of doctors to patients interested in providing high-quality medical care in the event of diseases. Doctors compete for patients because their existence depends on the number of patients served. Outpatient medical care in Germany is conducted not by polyclinics but by private general practitioners who monitor the general health of their patients. They are specialists of a wide profile providing assistance for simple diseases. In serious diseases, specialised medical care is necessary, and in such cases, patients turn to specialist doctors of the appropriate profile [21]. The basis of the healthcare system in Germany is the principle of health insurance. However, compulsory state insurance does not cover the entire population, but only 89%, while the remaining part of the population (about 9%) has private insurance, and 2% of the population has special insurance that is provided for certain professions, or do not have insurance at all [12].

Today, medicine in Germany is at a high level of development, although it remains expensive. Most citizens have their own home doctor, a therapist who provides medical care for various typical diseases and, if necessary, directs them to narrow specialists. There are more than 200 clinics in Germany, where about 400 thousand doctors work, about half of whom work in public clinics. One of the most developed areas of medicine in Germany is surgery. On average, Germans visit a doctor 10 times a year, and 72% trust their doctors. 65% of women and 52% of men in Germany regularly undergo preventive examinations [15]. Countries that pay special attention to the health of their citizens include Switzerland, Germany, Canada, and Norway. In Switzerland, 11% of the gross domestic product (GDP) is allocated to healthcare, which is $3322 per capita. In Germany, the share of healthcare financing in GDP is 10.7% or $2808 per capita. In Canada, this figure is equal to 9.7% of GDP or $2792 per capita. In Norway, 8% of GDP, or $2920 per capita, is allocated for health care. At the global level, there is competition between developed countries with a developed healthcare system, such as France, Germany, Japan, the United Kingdom, and the United States [12]

Kazakhstan faces certain problems in the field of medicine, such as corruption, difficult living conditions, local mentality, and long queues to see a doctor. In addition, in many hospitals, there is insufficient quality equipment and insufficient repair of premises, and salaries of medical workers remain low, which leads to a shortage of qualified medical personnel. However, the Ministry of Health of the country is making every possible effort to cope with these problems. It is worth considering the share of financing in Kazakhstan compared to the last 5 years (Figure 1).

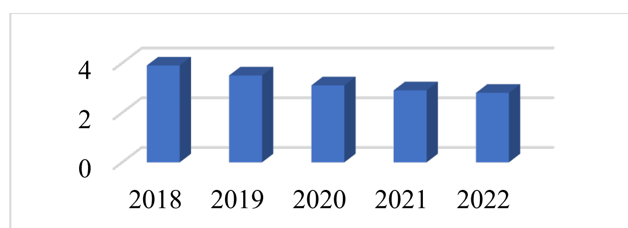

Figure 1. Health expenditure as a percentage of GDP in Kazakhstan in 2018-2022, %
Source: compiled by the authors based on [22].

As can be noted from the data provided, the share of financing decreases annually, and therefore Kazakhstan's position in the international ranking decreases. Thus, in 2022, the state took the last place among 63 respondents [22]. In Kazakhstan, there is an imbalance in the placement of medical personnel, ranging from 20 to 45.7 per 10000 population [3]. The level of provision of medical personnel in rural areas remains low, which makes it difficult to provide timely and professional medical care to the population. The average age of doctors has also increased to 50 years, which may indicate a possible shortage of medical personnel in general. In addition, the insufficient level of qualification of doctors, medical personnel, and pharmacists also explains the lack of medical care. State programmes aimed at personnel management in healthcare are still ineffective.

There are several urgent problems in the healthcare system of Kazakhstan. These include the lack of modern equipment and devices in hospitals and polyclinics, insufficient management administration, stagnation of personnel practice, and weak motivation of young specialists. Infrastructure in rural areas remains underdeveloped, there is not enough housing for medical personnel, and financial remuneration is low, especially compared to the Organisation for Economic Co-operation and Development (OECD) member countries. For example, in 2018, the ratio between the salary of a doctor and an economist in Kazakhstan was 0.93:1, while in OECD member countries this ratio was 2.6:1 [1]. The salary of doctors in the OECD exceeds the salary of doctors in Kazakhstan by 6.9 times [23]. All these factors contribute to the fact that workers emigrate to more socially and financially attractive OECD member countries. In addition, medical and pharmaceutical workers must cope with additional responsibilities, such as providing for the population of Kazakhstan, reducing mortality, and stimulating fertility by providing quality medical services.

In recent years, the Government of Kazakhstan has been making substantial changes in the healthcare system. The Code of the RK No. 193-IV [2] introduced norms aimed at updating and improving the level of medical care to the population and working conditions of medical and pharmaceutical personnel. Changes have been introduced to the system of state regulation and management in the field of healthcare, including control over medical and pharmaceutical activities, the issuance of licenses, control over the import and export of medical goods. Measures are also envisaged to reduce morbidity and increase public awareness about health. Important changes are the expansion of citizens' rights, such as consent or prohibition of transplantation, consent to therapy, information about the state of health and treatment methods. New forms of medical and social services and remote medical services are also being introduced. The State bodies of Kazakhstan continue to modify and improve the healthcare system, making substantial changes to the legal norms concerning the rights of patients and employees of medical institutions.

In 2023, in the Sectoral Agreement between the Ministry of Health of the Republic of Kazakhstan, the Republican Public Association "Sectoral Trade Union of Health Care Workers "SENIM"", the Public Association "Kazakhstan Sectoral Trade Union of Health Care Workers "AQNIET"", the Republican Public Association "Sectoral Trade Union of Medical and Allied Workers "QazMed"" and the National Chamber of Health Care for 2023-2025 [20], concluded between the Ministry of Health of the RK, the National Chamber of Health Care, and professional unions of workers, a norm was introduced concerning the establishment of correction coefficients to official salaries for doctors and nursing personnel. According to this norm, a correction factor of 3.42 is set for doctors in 2023; a correction factor of 2.34 is set for nursing personnel in 2023.

Now, within the framework of the funds provided to the Ministry, an increase in salaries for doctors by 30% and nursing personnel by 20% has been implemented for medical workers of healthcare subjects who are funded within the guaranteed volume of free medical care and the system of compulsory social health insurance. These organisations make up more than 95% of all organisations (with the status of enterprises on the right of economic management) in the healthcare system. However, the correction coefficients established in the Resolution for 2023 (for doctors – 2.73, nursing personnel – 2.05) do not ensure the achievement of the goals of increasing doctors' salaries by 30% and nursing personnel by 20%. Thus, a wage gap has arisen between medical workers who receive salaries under the Decree and employees of healthcare entities who are funded within the guaranteed volume of free medical care and the mandatory social health insurance system and receive remuneration according to the Sectoral Agreement [24-26].

The Ministry of Health of the RK has developed a draft Resolution of the Ministry of Health of the Republic of Kazakhstan "On amending the Resolution of the Government of the Republic of Kazakhstan dated 31 December 2015 No. 1193 "On the system of restitution of civil servants, employees of organisations maintained at the expense of the state budget, employees of state-owned enterprises"" [27], which provides for an increase in correction factors for 2023 to eliminate this gap and prevent possible protests from medical workers. In accordance with this project, a correction factor of 3.42 will be set for doctors from September 1 instead of 2.73, and nursing personnel will receive a correction factor of 2.34 instead of 2.05. According to Code of the RK No. 193-IV [2], the patient's rights consist of two groups. The first group includes the rights of citizens of the Republic of Kazakhstan in the field of healthcare (Article 77). The second group, presented in Article 134, lists 30 rights that require other healthcare entities to fulfil their duties. The rights of medical and pharmaceutical workers include constitutional rights such as personal, political, economic,

and social rights enshrined in the Constitution of the RK [2]. They also have rights related to their professional activities, obtained through special education, advanced training, and work in the healthcare system, which are enshrined in articles 270 and 271 of the Code of the RK No. 193-IV [2].

However, there is no fixed right in the legislation to protect the professional honour and dignity of medical and pharmaceutical workers. This right is of great importance for the activities of these workers, as they may face various charges from patients, the public, or the employer. In accordance with Article 274 of the Code of the RK No. 193-IV [2], the Code of Honor of Medical and Pharmaceutical Workers was developed and approved, which establishes their moral and ethical responsibility for the quality performance of their professional duties to society. According to the norms enshrined in the Code, pharmacists are individuals who have a pharmaceutical education and are engaged in pharmaceutical activities. Regardless of this, a pharmacist is a person engaged in work related to the circulation of medicines. An employee should not be classified as a pharmacist just because they work in an organisation engaged in the production or distribution of medicines. Pharmaceutical activity can be conducted only by persons with higher or secondary medical education, who have a specialist certificate and have undergone additional professional training in the field of retail sale of medicines, provided they work in separate units of medical institutions. However, in many studies, the concepts of “pharmacist” and “pharmaceutical sales representative” are treated identically.

Proceeding from the above, of particular importance is the addition of the current legislation with norms, according to which the concepts of “pharmacist” and “pharmaceutical sales representative” will be differentiated in more detail, the right to protect professional honour and dignity will be introduced, and the working conditions of medical and pharmaceutical workers will be improved. The most important aspect in this area is to increase the level of financing of the healthcare system to at least 5% of the share of the GDP. This will provide an opportunity to raise wages for employees and keep more people from emigrating to states with higher socio-economic conditions.

Discussion

In Kazakhstan, the unified labour legislation is determined by the tasks aimed at establishing state-level guarantees to ensure labour rights and freedoms, creating favourable conditions and protecting the interests of legal entities. Based on this, the implementation of these tasks is conducted due to the formation of a balance of interests of the parties, the stability of the social plan, and social harmony. The Labour Code of the RK [9] does not contain definitions of the concepts of “differentiation” and “specific features of labour regulation”. The specific feature does not apply to any differences, including individual ones, but only to such differences that have stable signs characteristic of a particular phenomenon or object. Not all differences are differentiation, which can be conducted only based on the grounds provided for by law and only by the relevant authorised bodies. Additional guarantees, benefits, and compensations provided for by acts of other bodies are not features of the distinction. As noted by A. Rizzotti and L. DiGiovine [28], features should be understood as the specific features of this kind of legal relations, their subjects and the content of the legal function, and the conditions in which these relations develop. In accordance with this, the features are present in the characteristics of labour relations and give them a certain specificity. It is conditioned by certain stable existing circumstances and acts as the basis for the establishment of norms, which constitute differentiation.

E. Shot et al. [29] write that differentiation in labour law is necessary for the implementation of balanced and effective legal regulation of labour relations. In this case, the regulatory mechanism fulfils the tasks of labour legislation. According to P. Rangachari and J.L. Woods [30], depending on the conditions for the development of society of a socio-economic and political nature, the goals and objectives of legislation may change, but they must maintain the social orientation of this area. Notably, the mentioned goals express the general social features of labour legislation and give it a social area, while not excluding its impact on these public relations and the manifestation of its functions of an economic and protective plan. The general limitation of differentiation is also the principles of labour law. Differentiation can be conducted within their framework, while it is necessary to comply with the basic legislative norms concerning the subjects of these legal relations and not violate their equality. This condition is mandatory for the reasonable application of various differentiation criteria [31-33].

As correctly stated by L.O. Gostin et al. [34], when determining the grounds for differentiation, it is necessary to use objectively existing and inextricably linked to the subject of legal regulation criteria so that they comply with the principle of equality and the prohibition of discrimination. The parties are an employee (an individual) and an employer (an individual or a legal entity), to whom the law grants labour legal capacity and labour capacity. The legal personality of a labour character is a “single property of an individual”, in contrast to civil law, where legal capacity and legal capacity are different legal aspects of subjects. Thus, it means a single ability of an individual to act as a participant in labour relations and related relations. One of the distinguishing features of labour legal personality is the age criterion. In accordance with this, it occurs upon reaching the age of 16. This age is set in the Labour Code of the RK [9]. In other cases, persons who have not reached the age of 16 or have a lower age may enter employment contracts in accordance with the conditions. Another characteristic feature of labour legal personality is the criterion of volitional character, which is associated with the actual ability of a person to work. This ability is considered as “the ability to work physically and mentally, which cannot limit the equality of labour legal personality.”

In the field of public health protection, subjects are medical workers (individuals with medical education engaged in medical activities) and pharmaceutical workers (individuals with pharmaceutical education engaged in pharmaceutical activities) [35; 36]. As G.D. Pozgar [37] states, within the framework of medical and pharmaceutical activities, the leading professions are distinguished, which include doctors and pharmacists with

higher medical and pharmaceutical education, respectively. Nevertheless, since medical examination, treatment and rehabilitation are interrelated, certain provisions apply not only to nurses but also to other specialists, especially about the regulation of working hours, rest, and labour protection. It should be mentioned that all medical and pharmaceutical workers have an obligation to improve their professional level. This includes rules defining procedures for improving the level of qualification of medical and pharmaceutical specialists and establishing a range of specialised requirements for organisations engaged in additional medical and pharmaceutical education. Such a system allows medical and pharmaceutical workers to be aware of changes and trends in healthcare and apply modern methods of treatment.

According to M.F. Martins et al. [38], additional education of medical and pharmaceutical workers is aimed at solving several tasks. Firstly, it is designed to meet the needs of individuals in obtaining new skills and knowledge, which are inherent in both theoretical and practical nature in the field of medicine and pharmacy. Secondly, it contributes to the formation, consolidation, and accumulation of acquired information and improved skills. Thirdly, it promotes the introduction of new methods into the practice of healthcare, which provides an opportunity to apply more modern methods of treatment and diagnosis, which are based on scientific evidence. It is worth adding to the position of the authors that the purpose of all the above is to provide an opportunity to obtain new theoretical information and improve the inherent skills of practical orientation in the field of medicine or pharmacy, including general and specific sections of these areas, according to qualification requirements.

The Code of the RK No. 193-IV [2] does not contain the term "medical secrecy", instead the term "secret of a medical worker" is used. This causes a conflict between the title of the article and its content. The definition of the term "secret of a medical worker" is contained in paragraph 1 of Article 273 of Code of the RK No. 193-IV [2], where it is disclosed as "personal medical data, information about the fact of seeking medical help, the state of health of a person, the diagnosis of their disease, and other information obtained during the examination and (or) treatment". However, the use of the term "secret of a medical worker" instead of "medical secrecy" provides difficulties for citizens in interpreting this concept and creates problems in legal application. In addition, the concepts of "medical secrecy" and "secret of a medical worker" are not identical. This is since the concept of "secrets of a medical worker" may mean their personal data, which is also not allowed to be disclosed by law.

It should also be noted that the definition of "the secret of a medical worker", which is a "medical secret", has not been fully covered, which may cause difficulties in the correct understanding of this concept. Based on this, the article in the current edition does not give an accurate idea of the content of the concept of "medical secrecy" for the following reasons: the title of the article does not correspond to its content, ambiguous terms are used, and the definition of the term "secret of a medical worker" is not fully explained. In accordance with this, the Code of the RK No. 193-IV [2] edition should be supplemented with differentiation of the concepts of "medical secrecy" and "secret of a medical worker" to eliminate collisions.

Disclosure of data that constitute a medical secret, without the consent of the patient, may be allowed in some cases:

- for examination and treatment of a person who is unable to express their will due to their condition and in the absence of a legal representative;
- at the threat of the spread of dangerous diseases, including blood donation, organ, and tissue transplantation;
- at the request of law enforcement agencies, judicial authorities, the prosecutor's office, or a lawyer in connection with an investigation or trial;
- to inform the legal representative when providing medical care to a minor or incapacitated person;
- if there is information according to which it can be assumed that the harm to the person was delivered in accordance using illegal acts.

The following is not considered a violation of medical secrecy: storing a backup copy of electronic information resources on a single backup storage platform, observing the established rules and deadlines, except in cases when these resources contain information related to intelligence and counterintelligence activities and security measures of protected persons and objects [9; 39; 40]. It is also prohibited to connect electronic information plan resources containing several confidential data to other networks without the consent of citizens, except in certain cases provided for by law. Thus, based on the analysis of regulatory legal acts of the Republic of Kazakhstan in the context of legal regulation of labour relations of medical and pharmaceutical workers, it can be concluded that at this stage there are several problematic aspects, according to which recommendations were proposed to eliminate them.

Conclusions

During the study, a comparative legal analysis of the functioning of the healthcare system and the legal regulation of labour relations of medical and pharmaceutical workers in foreign advanced countries and in Kazakhstan was conducted. Thus, the experience of such countries as Germany, France, and Sweden, which are leaders in the international arena in the industry, was examined. The main legislative acts of these foreign countries were reviewed, which provided an opportunity to analyse the regulatory mechanism in more detail. It was identified that the financing of the healthcare sector in Kazakhstan has decreased from 3.9% of GDP to 2.8% over the past 5 years. As a result, Kazakhstan ranks last in the international arena among 63 respondents according to the World Health Organisation.

It was noted that Kazakhstan faces a list of problematic aspects in the field of healthcare in general. These include corruption, low wages, difficult living conditions, local mentality, and long queues to receive special medical care. It was also highlighted that in most medical institutions there is an insufficient amount of equipment of a high-quality plan and insufficient repairs, a low level of salaries of medical workers. The result is a shortage of qualified medical and pharmaceutical workers, which occurs due to

the emigration of employees to countries with higher socio-economic conditions.

The fundamental legislative acts of the Republic of Kazakhstan, which regulate the field of labour relations of medical and pharmaceutical workers, were examined. These include labour Code of the Republic of Kazakhstan, Code of the Republic of Kazakhstan No. 193-IV "On public health and health care system", and the Constitution of the Republic of Kazakhstan. During the analysis of these norms, it was established that there is no fixed right to protect the professional honour and dignity of medical and pharmaceutical workers in the legislation, there is no differentiation between the concepts of "pharmaeutical worker" and "pharmaceutical sales represetative". This leads to conflicts in law enforcement practice on the use of Article 273 of the Code of the Republic of Kazakhstan No. 193-IV due to the absence of a fixed "medical secrecy". In this regard, it was proposed to supplement the current doctrine with the necessary norms and to increase the financing of this area to ensure the necessary conditions for the implementation of the labour of medical and pharmaceutical workers. Subsequent research will be aimed at exploring the prospects for the introduction of artificial intelligence in the healthcare sector.

Acknowledgements

None.

Conflict of Interest

None.

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Особливості праці медичних і фармацевтичних працівників

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Анотація

Актуальність. Актуальність проведеного дослідження обумовлена досить низьким рівнем розвитку системи охорони здоров'я в Казахстані, у зв'язку з чим виникають проблемні аспекти в сегменті трудових відносин у цій галузі.

Мета. Метою дослідження є аналіз нормативно-правових актів Казахстану щодо правового регулювання праці медичних і фармацевтичних працівників.

Методологія. Були використані такі методи, як логічний аналіз, функціональний аналіз, дедукція, догматичний, формально-юридичний.

Результати. Було визначено, що на даному етапі Казахстан посідає останнє місце за рівнем фінансування сектору охорони здоров'я серед 63 країн світу за даними Всесвітньої організації охорони здоров'я. Також було відзначено, що заробітна плата медичних і фармацевтичних працівників знижується. Наслідком цього є те, що більшість з них можуть емігрувати до країн з більш прийнятними соціально-економічними умовами. Було проведено аналіз законодавчих доктрин зарубіжних країн, а саме Франції, Німеччини та Швеції. Це дало можливість виявити найбільш прийнятні чинники та норми трудового права, які дозволяють забезпечити високий рівень функціонування системи охорони здоров'я в цілому та умов праці медичних і фармацевтичних працівників. Також були відзначені колізії закріплених норм Казахстану.

Висновки. Отримані результати дали можливість виділити проблемні аспекти трудового законодавства в досліджуваній галузі, що допомогло визначити ряд рекомендацій, які сприятимуть вдосконаленню чинного законодавства та підвищенню рівня функціонування системи охорони здоров'я в цілому і дозволять Казахстану вийти на більш високий рівень на міжнародній арені.

Ключові слова: правове регулювання; законодавство; порівняльний аналіз; диференціація; кваліфікація; статус.