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THE LEGAL INSTITUTE OF HEALTH CARE CHAPLAINCY IN UKRAINE

INTRODUCTION

The issue of providing pastoral and spiritual care to wounded civilians and military personnel, who are being treated in healthcare and rehabilitation centers, by chaplains as specially trained for this purpose religious workers is incredibly relevant for Ukraine and Ukrainian society in the context of the full-scale invasion of the Russian Federation into the territory of Ukraine. Since there was an urgent need to regulate state and confessional relations in the field of medicine, the status of a chaplain as a professional in the spiritual care within healthcare was legally established in 2022. Having taken this step, the state recognized the pivotal role of health care chaplaincy in ensuring that religious needs of patients, their family members, employees of healthcare facilities and rehabilitation centers are fulfilled.

The Legal Institute of Health Care Chaplaincy in Ukraine is being at the stage of active implementation into the healthcare sector. The long-term lack of proper regulatory and legal consolidation in the status of hospital chaplains and the proper qualification of the clergy has led to a rather negative trend in healthcare institutions. It has been observed in questions like

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involving clergy to provide pastoral care without official employment, the absence of special professional training, and in some cases even ignoring the religious needs of patients.¹ Conflict situations and misunderstandings that arise in this area, intertwined with gaps in the legislation on health care chaplaincy, which is at its founding stage, require special attention from both the legislator and religious organizations, lawyers and specialists in other related fields. Provided that religious organizations are more actively involved and cooperate effectively with state authorities, we can expect a positive European outcome in the future creating appropriate conditions and effective mechanisms for exercising the right to freedom of conscience and religion in healthcare institutions.

1. STAGES IN THE ESTABLISHMENT OF THE LEGAL INSTITUTE OF HEALTH CARE CHAPLAINCY

The Ukrainian state has a long history of clergy service in hospitals and clinics [Tsarenko, Ubogov, and Dandre 2023, 35], as well as a legal tradition of regulating state-confessional relations in this area. Nevertheless, the retreat from the Ukrainian legal tradition in the Soviet period, characterized by the establishment of a statist concept of law interpretation, denied the idea of guaranteeing human rights and fundamental freedoms [Savchyn 2014, 37]. This included the patient's right to freedom of religion, implemented through the institution of chaplaincy. The origin of this institution is associated with the enactment of the Law "On Freedom of Conscience and Religious Organizations" in 1991 [Bilash and Karabin 2020, 98]. The Law "On Freedom of Conscience and Religious Organizations"² enshrined guarantees of the right to freedom of conscience and religion and the mechanism for its implementation in various spheres of the public life. Religious assistance in healthcare institutions was defined by a part of the fundamental right to freedom of religion. The Law provided for the possibility to hold

¹ *Yak porushuyut' prava lyudyny v psykhiatrychniy likarni?*, <https://www.helsinki.org.ua/articles/yak-porushuyut-prava-lyudyny-u-psyhiatrychnij-likarni/>; *Na Poltavshchyni v likarnyu do tyazhkokhvoroyi napiuprytomnoyi patsiyentky ne vpuskaly svyashchennyka*, <https://kolo.news/category/suspilstvo/18074> [accessed: 26.02.2025].

² On Freedom of Conscience and Religious Organizations, Law of Ukraine No. 987-XII on April 23, 1991, <https://zakon.rada.gov.ua/laws/show/987-12#Text> [accessed: 12.11.2024].

religious services and religious ceremonies in hospitals and clinics. It also imposed the obligation on the administration of these institutions to facilitate these processes, to take a direct part in determining the time and other conditions for conducting a religious service, a rite or a ceremony. It is remarkable that the Law provided for the possibility of initiating religious services and religious ceremonies in healthcare institutions by citizens staying in them and by religious organizations. However, the Law did not detail how healthcare administrations facilitate the exercise of a patient's right to freedom of religion. This formulation laid the foundation for broad discretionary powers for healthcare institutions to admit clergy or reject meetings with persons in need of spiritual care.

After declaring Ukraine an independent and democratic state,³ as well as its accession to the Council of Europe,⁴ which symbolized the path to the establishment of the system of European values, the revival of the Legal Institute of Health Care Chaplaincy began. The PACE Recommendation of 1988 is significant for the given research, since it provided for the need that the member states of the Council of Europe were supposed to take measures aimed at ensuring the right to conduct chaplaincy activities without restrictions in any territory and especially in hospitals.⁵ The importance of this Recommendation lies in the recognition of health care chaplaincy as a preferred area for the development of state-confessional relations in the member states of the Council of Europe.

Gradual introduction of chaplaincy in Ukraine was also possible owing to the joint efforts of state bodies and the Ukrainian Council of Churches and Religious Organizations (UCCRO) [Ishchuk and Sagan 2020, 82]. It was established as an interfaith institution in December 1996 in order to unite the efforts of Ukrainian denominations to coordinate interfaith dialogue and participate in the development of draft regulatory legal acts in the field of state-confessional relations [Ohirko 2024, 380].

³ On Declaration of Independence of Ukraine, Resolution of the Verkhovna Rada of Ukraine No. 1427-XII on August 24, 1991, <https://zakon.rada.gov.ua/laws/show/1427-12?lang=en#Text> [accessed: 12.11.2024].

⁴ On Ukraine's Accession to the Statute of the Council of Europe, Law of Ukraine No. 398/95-BP on October 31, 1995, <https://zakon.rada.gov.ua/laws/show/398/95-%D0%B2%D1%80?lang=en#Text> [accessed: 12.11.2024].

⁵ Situation of the Church and freedom of religion in Eastern Europe, Recommendation of the Parliamentary Assembly of the Council of Europe No. 1086 on October 6, 1988, <https://pace.coe.int/en/files/15120/html> [accessed: 12.11.2024].

After the adoption of the Civil Code of Ukraine in 2003,⁶ the right of persons undergoing inpatient treatment in a medical institution to have a clergyman admitted to them to perform divine services and religious rites was enshrined. The patient's right *de facto* directly corresponded to the obligation of the health care institution to provide a mechanism for its implementation. However, the Civil Code of Ukraine did not detail the procedure for admitting clergy to patients, which was at the discretion of the institution's administration. Subsequently, this norm was similarly enshrined in the Law of Ukraine "Fundamentals of the Legislation of Ukraine on Healthcare"⁷ based on the Law of Ukraine "On Amendments and Recognition of Certain Legislative Acts of Ukraine as Invalid in Connection with the Adoption of the Civil Code of Ukraine"⁸. Accordingly, the patient's right to satisfy his religious needs by admitting a clergyman to him/her for the purpose of conducting a religious service and a religious ceremony was enshrined as an integral part of the right to healthcare.

The norms enshrined in the Civil Code of Ukraine, the Laws of Ukraine "Fundamentals of the Legislation of Ukraine on Healthcare" and "On Freedom of Conscience and Religious Organizations" created the basis for the development of health care chaplaincy, the activities of which, however, remained unspecified at the level of the government and ministerial regulations for another 15 years [Vasin 2020, 27].

The establishment of the Public Council under the Ministry of Health of Ukraine on cooperation with the Ukrainian Council of Churches and Religious Organizations (UCCRO) on May 22, 2009 played a crucial role in the state-confessional dialogue in this area. It was preceded by the bilateral Agreement on Cooperation among the members of UCCRO [Bratsiun 2011, 6]. "The Doctor's Code of Ethics" was adopted in 2009 with the participation of the Public Council under the Ministry of Health of Ukraine [Kulish 2021, 52]. The given step indicates the involvement of the state and religious or-

⁶ The Civil Code of Ukraine, Law, Code No. 435-IV on January 16, 2003, <https://zakon.rada.gov.ua/laws/show/en/435-15/ed20250110> [accessed: 28.03.2025].

⁷ Fundamentals of the Legislation of Ukraine on Health Care, Law of Ukraine No. 2801-XII on November 19, 1992, <https://zakon.rada.gov.ua/laws/show/en/2801-12/ed20250327#Text> [accessed: 28.03.2025].

⁸ On Amendments to and the Invalidation of Some Legislative Acts of Ukraine Because of the Adoption of the Civil Code of Ukraine, Law of Ukraine No. 997-V on April 27, 2007, <https://zakon.rada.gov.ua/laws/show/997-16?lang=en#Text> [accessed: 12.11.2024].

ganizations in the joint regulation of health care issues in compliance with the principles of morality, ethics and bioethics.

Another important step towards regulating the implementation of pastoral care in healthcare institutions is the Order of the Ministry of Healthcare of Ukraine No. 733 on October 31, 2011.⁹ It testified to the state's interest in consolidating an effective mechanism for the religious component implementation during the provision of medical care. The Order consolidated and detailed the possibility of patients to exercise their inalienable right for their spiritual needs, which can be implemented through religious services, as well. Spiritual care was established to be provided in accordance with the patient's beliefs and religious self-identification. The drafters of the Order emphasized the impossibility of using patients' specific conditions with the purpose of converting them to another faith, denomination or doctrine [Lavrentiy and Meliakov 2024, 344].

The Order also provided for the possibility of locating chapels and ritual premises on the territory of hospices. The consolidation of premises intended for worship and religious ceremonies in the structure of hospices reflected the lateness of the legislator's interest in health care chaplaincy. For example, Ukrainian scientists analyzed the history of 15 currently operating famous hospital chapels [Ovchar, Yalovyk, and Koreshchuk 2022, 84] and reached the conclusion that the majority of these chapels were founded in the absence of legal regulation of their activities as a structural part of a health care institution and regulatory consolidation of the professional status of clergy who provided pastoral care for patients and medical workers. Chaplaincy as an institution developed in healthcare mostly due to the initiative of religious communities, despite the lack of proper legal regulation [Vasin 2021, 114].

In 2016 the Verkhovna Rada of Ukraine submitted a draft Law "On Amendments to the Law of Ukraine "Fundamentals of the Legislation of Ukraine on Healthcare" (regarding the introduction of pastoral care in the field of healthcare), which was intended to regulate the features of the implementation of pastoral care in the field of healthcare at the legislative level. It was proposed to establish the possibility of chaplains providing pastoral care as full-time employees of health care institutions, that is, on

⁹ About the organization of palliative and hospice care, Order of Ministry of Health of Ukraine No. 733 on October 31, 2011, <https://zakon.rada.gov.ua/rada/show/v0733282-11?lang=en#Text> [accessed: 12.11.2024].

a professional basis, or on a voluntary basis (as volunteers or public activists). At the same time, pastoral care could be provided by clergymen provided that they were authorized by registered religious organizations. In addition, it was proposed to establish a requirement for chaplains who were hired in accordance with the labor legislation of Ukraine to have special training and to undergo selection by religious organizations.¹⁰ Apparently, the authors of the bill intended to consolidate the foundations of the activities of hospital chaplains following the example of penitentiary chaplaincy [Vasin 2018, 19].

In spite of the broad support of the bill among the committees of the Verkhovna Rada of Ukraine [Ubohov, Nahirniak, Dmytriiev, et al. 2016, 35], it was rejected and withdrawn from consideration due to the inexpediency of legislative regulation of state-confessional relations in the given area, as well as the presence of broad regulatory and legal consolidation of the mechanism for implementing the religious needs of patients at the constitutional (Article 35 of the Constitution of Ukraine) and legislative levels.¹¹

An important step towards the introduction of chaplaincy and pastoral care in the healthcare sector of Ukraine was the creation of the Association of Healthcare Chaplains (2020) at the initiative of the Orthodox Church of Ukraine, the Ukrainian Greek Catholic Church and the Ukrainian Church of Christians of the Evangelical Faith [Dobrianskyi, Tarchenko and Tarchenko 2022, 332].

However, the procedure for the introduction of the chaplaincy in the healthcare sector had not been properly established at the regulatory and legal level by 2022. The lack of legal regulation of the clergy activities in healthcare institutions of Ukraine led to the negative consequences, which had been repeatedly emphasized by legal scholars, religious scholars and other experts. Firstly, the lack of a systematic nature of pastoral care, which was usually implemented by clergy, not on a professional, but on a volun-

¹⁰ On Amendments to the Law of Ukraine “Fundamentals of the Legislation of Ukraine on Health Care” (regarding the introduction of pastoral care in the field of health care), Draft Law No. 4987 on July 14, 2016, http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=59751 [accessed: 13.11.2024].

¹¹ Conclusion of the Main Scientific and Expert Department on the Draft Law of Ukraine “On Amendments to the Fundamentals of Legislation of Ukraine on Health Care (regarding the introduction of pastoral care in the field of health care)” No. 4987 on July 14, 2016, <http://w1.c1.rada.gov.ua/pls/zweb2/webproc34?id=&pf3511=59751&pf35401=400760> [accessed: 13.11.2024].

teer or community bases [Kostruba 2017, 112]. Secondly, obstacles to the work of volunteer chaplains by individual representatives of the administration of healthcare institutions [Ubohov, Nahirniak, Dmytriiev, et al. 2016, 34]. Thirdly, the lack of a requirement for volunteer chaplains to have special education and qualifications [Spivak 2022, 123].

2. CURRENT STATE OF LEGAL REGULATION OF CHAPLAINCY IN HEALTHCARE

A characteristic feature of the current state in legal regulation of health care chaplaincy is the transition of chaplaincy from a volunteer to a professional basis. Recent years have been characterized by a number of steps towards the implementation of chaplaincy in the healthcare sector.

Firstly, based on the Order of the Ministry of Health No. 1308 on June 4, 2020¹² spiritual support was defined as a component of palliative care. The Order defined spiritual support as an important component of comprehensive medical measures provided to patients with serious illnesses. In addition, this Order established that the clergy, along with medical specialists, are a part of a multidisciplinary team. This order recognized the dual status of the clergy, who, on the one hand, are representatives of religious communities, and on the other hand, work in the field of health care. It should be noted that the Order concerned the clergy who provide spiritual support, and not hospital chaplains who provide pastoral care. At the same time, the Order witnesses how important the religious component is in a comprehensive approach to patient treatment.

Secondly, by the Order of the Ministry of Health No. 1207 on June 15, 2021,¹³ the Public Council under the Ministry of Health of Ukraine on cooperation with the Ukrainian Council of Churches and Religious Organizations (UCCRO) was assigned a number of responsibilities for organizing and coordinating chaplaincy activities in the field of health care, fulfillment

¹² On improving the organization of palliative care in Ukraine, Order of Ministry of Health of Ukraine No. 1308 on June 04, 2020, <https://zakon.rada.gov.ua/laws/show/z0609-20#Text> [accessed: 13.11.2024].

¹³ On Approval of the Regulation on the Public Council at the Ministry of Health of Ukraine on Cooperation with the Ukrainian Council of Churches and Religious Organizations [...], Order of Ministry of Health of Ukraine No. 1207 on June 15, 2021, <https://zakon.rada.gov.ua/rada/show/v1207282-21#Text> [accessed: 13.11.2024].

of practical measures aimed at the implementation and development of the health care chaplaincy and the system of pastoral care. The order outlined the vector for the development of state-confessional relations in the field of healthcare with the aim of their further institutionalization.

Thirdly, by Order of the Ministry of Health of Ukraine No. 1782 on September 30, 2022,¹⁴ the position of “chaplain in healthcare” was included in the List of positions of professionals with higher non-medical education. The Order established the status of a hospital chaplain not as a clergyman who provides care for patients on a voluntary basis, but as a healthcare professional with appropriate qualifications. The order established professional requirements for the specialty and specialization of a chaplain in healthcare, which were subsequently similarly enshrined in the Handbook of Qualification Characteristics of Employee Professions. Issue 78 Healthcare (hereinafter referred to as the Handbook).¹⁵

Based on Order of the Ministry of Health of Ukraine No. 138 on January 25, 2023,¹⁶ the qualification characteristics of the professions “chaplain in healthcare” and “assistant chaplain in healthcare” were adopted. In accordance with the given Order, the Handbook was supplemented with new sections that contained information on the credentials, qualification requirements and a range of competencies of a chaplain in healthcare and an assistant chaplain in healthcare.

Another remarkable issue is that the Handbook contains a number of important provisions regarding the status of a chaplain in healthcare, which meet high standards of pastoral care. Firstly, it stipulates a requirement for the educational component of the chaplain’s activities – higher education in the field of knowledge “Theology” with a specialty of “Theology”, as well as the need for additional special educational training for these specialists, i.e. specialization in “Clinical Pastoral Care” [Deliatynskyi and Gogol 2023, 12]. The chaplain is obliged to constantly improve his profes-

¹⁴ On Amendments to the List of Positions of Professionals with Higher Non-Medical Education, Order of Ministry of Health of Ukraine No. 1782 on September 30, 2022, <https://zakon.rada.gov.ua/laws/show/z1303-22#n2> [accessed: 13.11.2024].

¹⁵ The Handbook of Qualification Characteristics of Employee Professions. Issue 78 Healthcare, Order of Ministry of Health of Ukraine No. 117 on March 29, 2002, <https://zakon.rada.gov.ua/rada/show/va117282-02#Text> [accessed: 13.11.2024].

¹⁶ On Approval of Amendments to the Handbook of Qualification Characteristics of Employee Professions. Issue 78 Healthcare, Order of Ministry of Health of Ukraine No. 138 on January 25, 2023 <https://zakon.rada.gov.ua/rada/show/en/v0138282-23?lang=uk#Text> [accessed: 13.11.2024].

sional level similar to doctors and paramedical staff. This involves participation in continuous professional development activities, such as seminars, trainings, professional (thematic) schools. Chaplain assistants must also undergo initial clinical training [Tsarenko, Ubogov, and Dandre 2023, 35]. A healthcare chaplain assistant is also envisaged to meet the following qualification requirements to perform his duties: having an education not lower than the level of professional pre-higher education, completing theological courses and completing an initial level of specialization in the specialty “Clinical Pastoral Care”. In general, defining the qualification characteristics of the profession of a healthcare chaplain and a chaplain assistant, as persons who possess special knowledge and skills, improves the quality of medical care.

Secondly, the qualification characteristics of the profession of “Chaplain in Healthcare”, in addition to a detailed definition of the scope of duties and rights of a chaplain as an employee, comprehensively reflect the European values that guide chaplains in their activities in healthcare. The legal principles of pastoral activity include the rule of law, equality, respect for human rights, religious pluralism. Thus, a chaplain in his activities must strictly adhere to the provisions of the legislation of Ukraine in the field of healthcare.¹⁷ This obligation reflects the principle of legality as a component of the rule of law principle in the activities of a hospital chaplain. The principles of equality, religious pluralism, non-discrimination, tolerance are enshrined in the following obligations of a health care chaplain: a chaplain performs professional duties in an interreligious environment; he is obliged to adhere to the principles of professional ethics and deontology.¹⁸ In its turn, the Code of Ethics for Chaplains in Healthcare of Ukraine establishes the chaplain’s duty to prevent manifestations of interfaith intolerance; to treat representatives of other faiths and religions with respect, and to refrain from actions that may cause religious hostility.¹⁹ Providing pastoral care in interfaith ministry, a hospital chaplain must respect the religious views of believers, both of their own faith (religion) and others, as well as the right to freedom of worldview of atheists [Piasta 2022, 137].

¹⁷ Ibid.

¹⁸ Ibid.

¹⁹ Etychnyy kodeks kapelana v okhoroni zdorov’ya Ukrayiny, https://orthodox-medical.org.ua/images/stories/News/2021/2021_11_26_Kapelani_etika_kodecs.pdf [accessed: 13.11.2024].

Currently, the last steps towards the introduction of health care chaplaincy are the inclusion of the specialty “Clinical Pastoral Care” in the Nomenclature of Specialties for Professionals with Higher Non-Medical Education working in the Healthcare System, which will be used to train hospital chaplains²⁰ and introduce a specialization cycle and a thematic improvement cycle for chaplains in healthcare.²¹ This has made it possible to conduct certificate programs of specialization cycles in the specialty “Clinical Pastoral Care” for training chaplains in healthcare at Ukrainian Catholic University and Volyn Orthodox Theological Academy.²²

On April 11, 2024, professional standards for the professions “Chaplain in Healthcare” and “Chaplain Assistant in Healthcare” were added to the Register of Qualifications.²³

Thus, we can state the fact of official recognition of chaplaincy in Ukraine as a profession in the field of healthcare, as well as the effective regulation of this institution at the constitutional and legislative levels.

3. PROBLEMATIC ISSUES OF LEGAL REGULATION OF HEALTH CARE CHAPLAINCY

Since 2022, chaplaincy in the field of health care has begun to function in Ukraine at the official level, while further improvement of the mechanism for exercising the right to freedom of religion by patients, their family members and employees of a health care institution or a rehabilitation institution requires the resolution of a number of problematic issues.

²⁰ On Amendments to the Nomenclature of Specialties for Professionals with Higher Non-Medical Education working in the Healthcare System, Order of Ministry of Health of Ukraine No. 958 on May 26, 2023 <https://zakon.rada.gov.ua/laws/show/z0966-23#Text> [accessed: 13.11.2024].

²¹ On Approval of the Nomenclature of Specialties of Healthcare Professionals in Healthcare Institutions, the List of Specialization Cycles and the Thematic [...], Order of Ministry of Health of Ukraine No. 112 on January 23, 2024, <https://zakon.rada.gov.ua/laws/show/z0159-24#n28> [accessed: 13.11.2024].

²² V Ukrayini startuvaly prohramy z pidhotovky medychnykh kapelaniv, 19.09.2024, <https://medkapelan.com.ua/v-ukraini-startuvaly-prohramy-z-pidhotovky-medychnykh-kapelaniv/> [accessed: 14.11.2024].

²³ Vvedeno u diyu profesiyni standarty kapelana ta pomichnyka kapelana v okhoroni zdorov'ya, 12.04.2024, <https://medkapelan.com.ua/vvedeno-u-diiu-profesijni-standarty-kapelana-ta-pomichnyka-kapelana-v-okhoroni-zdorov-ia/> [accessed: 14.11.2024].

First of all, despite the presence of religious buildings on the territories of many healthcare institutions and religious services conducted in them, a chaplain in healthcare is not a representative of a religious community that is already on the territory of a medical institution, and a clergyman of this church is not automatically viewed as a hospital chaplain. It follows that the activities of such a clergyman are not the subject to the requirements for special education, standards of professional ethics and deontology. This situation may lead to the refusal of the healthcare institution, on the territory of which the clergyman carries out his activities, to hire a chaplain in healthcare and include the latter in the multidisciplinary team.

Confidentiality in the activities of hospital chaplains remains an open issue, which requires the adoption of organizational and legal measures. An important organizational (material and technical) measure in this context is the provision of health care institutions with appropriate premises for chaplains to perform their functions, such as a chapel or a prayer room, which makes it possible to ensure a sufficient level of privacy. The absence of a separate room for religious ceremonies is a violation of the right of the patient and his family members to freedom of worldview and religion and the right to confidentiality about their health [Andriishyn, Bratsyun, Piasta, et al. 2023, 200].

Legal measures, which are still to be implemented, include the need to legally regulate the status of information that has become known to a chaplain in the course of performing his functions and tasks in a medical institution. Ukrainian legislation has granted confidentiality status to information that has become known to penitentiary chaplains during confession, and to all information about a person that has become known to a military chaplain in the course of performing his activities, that is, not only through confession, but also during private communication, spiritual conversations and other interactions [Bilash, Karabin, and Cherevko 2023, 24]. We believe that information that has become known to a healthcare chaplain in connection with the performance of his powers is the one with limited access and should be protected by the law similarly to the information obtained during the performance of military chaplaincy activities [Rosul 2023, 224]. This statement is justified by the nature of the information provided to the hospital chaplain during the performance of his/her activities, or directly perceived by him/her in connection with his/her stay in a healthcare institution and may include information about the illness, the

state of his/her health, the fact of seeking medical care, the patient's diagnosis, the intimate, family or even professional aspects of the life of the person who has contacted the chaplain.

It is considered advisable to develop a form of accounting documentation as the "Patient's Informed Voluntary Consent to Provide Pastoral Care" and instructions for filling it in. In the case of contacting a health care institution, such consent should be filled in by a patient and would certify his/her conscious, voluntary expression of will to provide spiritual care over him/her. Subsequently, signing the consent would help to avoid situations when spiritual care is provided against the patient's will. However, the aforementioned statement does not apply to cases where the patient is in a state that makes it impossible to be aware of his own actions, in particular in the state of unconsciousness. There is also a need to develop a form of working documentation for a chaplain in healthcare. Chaplain documentation can be kept in the following forms: records can have a free structure or they can be compiled using approved standard forms [Peng-Keller 2024, 158].

The number of chaplains in the hospital staff and their working hours remain the questions to be solved. Currently they are determined by healthcare institutions at their own discretion. Nonetheless, there is no objective quantitative criterion, for example, when the presence of a chaplaincy service in a healthcare institution with an inpatient department is based on the number of beds per a person working full-time. An objective quantitative criterion will narrow the discretionary powers of the healthcare facility administration to create appropriate conditions for patients, their relatives, and employees to meet their spiritual needs through the activities of the chaplaincy service.

The most urgent problem on the way to the introduction of the health care chaplaincy in Ukraine is the violation of the religious rights of persons residing in the territories where hostilities are (were) ongoing or which are temporarily occupied by the Russian Federation. In these territories, the use of discriminatory measures in the field of freedom of conscience and religion is widespread, the practice of harassment or even legislative bans on religious organizations that do not support the Russian political regime is widespread with frequent cases of property confiscation, refusal to re-register religious communities, etc. [Tokman 2021, 5]. Under these circumstances, the introduction of the health care chaplaincy is sure to require effective intensification and a synergistic approach from theologians, reli-

gious scholars, psychologists, doctors and employees of state institutions [Horokholinska 2023, 108]. The issue of implementing chaplaincy services in healthcare facilities located in adjacent territories where hostilities are or have been ongoing is also relevant. A mandatory component of establishing the health care chaplaincy is the development of a Concept and Action Plan by the public administration in alliance with religious organizations. This should be aimed at the implementation of professional chaplaincy in healthcare facilities of a specific territory and further activation of the process of creating and/or developing pastoral ministry in the healthcare sector by forming chaplaincy structural units at the local level [Marchuk and Marchuk 2022, 108]. In addition, the effective functioning of the health care chaplaincy requires systematic monitoring and evaluation of its activities, which will contribute to the adaptation of pastoral care to the real needs of society in the conditions of war and post-war recovery.

CONCLUSIONS

The introduction of chaplaincy in healthcare facilities in Ukraine historically took place in two stages. The first stage lasted from 1991 to 2022 and was characterized by the implementation of chaplaincy functions on a volunteer and community basis by the clergy. The key features of this stage are the declaration of the patient's subjective right to be accessed by a clergyman; absence of departmental regulatory and legal regulation of the status of clergymen, providing pastoral care in healthcare institutions; effective cooperation of state institutions with church representatives for the further implementation of the Legal Institute of Health Care Chaplaincy.

The next stage started in 2022 and is characterized by the consolidation of a chaplain's status in healthcare, being interpreted as a professional in spiritual care in the healthcare sector. This status is marked with a certain duality, since a chaplain is a clergyman, and simultaneously an employee of a hospital, possesses special knowledge and qualification skills in the field of medicine. The Legal Institute of Healthcare Chaplaincy itself, having received legal recognition, is currently at the stage of organizational implementation in healthcare institutions.

In order to organize the implementation of pastoral care at the proper level in accordance with European standards and current realities in

Ukraine, there is a need to further improve normative and legal regulation. Primarily, there exists necessity to take the following measures: 1) to develop an action plan for the implementation of professional chaplaincy in territories where hostilities are (were) ongoing or that are temporarily occupied by the Russian Federation; as well as the effective implementation of chaplaincy services in the work of institutions located in adjacent territories; 2) to establish a clear quantitative criterion, for example, calculating the number of beds per person working full-time as a healthcare chaplain (healthcare chaplain assistant); 3) to implement logistical and legal measures aiming at ensuring that the chaplain observes the principle of confidentiality of information in his activities, etc.

The resolution of these and other relevant issues, despite the challenges, as well as the development of the Legal Institute of Healthcare Chaplaincy in Ukraine, indicates the gradual establishment of a partnership model of state-confessional relations, which is an important step towards ensuring patients' rights to spiritual care and harmonizing Ukrainian legislation with European standards.

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The Legal Institute of Health Care Chaplaincy in Ukraine

Abstract

The article is devoted to the legal regulation analysis of professional chaplaincy integration into the healthcare institutions of Ukraine, the identification of the main steps to be taken in the cooperative relations between state authorities and religious organizations in order to guarantee the rights of patients and medical workers to freedom of religion, the evolution of the health care chaplaincy starting from the volunteer movement of the clergy to their further professionalization. Based on the analysis of the legislation and the key aspects of legal regulation of chaplaincy activities in medical institutions of Ukraine, the authors have reached the conclusion that the legal status of hospital chaplains in Ukraine until 2022 reflected the religious component only, defining a chaplain rather as a clergyman, a member and a representative of a religious organization who provides pastoral, spiritual care to patients, and not as a qualified employee of a healthcare institution. Only since 2022, in the conditions of the full-scale war of the Russian Federation against Ukraine and due to the increasing public attention to the issue of regulating state-confessional relations in the field of healthcare, the status of a hospital chaplain was legally consolidated, no longer as a clergyman carrying out his activities on a voluntary basis, but as a professional in spiritual care in the sphere of healthcare. This justifies that the legal status of a chaplain in healthcare today is characterized by the presence of religious and medical elements, which affects the determination of the requirements for professional qualifications, the scope of chaplain's authority, and the features of his pastoral activities as an employee in a healthcare institution.

The article outlines the main problems of legal regulation and substantiates the main directions for improving legislation in the field of health care chaplaincy in Ukraine.

Keywords: health care chaplaincy; hospital chaplain; the rights of patients and medical personnel to freedom of religion; state-confessional relations; pastoral care.

Status prawny duszpasterstwa służby zdrowia na Ukrainie

Abstrakt

Artykuł poświęcony jest analizie regulacji prawnych dotyczących integracji kapelanów zawodowych w placówkach służby zdrowia na Ukrainie, identyfikacji kluczowych kroków w relacjach współpracy między organami państwowymi a organizacjami religijnymi w celu zagwarantowania prawa pacjentów i pracowników medycznych do wolności religijnej oraz ewolucji duszpasterstwa służby zdrowia – od wolontariatu duchowieństwa do jego dalszego sformalizowania. Na podstawie analizy przepisów prawa oraz kluczowych aspektów regulacji działalności kapelanów w placówkach medycznych na Ukrainie autorzy dochodzą do wniosku, że status prawny kapelanów szpitalnych do 2022 r. miał wyłącznie wymiar religijny – kapelan był postrzegany przede wszystkim jako duchowny, członek i przedstawiciel wspólnoty religijnej, który zapewnia pacjentom opiekę duszpasterską i duchową, a nie jako wykwalifikowany pracownik placówki medycznej. Dopiero od 2022 r., w warunkach pełnoskalowej wojny Federacji Rosyjskiej przeciwko Ukrainie oraz w związku z rosnącym zainteresowaniem społecznym regulacją stosunków państwo-wyznaniowych w sektorze opieki zdrowotnej, status kapelana szpitalnego został prawnie uregulowany – nie jako duchownego działającego na zasadzie wolontariatu, lecz jako profesjonalisty w zakresie opieki duchowej w systemie ochrony zdrowia. Oznacza to, że obecnie status prawny kapelana w systemie opieki zdrowotnej łączy w sobie zarówno elementy religijne, jak i medyczne, co wpływa na określenie wymagań dotyczących kwalifikacji zawodowych, zakresu kompetencji kapelana oraz specyfiki jego działalności duszpasterskiej jako pracownika placówki medycznej. W artykule przedstawiono główne problemy regulacji prawnych oraz zaproponowano kierunki doskonalenia ustawodawstwa w zakresie duszpasterstwa służby zdrowia na Ukrainie.

Słowa kluczowe: duszpasterstwo służby zdrowia; kapelan szpitalny; prawa pacjentów i personelu medycznego do wolności religijnej; relacje państwo-wyznaniowe; opieka duszpasterska.

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