

LEGAL PROTECTION OF MEDICAL RIGHTS AND INTERESTS OF THE ELDERLY: A STUDY OF KEY ELEMENTS AND IMPLEMENTATION STRATEGIES

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ABSTRACT

In the present era, the process of population ageing is accelerating, bringing about profound impacts at all levels of society, among which the issue of protection of the rights and interests of the elderly in health care is particularly prominent, and has become a focus of great concern for the whole society. The aggravation of population aging means that the number of elderly people continues to grow, and their demand for medical services increases dramatically due to the decline of their physical functions. However, in reality, the elderly face many difficulties in accessing healthcare resources, enjoying healthcare services and bearing healthcare costs. These problems are not only related to the health and quality of life of the elderly, but also have a far-reaching impact on the fairness, justice, harmony and stability of the society. In this context, the legal protection of medical rights and interests of the elderly is particularly important, which is not only the key to safeguard the basic rights and interests of the elderly, but also an important symbol of the progress of social civilization. In order to explore this complex and critical topic in depth, this paper synthesizes a variety of scientific research methods. Through the comprehensive use of these methods, this paper provides an in-depth analysis of the legal status of the protection of medical rights and interests of the elderly in China. It is found that although a series of laws and regulations

related to the protection of medical rights and interests of the elderly have been established in China, there are still many problems in the actual operation process. Aiming at the above problems and their root causes, this paper proposes practical strategies from multiple dimensions, aiming to effectively protect the legitimate rights and interests of the elderly, improve their quality of life and health, promote social justice and harmony and stability, and promote the sustainable development of society.

Keywords: Elderly People; Medical Rights and Interests; Legal Protection

1. INTRODUCTION

1.1 Background and Significance of the Study

As medical care continues to improve and quality of life continues to improve, the average life expectancy of the global population continues to increase, and the global trend of population aging is becoming more pronounced. This trend is even more prominent in China as a populous country. According to the China Statistical Yearbook 2024 released by the National Bureau of Statistics, in 2023, the number of Chinese people aged 65 and above has reached 216.76 million, with an old-age dependency ratio of 22.5%. In other words, every four young adults nowadays need to bear the burden of one elderly person. In addition, according to the 2023 National Bulletin on the Development of the Elderly Program, by the end of 2023, there were 296.97 million elderly people aged 60 and above in China, accounting for 21.1 percent of the total population. These figures indicate that China has officially entered a “moderately aging” society. As the size of the elderly population continues to expand, coupled with the decline of their physical functions, the elderly have a higher rate of illnesses than young people, and a higher demand for medical services, the protection of the medical rights and interests of the elderly has gradually become a focus of social concern. Protecting the medical rights and interests of the elderly can not only safeguard the life and health of the elderly, but also promote social justice and maintain social harmony and stability. The role and status of the elderly in society has gradually become more and more prominent, and they are an important part of society, so this group should enjoy equal medical treatment,

medical resources and high-quality medical services in their twilight years. The protection of the rights and interests of the elderly in health care is related to social stability, and if their rights and interests are not effectively protected, it may aggravate social inequality. In addition, good medical protection can reduce the financial burden of older persons and their children, release consumption potential and promote a virtuous economic cycle. Reliable medical protection can also enhance the sense of well-being and accessibility of the elderly and improve the quality of life of this group. Against the backdrop of population ageing, the protection of the rights and interests of the elderly in health care is of key significance to improving the quality of life and maintaining social justice and stability.

1.2 Overview of Domestic and International Research

Due to the differences in their own political systems, economic development levels, social and cultural traditions and other factors, different countries have constructed their own medical rights and interests protection systems for the elderly. In-depth study of the characteristics of these medical rights and interests of foreign countries, analyze their advantages and shortcomings, for the construction and improvement of China's medical rights and interests of the elderly protection system to provide an important reference. For example, the medical rights and interests protection system for the elderly in the United States is a government-led health insurance program (Medicare) and private commercial insurance as an auxiliary to build up, with a significant public-private combination of the characteristics of the Medicare is managed by the federal government, specializing in 65 years of age and older to provide basic medical care. Medicare Part A is responsible for hospitalization costs, and most seniors do not have to pay premiums (because they or their spouses have paid enough for Medicare while working), which greatly reduces the financial burden on seniors and ensures that they have the ability to protect their right to life and health when they are sick. Part B is responsible for outpatient services, which require participants to pay a certain amount of money. Part B is for outpatient services, which require a premium to be paid by the enrollee and allows seniors to receive coverage for outpatient visits and routine medical services; Medicare Part C integrates a wide range of medical services and provides a richer set of benefits than

traditional Medicare, and may include additional vision, hearing, and dental services; and Part D reimburses seniors for the cost of their prescription medications, addressing the financial burden of long-term medication use. addresses the financial burden of long-term medication for seniors. In addition, private commercial insurance plays an important role. Seniors can purchase supplemental commercial insurance to cover the remainder of their Medicare reimbursement, which is the portion of the Medicare program that is not reimbursed. This insurance can also provide additional high-quality medical services for the elderly, such as high-end private nursing services, special rehabilitation therapy programs, etc., which meets the diversified and personalized needs of the elderly for medical treatment. The UK's healthcare protection system is built around the National Health Service (NHS). In the UK, all residents have the right to enjoy free medical services provided by the NHS, including the elderly. Elderly people can access medical services by registering with a GP (General Practitioner), who will provide them with initial diagnosis and treatment, and refer them to specialists or hospitals when necessary. In addition, the UK government provides additional health insurance schemes, such as the Pension and Attendance Allowance, to help older people pay for additional medical expenses. Older people can also take out private health insurance to get access to a wider range of healthcare services and faster consultation times. In general, the health insurance system for the elderly in the United Kingdom is relatively sound, and the elderly can obtain quality health care services without having to worry about high medical expenses. This also reflects that the British Government attaches importance to and cares for the health of the elderly.

Domestic scholars have also been deepening their research on the protection of the medical rights and interests of the elderly. China has built up a multi-level medical insurance system with basic medical insurance as the mainstay and medical assistance and commercial health insurance as supplements. The coverage of basic medical insurance is very wide, and most of the elderly are covered. However, China's current legal system for the protection of medical rights and interests is still incomplete, and the degree of protection of the rights and interests of the elderly is relatively low. In terms of medical resources, there are obvious

disparities between urban and rural areas and regions, with a large number of high-quality medical resources concentrated in urban and developed areas, while in rural and less-developed areas, only basic medical facilities are available, and there is a lack of medical personnel, which, coupled with inconvenient transportation, makes it difficult for older persons living in rural and less-developed areas to enjoy high-quality medical services. With regard to the health insurance system, the scope and proportion of reimbursement still need to be optimized, for example, with regard to special medicines that the elderly need to take. With regard to medical services, some medical institutions treat older persons poorly, lack personalized services, and have insufficient professional competence among their staff, thus failing to meet the growing health needs of older persons.

1.3 Research Methods and Innovations

This paper utilizes a variety of research methods, based on the literature research method, and collects a large number of domestic and foreign related legal literature, academic research materials and related policies, etc., to sort out the current situation of the research on the protection of the medical rights and interests of the elderly, which provides theoretical support for the subsequent analysis. This paper also utilizes the comparative analysis method and the empirical research method to compare the medical rights and interests of the elderly protection system between different countries and regions, to learn from the advanced experience of foreign countries, and to find out the shortcomings of the medical rights and interests of the elderly protection system in China. The method of empirical research is to obtain first-hand information through case studies and field research, so as to gain a deeper understanding of the problems encountered by the medical rights and benefits protection system for the elderly in practice. This paper also adopts multiple perspectives to comprehensively analyze the legal problems in the medical rights and interests protection system for the elderly, closely combining theory and practice to enhance the practical significance of this paper.

2. METHODOLOGY

2.1 Explanation of Theoretical Foundation

Human rights theory, social equity theory and welfare economics theory play an important supporting role in the protection of medical rights and interests of the elderly.

Human rights are the inherent rights of human beings, regardless of gender, age, religion, race and other status, it refers to the basic rights that human beings enjoy or should enjoy, the right to life and the right to health are an important part of human rights, with age, the physical functions of the elderly gradually decline, and there is a higher demand for access to health care services, so the protection of the rights and interests of the elderly in health care is also respecting and protecting human rights.

An equitable health system should provide equal access to health care and health services for all, without discrimination of any kind. Therefore, older persons should enjoy the same health services and health resources as other groups. It is important to ensure that the distribution of health-care resources complies with the principle of fairness and equity, so that older persons can receive effective and timely health-care services.

With regard to the protection of the rights and interests of the elderly in medical care, through the rational allocation of medical resources and the optimization and improvement of the system, it is possible to alleviate the financial pressure borne by the elderly as a result of their illnesses and to safeguard the right to health of the elderly, thereby achieving the goal of promoting social welfare. The State and various social organizations should play an active role in improving the quality of life and social welfare of this group.

2.2 Detailed Description of the Research Method

In the implementation of the literature research method, with the help of academic databases (such as China Knowledge Network, Wanfang Data, Web of Science, etc.) and the official websites of government departments, we comprehensively collect domestic and foreign laws and regulations, academic papers, research reports and

other materials on the protection of the medical rights and interests of the elderly and systematically organize and analyze them to sort out the development of the relevant research and distill the core viewpoints, so as to provide a solid theoretical foundation for the study. The study provides a solid theoretical foundation.

Comparative analysis method is used to compare the legal system of medical rights and interests of the elderly in different countries, and select two representative countries, the United States and the United Kingdom, to analyze their legal provisions and practical experience in the health insurance system, medical services, resource allocation, etc., and to find out what can be learned from our country.

The empirical research method is to obtain first-hand data through field research. Hospitals, community health service centers, nursing homes and families of the elderly in different regions are selected as research targets, and questionnaires are used to understand the actual needs of the elderly in the process of medical care, the difficulties they encounter and their satisfaction with the existing measures to protect their medical rights and interests. At the same time, a large number of cases of medical disputes were collected, and the case analysis method was used to analyze the problems in the practical application of the law.

3. DISCUSS AND ANALYSIS

3.1 Analysis of the Legal Status of Medical Rights and Interests Protection for the Elderly in China

3.1.1 Organization of relevant laws and regulations

In 2013, China promulgated and implemented the Law on the Protection of the Rights and Interests of the Elderly, the first comprehensive law dedicated to the protection of the rights and interests of the elderly. It comprehensively stipulates the basic rights and obligations of the elderly, including the right to receive basic medical services, and clarifies the basic principles of the system for safeguarding the rights and interests of the elderly; for example, article 29 of the Law on the Protection of the Rights and Interests of the Elderly reads: "The

State shall safeguard the basic medical needs of the elderly through the basic medical insurance system. Elderly persons enjoying the minimum subsistence guarantee and those from low-income families who meet the conditions are subsidized by the Government for the portion of the individual contributions required to participate in the new rural cooperative medical care and basic medical insurance for urban residents. The relevant departments shall take care of the elderly when formulating medical insurance schemes.” This content reflects the State's protection of the medical rights and interests of the elderly. The promulgation of the Law on the Protection of the Rights and Interests of the Elderly marks the basic establishment of a legal system for the protection of the rights and interests of the elderly, and provinces have also taken this as the basis for formulating detailed measures to protect the rights and interests of the elderly. The Social Insurance Law is an important law in the field of social security in China, and plays an indispensable role in safeguarding the medical rights and interests of the elderly. It protects the medical rights and interests of the elderly in many dimensions, and is of great significance in improving China's medical insurance system for the elderly and promoting social justice. Article 25 of the Social Insurance Law reads: “The State shall establish and improve the basic medical insurance system for urban residents. Basic medical insurance for urban residents is a combination of individual contributions and government subsidies. The government shall subsidize the portion of individual contributions required by persons enjoying the minimum subsistence guarantee, persons with disabilities who have lost the ability to work, and elderly persons over 60 years of age and minors from low-income families.” This content can reflect the fact that the law has played a key role in supporting the payment of medical expenses for the elderly.

However, there are still some problems with these laws and regulations. In terms of legal status, most of the provisions related to the protection of the rights and interests of the elderly in medical care are at the level of administrative regulations and departmental rules, with a relatively low legal status. This may result in the laws and regulations concerning the protection of the rights and interests of the elderly not being implemented in reality, lacking

stability and authority. In terms of the level of detail of the provisions, the laws and regulations mentioned above concerning the medical rights and interests of the elderly are rather general and not detailed, and some of them are just words of principle. The lack of clear, specific rules and regulations makes it impossible for regions and medical institutions to accurately grasp the scope and extent of the protection of the rights and interests of the elderly in health care, and thus creates discrepancies that prevent the provision of quality health care to this group of elderly persons.

3.1.2 Evaluation of the Effectiveness of Law Implementation

Through actual case analysis and statistics, the actual effect of the implementation of the law on the protection of the rights and interests of the elderly in China can be assessed in a more comprehensive manner. The implementation of the law on the protection of the rights and interests of the elderly in China has been effective in general, but the implementation effect varies due to the influence of economic, transportation and other factors. For example, the eastern part of China is relatively rich in medical resources and has a higher level of service and technology. The eastern region has a large number of hospitals, advanced equipment, and a sufficient number of specialized medical personnel to provide high-quality medical services. In addition, the medical insurance system in the eastern region is more perfect, with extensive medical insurance coverage and stronger protection ability, which can effectively reduce the medical burden of the elderly? The effectiveness and inadequacy of the law in protecting the medical rights and interests of the elderly. However, in the western part of China, medical resources are relatively scarce, and the level of service and protection capacity is low. Due to its small number of hospitals, backward equipment, shortage of specialized medical personnel, resulting in poor quality of medical services. Many elderly people in the central and western regions face the problem of difficult and expensive access to medical care, and the medical security system is not perfect enough, with incomplete medical insurance coverage and weak protection capacity. Therefore, the effect of the implementation of the law needs to be analyzed in the context of the actual situation, and no generalizations can be made; the law should be further amended and supplemented in order to maximize the effectiveness of the

law in the light of the particular situation.

3.1.3 Exploring the Root Causes of Problems in the Existing Legal System

From the perspective of legislative philosophy, legislation should be based on the interests of the elderly, safeguard their legitimate rights and interests, and take into account the actual situation; idealized laws cannot be formulated. For example, health insurance reimbursement can usually only be made at health insurance designated institutions. Medical expenses incurred in non-Medicare designated institutions cannot be reimbursed through Medicare, even if they are eligible for reimbursement. Some seniors may lack the knowledge to make reimbursement because they are not aware of the location of the designated health insurance institution or because of transportation difficulties. Broken health insurance will result in no reimbursement. If there is a break in payment, health insurance benefits will be terminated from the month following the break. Even if subsequent payments are made, there may be a waiting period during which medical expenses incurred cannot be reimbursed. Some elderly people have a low level of literacy and education and are unaware of health insurance policies, so it is easy for them to forget to pay or cut off their contributions, which affects subsequent reimbursement of health insurance. All these will increase the financial burden of the elderly. In terms of legislative techniques, legal provisions may be ambiguous, duplicative or contradictory. These may lead to different standards in the implementation of the law, ambiguity in the scope of authority and responsibility, and insufficient enforcement. In terms of the scope of health insurance reimbursement, there are discrepancies between the Social Insurance Law and local health insurance implementation rules, and inconsistencies in the reimbursement provisions for some medicines and diagnostic and therapeutic items at the national and local levels, which make it confusing for older people to reimburse their medical expenses, and also make it difficult for health insurance departments to review and manage their medical expenses.

From the point of view of interest coordination, medical rights and interests protection involves the government, elderly groups, medical institutions and other multi-interested subjects, at present, China has not yet established a perfect mechanism for coordination of

interests, the government in the distribution of medical resources and supervision of inputs are still in the existence of problems, resulting in the uneven distribution of medical resources, the quality of health care services varies. In order to pursue economic benefits, medical institutions sometimes neglect the medical rights and interests of the elderly, making it difficult and expensive for them to see a doctor.

3.2 Legal Implications of Unequal Distribution of Medical Resources

3.2.1 Legal dilemmas under urban-rural and regional disparities

There is a significant gap between urban and rural, regional medical resources in China, and this gap creates serious inequality in the application of law and protection of rights and interests. In terms of human resources, cities and developed regions have a large number of high-quality medical resources and possess talents with excellent professional abilities. On the other hand, rural and underdeveloped areas have a lack of medical personnel and their overall quality is low. The imbalance in the ratio of doctors in urban and rural areas makes it difficult for rural residents to obtain high-quality medical services. For example, the ratio of physicians to beds in rural hospitals is 1:11.1, and the ratio of nurses to beds is 1:13.6, which is far lower than that in urban medical institutions. In terms of material resources, cities and developed areas have advanced medical equipment, such as large CT scanners and MRI equipment. On the other hand, rural and underdeveloped areas have poor medical equipment and even lack part of the infrastructure. Take rural hospitals in Hunan Province as an example, 58.3% of rural hospitals have established independent respiratory medicine departments, but only 72.9% are equipped with pulmonary function test laboratories, 54.2% have bronchoscopy rooms, 64.6% have non-invasive ventilators, 43.8% have invasive ventilators, and less than 15% of sleep laboratories and nebulizer treatment rooms have been established. In terms of financial resources, urban and developed areas, with a stronger economic base, invest more in medical institutions, so medical services are of higher quality. On the other hand, rural areas and underdeveloped regions are less well-funded and invest less in medical care, and people living in rural areas or underdeveloped regions have less access to medical resources.

In terms of the application of the law, there are differences between urban and rural health

insurance systems, with urban and rural seniors enjoying different treatment, and the reimbursement rates and scope of reimbursement differing between rural and urban areas. In general, the reimbursement rates and coverage of medical insurance for the elderly in rural areas are lower than those for the elderly in urban areas. If an elderly person in a rural area suffers from a serious illness, but the reimbursement rate and coverage of the rural health insurance are lower, the more expenses the elderly person in the rural area has to bear, which may even lead to serious problems such as returning to poverty.

From the point of view of protection of rights and interests, due to the unbalanced allocation of medical resources, rural elderly people are often unable to receive timely treatment when they fall ill. In order to enjoy better medical services, they often have to overcome transportation problems and travel to medical institutions in towns and cities. In the process, the elderly not only have to increase their own medical costs, but also may face physical harm caused by untimely treatment. On the other hand, the elderly in cities and towns can enjoy high-quality medical services anytime and anywhere, and their rights and interests in medical protection can be fully safeguarded.

3.2.2 Lack of legal guidance in resource allocation

The current existing laws do have some obvious deficiencies in guiding the rational allocation of medical resources. At present, China's legal rules on the allocation of medical resources are relatively fragmented, lacking a unified and systematic legislative framework. For example, in the emergency response to public health emergencies, the allocation of scarce medical resources is part of the emergency response plan for public health emergencies, but due to the lack of existing legislation, there is no basis for the rules of allocation of scarce medical resources. As a result, the allocation of medical resources lacks clear legal guidance and is prone to confusion and unfairness.

The lack of legislation may lead to irrational allocation of medical resources and affect the efficiency of medical services. If there is a lack of clear rules for the allocation of medical resources, problems such as chaotic resource allocation and poor coordination among medical service providers may occur, affecting the efficiency and quality of medical services. In

addition, in Internet healthcare, due to the lack of clear legal regulations, problems such as unorganized competition among medical service providers and leakage of patient information may occur, affecting the efficiency and safety of medical services.

China should improve the legislative framework and formulate a unified and systematic legal framework for the allocation of medical resources, clarifying the principles, standards, procedures and supervision mechanisms for the allocation of medical resources. In the process of law making, the influence of various factors should be fully considered to improve the scientific and rational nature of the law. For example, legislative research can be strengthened, opinions and suggestions from all sectors of society can be widely heard, and factors such as the supply and demand for medical resources and social fairness and justice can be fully taken into account in order to formulate legal provisions that are in line with the actual situation.

3.3 Inadequate Legal Regulation of Medical Service Quality

3.3.1 Deficiencies in legal regulations related to service quality

In terms of medical service attitude, although there are provisions in the Physicians Law that require medical personnel to respect, care for and love patients, there is a lack of detailed standards for specific requirements for service attitude, such as language norms, frequency and depth of communication, making it difficult to judge whether or not the standards are met. For poor service attitude but did not cause obvious physical damage, the lack of clear responsibility and punishment measures. Even if a doctor-patient dispute arises, there is a lack of specific operational regulations on the division of responsibility and compensation. In addition, the law is unclear about the subject of supervision, the way of supervision and the frequency of supervision of medical service attitudes, making it difficult to effectively implement supervision.

In terms of medical technology standards, while medical technology is developing rapidly, technical standards such as diagnostic and treatment protocols are relatively slow to be updated, making it difficult to reflect the latest medical standards in a timely manner, which may result in medical personnel conducting treatment based on outdated standards. Diagnostic and treatment standards are usually general provisions, which make it difficult to

fully take into account individual differences in patients, and may lead to the phenomenon of treating patients in accordance with uniform standards without fully taking into account their special circumstances.

With regard to personalized medical services, the law lacks specific provisions and safeguards on how to ensure the equitable distribution of resources for personalized medical services, so that patients with different economic conditions and geographic regions have equal access to such services. Personalized medical care involves new technologies and methods as well as individual differences, making it more difficult to determine liability for medical accidents, and the existing legal provisions on the determination of medical liability are difficult to apply in full, with a lack of clear guidelines for defining liability for special circumstances and new problems.

3.3.2 Imperfection of legal responsibility and supervision mechanism

In terms of liability determination, it is often difficult to clarify the causal relationship between medical behavior and the consequences of damage. The medical process is complex, and the patient's condition is affected by multiple factors such as his or her underlying disease, physical condition, and follow-up care, making it difficult to accurately determine whether the quality of medical services is the direct cause of the damage, leading to difficulties in determining liability. Medical fault identification mostly relies on the subjective judgment of experts, different experts may have different views, the lack of absolute objective evaluation, and the independence and impartiality of the appraisal body may be questioned, affecting the accuracy of the responsibility determination.

In terms of supervision mechanisms, medical service organizations are numerous and widely distributed, and the supervisory authorities have limited human, material and financial resources, making it difficult to achieve comprehensive, timely and effective supervision and inspection, and to detect and deal with service quality problems in some medical institutions in a timely manner. The medical industry involves multi-departmental supervision, such as health, health insurance, market supervision, etc., and the untimely and insufficient communication of information between departments reduces the efficiency of supervision.

Although the government encourages patients, the media and other social forces to monitor, but the lack of perfect social supervision channels and protection mechanisms, patients fear of retaliation do not dare to complain, the media monitoring may face legal risks and obstacles, social supervision is difficult to give full play to its role. In addition, the medical industry associations and other organizations of self-regulatory norms lack of coercive force, the violation of the service quality norms of medical institutions and medical personnel punishment is small, difficult to form effective constraints, self-regulatory supervision is ineffective.

3.4 Deficiencies in the Legal Response to the Burden of Health Care Costs

3.4.1 Deficiencies in the legal system of medical insurance

At present, China's medical insurance system is mainly funded by the individual contributions of employees and residents as well as subsidies from the government treasury. However, the high proportion of individual contributions, coupled with the generally low level of personal income, has resulted in an excessive personal burden that makes it difficult to meet the medical needs of the majority of the people. At the same time, government financial subsidies are uncertain and susceptible to fluctuations in economic development, and lack a sustained and stable source of funding.

As a result of the unbalanced development of China's regions and differences in the system, there is a wide gap between the medical insurance treatment in different regions. On the one hand, some developed regions have relatively better health insurance treatment and higher reimbursement ratios, while some less developed regions have relatively lower health insurance treatment. On the other hand, the reimbursement ratio of medical insurance for some high-priced drugs and high-technology treatment programs is lower, which is a heavier burden for poor patients.

3.4.2 Imperfections in the legal system of medical aid

In terms of coverage, China's medical assistance laws mainly focus on basic medical services, and do not cover some special medical needs, such as treatment of rare diseases, rehabilitation and nursing care, etc., which cannot meet the diversified medical needs of patients.

From the perspective of ambiguous scope definition, it is unclear whether some marginalized groups, such as those with incomes slightly higher than the low income insurance standard but who still have difficulty in bearing medical expenses, are included in the scope of assistance, which may result in some of the people in genuine need of assistance not being able to receive effective help.

From the standpoint of assistance standards, due to the different levels of economic development and financial conditions in different regions, medical assistance standards vary greatly, leading to uneven results and affecting social fairness.

In terms of financial security, funding channels rely mainly on government financial input, with other channels such as social donations and charitable funding accounting for a relatively small proportion, and the stability and adequacy of funding sources are greatly affected by the financial situation, making it difficult to meet the growing demand for medical assistance.

4. RECOMMENDATIONS

4.1 Improve the Legal System for the Protection of the Medical Rights and Interests of the Elderly

4.1.1 The necessity of enacting a specialized law and framework design

The Law on the Protection of the Rights and Interests of the Elderly (referred to as the "Elderly Law") is the first specialized law based on the Constitution of the People's Republic of China, the fundamental law of our country, which combines the protection of the legitimate rights and interests of the elderly and the development of the cause of aging. Its legislative purpose is threefold: first, to promote the traditional virtues of the Chinese nation of respecting and caring for the elderly; second, to develop the cause of the elderly; and third, to safeguard the lawful rights and interests of the elderly. The Law on the Protection of the Rights and Interests of the Elderly stipulates in its general provisions that the State and society should take measures to improve the system for protecting the rights and interests of the elderly, gradually improve the conditions for protecting the lives, health and safety of the elderly as well as their participation in the development of society, and realize the goal of

providing for the elderly a sense of nourishment, medical care, a sense of worthiness, a sense of worthiness, a sense of worthiness, and a sense of joy.

The necessity of enacting the Law on the Protection of the Rights and Interests of the Elderly is reflected in the following aspects:

First, it is a response to the challenge of population ageing. As the global population ages, the number of elderly people continues to grow, and their medical needs become increasingly complex and diverse. The enactment of a special law can provide solid protection for the medical rights and interests of this large group of elderly people at the institutional level, ensuring that they are adequately cared for in terms of the allocation of medical resources and access to medical services. In the face of chronic diseases, disability and semi-disability, and other common health problems of the elderly, the law can provide for corresponding medical services and safeguards, such as the establishment of a long-term care system, in order to cope with the health challenges posed by aging.

Secondly, the lawful rights and interests of the elderly should be safeguarded. In reality, there are phenomena such as the elderly giving up medical treatment due to high medical costs and limitations on reimbursement by medical insurance, or encountering discrimination in medical treatment due to poor physical functioning. Specialized laws can clarify the rights of the elderly in terms of access to medical care and payment of fees, and provide a legal basis for them to defend their rights. It should be made clear that the elderly have the right to receive appropriate medical services, informed consent, and privacy protection, and that when their rights and interests are infringed upon, they can obtain relief through legal channels.

Thirdly, it regulates the behavior of medical services. It can provide a clear code of conduct for medical institutions and medical personnel, requiring them to give full consideration to the characteristics and needs of the elderly in diagnosis and treatment, provide professional, patient and meticulous services, and improve the quality of medical services. It also stipulates the mechanism and procedures for handling medical disputes, so that when a dispute arises between an elderly person and a medical institution, it can be resolved fairly and quickly in accordance with the law, so as to safeguard the legitimate rights

and interests of both parties and protect the medical order.

Fourth, promoting social justice. Elderly people have contributed their whole life to the development of society and should be treated fairly in medical treatment. The enactment of the law reflects society's care for the elderly, guarantees their equal rights to enjoy medical resources, and promotes social justice. It ensures that older persons in different economic situations and geographic regions have access to the necessary medical care, narrows the gap between urban and rural areas and between regions in the protection of the medical rights and interests of older persons, and promotes harmonious social development.

Fifth, promoting the improvement of the medical insurance system. The responsibilities of all parties in the medical insurance system should be clarified at the legal level, so as to encourage the government, society, enterprises and others to better fulfill their responsibilities and increase their investment in medical insurance for the elderly. Provide legal guidelines for the improvement of the medical insurance system and the long-term care insurance system, such as stipulating the reimbursement policy of the medical insurance for the chronic diseases of the elderly, etc., so as to promote the adaptation of the medical insurance system to the needs of the elderly.

4.1.2 Revision and convergence of existing laws

The Law on the Protection of the Rights and Interests of the Elderly needs to be improved, and it can be formulated in such a way as to strengthen the responsibility of family maintenance and support, improve the social security system, optimize the content of social services, strengthen the protection of the rights and interests of the elderly, and promote the participation of the elderly in the development of the society, so as to ensure that the elderly can have a law to rely on in their daily lives.

The Social Insurance Law can be improved in the areas of pension insurance and medical insurance as follows: First, the mechanism for determining and adjusting social security benefits can be improved. The opportunity can be taken of the national co-ordination of pension insurance for enterprise workers to make basic pension insurance treatment more equitable on the basis of ensuring a solid contribution base. The disparity in pension treatment

between different enterprises and different regions should not be reflected in basic pensions, but can be reflected at the supplementary level through the improvement of enterprise annuities, occupational annuities and individual account pensions. The same applies to the reform of the health insurance system. Second, efforts should be made to solve the problem of inadequate development of social insurance. Accelerate the reform of the social insurance system, give full play to the income effect of the social insurance system, establish a dynamic adjustment mechanism for the level of social insurance in line with the level of economic development, reasonably raise the level of social insurance, simplify the reimbursement procedures for medical insurance, and accelerate the improvement of the national unified social insurance network system. Third, efforts should be made to solve the problem of unbalanced development of the social insurance system. The “redistributive effect” of social insurance should be given full play, and social security should be strengthened in the central, western and rural areas, so as to “narrow the urban-rural and regional income gaps through the social insurance system, and promote coordinated urban-rural and regional development”.

The Law on the Protection of the Rights and Interests of the Elderly and the Social Insurance Law should complement each other, and together they should realize a higher level of development in the protection of the rights and interests of the elderly and complete the link between the two.

The Law on the Protection of the Rights and Interests of the Elderly, the Social Insurance Law and other relevant laws should be revised to ensure that the legal systems are linked.

4.2 Legal Measures to Optimize the Allocation of Medical Resources

4.2.1 Mechanism construction of legal guidance for balanced allocation of resources

The establishment of legal incentive mechanism can start from three aspects: talent incentive, mechanism construction incentive, and medical service incentive:

In terms of talent incentives, relevant regulations on title evaluation and promotion can be formulated: it is stipulated in relevant laws that medical personnel who have accumulated a certain number of years of service in rural and impoverished areas shall be given priority

consideration or appropriate extra points in title evaluation and post promotion, and restrictions on academic qualifications, theses and other conditions can be relaxed. Remuneration and subsidies for talents can be raised: the remuneration level of medical personnel in rural and impoverished areas can be raised explicitly by law, and special post allowances and subsistence subsidies can be granted at a rate not less than a certain percentage of that of similar personnel in urban areas, with the necessary funds being specifically guaranteed by the government treasury. In addition, this can be done in terms of career development opportunities: the law requires that medical personnel in rural and impoverished areas be provided with free professional training and opportunities for academic exchanges on a regular basis, and that large urban hospitals tilt the allocation of quotas for advanced training in favor of medical personnel in these areas.

In terms of incentives for institution-building, the law may stipulate that the Government set up a special fund for the construction of infrastructure and the purchase and updating of equipment for medical institutions in rural and impoverished areas, and that certain construction subsidies be given to newly built or expanded medical institutions. Medical institutions set up in rural and impoverished areas are exempted from or have their taxes and fees reduced, and are given policy preferences in land use and housing rental. It is also possible to promote, by law, the establishment of close-knit medical associations between urban tertiary hospitals and medical institutions in rural and impoverished areas, with clear responsibilities and obligations to help, such as stipulating that tertiary hospitals should regularly send teams of specialists and carry out technical guidance.

In terms of incentives for medical services, health insurance policies can be implemented: the law should explicitly increase the reimbursement rate of health insurance for insured residents in rural and impoverished areas at local medical institutions, lower the starting line, and expand the scope of reimbursement, so as to encourage patients to seek medical treatment in their localities.

Implementing telemedicine and informatization: the law promotes the construction of telemedicine service platforms, requiring urban medical institutions to provide services such

as remote diagnosis and remote training for rural and impoverished areas, and providing financial incentives or policy support to institutions that actively participate.

Actively encouraging the participation of social forces: the law provides incentives such as tax breaks and project funding for social forces, such as charitable organizations and public welfare foundations, that provide medical services in rural and impoverished areas.

4.2.2 Supervisory mechanisms for the rational allocation of resources for legal safeguards

Legal supervision is the supervision of serious violations of national laws in the implementation of laws, excluding the supervision of legislative activities. The core of legal supervision lies in safeguarding the uniform and correct implementation of laws and maintaining the unity of the national legal system. The legal supervision mechanism has an indispensable position in the rule of law supervision system, and plays an important role in building a rigorous rule of law supervision system and promoting the process of ruling the country in accordance with the law in all respects. The establishment of a legal supervision mechanism has led to a rational distribution of resources, so as to ensure that the elderly are treated fairly and justly in such areas as the distribution of medical care.

4.3 Legal Regulation to Improve the Quality of Medical Services

4.3.1 Improving legal standards and norms of service quality

Formulating detailed and perfect legal standards and norms for service quality is the basis for improving the quality of medical services. We can start from all aspects of medical services, such as diagnosis, treatment, nursing and other aspects of the formulation of detailed and strict standards and norms. In diagnosis and treatment, medical and nursing personnel should carry out diagnostic and treatment activities in strict accordance with clinical diagnosis and treatment guidelines and operating procedures, and prescriptions, examinations and tests should be in accordance with medical indications, and should not arbitrarily increase the number of medical items. If the violation of the regulations causes adverse consequences, the corresponding responsibility shall be borne in accordance with the law. During the consultation, medical and nursing personnel should listen patiently to the elderly, use plain

language to explain to the elderly their conditions, treatment programs and risks, and should promptly inform and obtain the written consent of the elderly when the treatment program changes. In nursing care, medical and nursing staff should provide appropriate nursing services according to the patient's condition and level of care. First-level nursing care makes one round every hour, second-level nursing care makes one round every two hours, and third-level nursing care makes one round every three hours, and makes a good nursing record. Medical institutions may conduct an internal medical quality assessment every six months, inviting external experts to participate, and the assessment includes the writing of medical documents, the implementation of diagnostic and therapeutic norms, and patient satisfaction. The results of the assessment are communicated to all medical staff, and departments and individuals with problems are ordered to make corrections within a certain period of time, and the corrections are included in the performance appraisal and linked to bonuses and promotions. At the same time, it should also include the attitude of medical institution staff to elderly patients into the scope of legal norms, stipulating that health care personnel should maintain a friendly and kind attitude in the process of communicating with elderly patients, respecting the personality and privacy of elderly patients, so as to enable elderly patients to obtain better quality medical services.

4.3.2 Strengthening legal responsibility and punishment mechanism

The legal responsibility of medical disputes mainly covers several aspects. First of all, from the perspective of civil liability, medical institutions and their medical staff should bear the responsibility of tort compensation if they cause damage to patients due to their faults. For example, if a patient is physically or mentally injured due to misdiagnosis or omission during medical treatment, the patient and his/her family members have the right to demand compensation from the medical institution for reasonable expenses such as medical fees, nursing fees, and lost wages. The calculation of these compensation costs will be based on the specific damages and relevant laws and regulations for accurate accounting to ensure that the legitimate rights and interests of patients are effectively safeguarded.

At the level of administrative responsibility, the health administrative department has the

right to investigate and punish the illegal behavior of medical institutions. For example, if a medical institution fails to strictly comply with medical norms and conducts medical operations in violation of the law, the health administrative department may impose administrative penalties such as warnings, fines, and revocation of practice permits, depending on the severity of the circumstances. This is not only a disciplinary action against the non-compliant medical institutions, but also for the purpose of maintaining the normal order of the medical profession and safeguarding the safety of the general public in seeking medical treatment. Furthermore, in terms of criminal liability, if the offenses in a medical dispute are serious enough to meet the standards set out in the criminal law, the person responsible will face criminal punishment. For example, medical personnel in the medical process intentionally cause serious injury, death and other serious consequences, will be in accordance with the provisions of the criminal law will be investigated for intentional homicide, intentional injury and other criminal responsibility. In short, the legal responsibility of medical disputes is multi-dimensional, aiming to ensure the legality and standardization of medical behaviors and protect the legitimate rights and interests of patients.

4.4 Legal System Innovation for Reasonable Sharing of Medical Expenses

4.4.1 Path to improve the legal system of medical insurance

Improve the participation policy. Further liberalize and relax the restrictions on household registration for participation in basic medical insurance at the place of permanent residence and employment. Mega-cities and mega-cities should effectively implement the policy of participation with residence permits, and promote the participation of primary and secondary school students and pre-school children of foreign household registration in residents' health insurance at their place of permanent residence. Mega-cities should abolish the household registration restrictions on the participation of flexibly employed persons, migrant workers and newly employed persons in basic medical insurance at their place of employment, and do a good job of participating in employee medical insurance at their place of employment. Encourage college students to participate in residents' medical insurance at their place of study, implement policies related to participation, and do a good job of expanding college students'

participation in residents' medical insurance.

Improvement of financing policies. Promoting residents' medical insurance contributions and economic and social development level and per capita disposable income of residents linked to maintain a reasonable proportion of financial subsidies and individual contributions structure. The participation of people in difficulty, such as people in special hardship, recipients of the minimum subsistence guarantee, and eligible recipients of anti-poverty monitoring, will be categorized and subsidized in accordance with the relevant regulations. Implementing the policy of paying employee medical insurance (including maternity insurance) premiums from the unemployment insurance fund for those receiving unemployment insurance benefits, and ensuring that they enjoy the same medical insurance and maternity insurance benefits as insured employees. Supporting the use of individual accounts for employees' medical insurance to pay for the individual contributions of insured persons' close family members who participate in residents' medical insurance, as well as for the individual out-of-pocket medical expenses incurred by insured close family members in purchasing medicines at designated medical institutions. In order to adapt to the diversification of employment forms, research has been conducted to improve the way flexible employment personnel participate in the insurance premiums.

Improving treatment policies. On the basis of consolidating the level of inpatient treatment, the level of outpatient protection under basic medical insurance can be steadily raised in accordance with the level of economic and social development and the affordability of the medical insurance fund. Where conditions exist, a certain percentage of the annual increase in funding for residents' health insurance can be used to strengthen outpatient coverage, with a tilt toward primary medical institutions, to guide the public to seek care at the primary level. Establishing an incentive mechanism for major disease insurance treatment for continuous residents' medical insurance enrollees and those with zero reimbursement. Starting from 2025, the maximum payment limit for major disease insurance can be lowered for those who re-enroll after a break in coverage; for those who have continuously participated in residents' health insurance for four years, the maximum payment limit for

major disease insurance can be appropriately raised for each subsequent year of continuous participation. The maximum payment limit for major medical insurance may be increased in the following year for residents' health insurance participants who have zero reimbursement from the fund in that year. For the incentive of continuous participation and the incentive of zero reimbursement, in principle, each increase in the limit shall not be less than 1,000 yuan, and the total cumulative increase shall not exceed 20% of the original cap line of the major disease insurance in the coordinating area. After a resident has made a major disease claim and used the incentive amount, the zero-reimbursement incentive amount accumulated in the previous period will be zeroed out. If a resident re-enrolls in the insurance after breaking the insurance, the number of consecutive years of enrollment will be recalculated. Specific policy standards will be determined by each province according to the actual situation such as the affordability of the health insurance fund.

4.4.2 Exploration of Legal Models for Diversified Cost Sharing

The model of combining basic medical insurance and supplementary insurance can be used for cost sharing. First of all, basic medical insurance legislation should be strengthened, and the coverage, financing standards, and treatment levels of basic medical insurance should be clarified by law to ensure its fairness and sustainability. For example, it should stipulate the contribution ratios of employers and individuals, as well as the government's responsibility in the medical insurance fund. Secondly, it can promote the development of supplementary insurance, formulate relevant laws and policies, encourage enterprises to establish supplementary medical insurance, and give certain tax concessions and other policy support. At the same time, the commercial health insurance market should be regulated, and the legal responsibilities for insurance product design, sales and claims should be clarified to protect consumer rights and interests.

The model of linking medical aid and charitable aid can be implemented. By improving the medical aid system and regulations, and refining the criteria for identifying medical aid recipients, the scope of aid, and the aid procedures, etc., it ensures that people in difficulty can receive timely aid. For example, it has clarified the standards and methods of assistance for

special hardship cases and low-income insurance recipients. Regulating the legal mechanism for charitable assistance, enacting laws related to charitable medical assistance, and regulating the establishment, operation, donation management and use of charitable organizations. Charitable organizations are encouraged to link up with the medical assistance system, and tax breaks and other incentives are given to those who donate funds for medical assistance.

A model of liability insurance and risk fund sharing can be adopted. Through legislation, it is mandatory for medical institutions and medical personnel to purchase medical liability insurance, and to clarify the scope of insurance liability and compensation standards. If it is stipulated that if medical negligence causes damage to patients, the insurance company shall bear the corresponding compensation responsibility. In addition, a special medical risk fund should be set up, and special regulations should be formulated to standardize the collection, management and use of the medical risk fund. It can be jointly funded by medical institutions, medical personnel, the government and other parties, and used to share the risk of major medical damage.

A model of individual out-of-pocket expenses supplemented by mutual aid can be implemented. Regulations on individual out-of-pocket expenses should be formulated, requiring medical institutions to fully explain out-of-pocket items and cost standards to patients when providing medical services, and safeguarding patients' right to know and to choose. Developing medical mutual aid organizations, enacting laws related to medical mutual aid, and clarifying the legal status of medical mutual aid organizations, their form of organization, and the rights and obligations of their members. Units and communities are encouraged to set up medical mutual-aid organizations to share some of the costs of medical care through mutual assistance among members.

4.5 Strengthening Legal Literacy and Education

4.5.1 Legal popularization strategies for the elderly

Strengthening legal publicity and education for the elderly is aimed at enhancing their legal awareness, helping them master legal knowledge closely related to their daily lives, improving their ability to protect their rights in accordance with the law, and safeguarding

their legitimate rights and interests. This can be carried out in the areas of protection of rights and interests, consumer rights protection and fraud prevention: in the area of protection of rights and interests, the focus is on publicizing the Law on the Protection of the Rights and Interests of the Elderly, which covers family support, social security, social services, and social preferences, so as to make the elderly aware of their rights and the ways to solve the problem of infringement of rights and interests. In terms of consumer rights, the Law on the Protection of Consumer Rights and Interests was introduced, and the common traps in health care consumption and pension service consumption for the elderly were explained to them, so that they could identify fraudulent behaviors and safeguard their consumer rights and interests. In terms of fraud prevention, we popularize common fraudulent means and relevant laws and regulations, such as the provisions of the Criminal Law on fraud, to improve the ability of the elderly to prevent telecommunications fraud, illegal fund-raising and other frauds. The ways of publicizing and educating are also very diversified. For example, legal lectures are held regularly in joint communities, and legal experts, lawyers and other professionals are invited to give lectures at least once a quarter. The lectures are held at least once a quarter. The lectures are given in easy-to-understand language, combined with practical cases, and interactive Q&A sessions are reserved; a team of volunteers is organized to provide door-to-door legal publicity services to the mobility-impaired elderly every month, distributing publicity materials and providing one-on-one legal advice; and new media, such as the community's public number and the short-video platform, are used to produce and release short legal publicity videos and illustrations suitable for viewing by the elderly, with clear and concise contents, lively and interesting, and updated at least once a week; cooperate with community cultural and art teams to integrate legal knowledge into cultural and art programs such as skits, comedies, and operas, and regularly perform them in community cultural activity centers or squares, and hold them at least once every two months.

4.5.2 Measures to raise legal awareness at the social level

To raise the attention of the whole society to the rights and interests of the elderly in medical protection, we can start from multiple perspectives, such as publicity and education, policy

guidance, and social participation, and utilize a variety of channels and methods to make more people pay attention to and safeguard the rights and interests of the elderly in medical care. For example, by taking advantage of the National Elderly Health Awareness Week, the Chung Yeung Festival and other occasions, thematic activities are organized, and consultation counters are set up for the medical protection rights and interests of the elderly, and brochures are distributed to introduce in detail the contents of medical insurance policies and preferential treatment policies for the elderly. At the same time, experts are invited to hold lectures to popularize knowledge of the prevention and treatment of common diseases among the elderly, and to explain the important role of medical insurance in coping with elderly diseases. In cooperation with television and radio stations, it has set up special programs on health and medical insurance for the elderly, inviting staff from the medical insurance department, doctors, lawyers and other guests to interpret policies and regulations, share cases of rights protection and answer questions and solve problems for the elderly. Utilizing new media platforms such as microblogs, WeChat, and Jitterbug to produce lively and interesting short videos, cartoons, articles, etc., to disseminate knowledge about medical insurance for the elderly in an easy-to-understand form. When formulating policies, government departments should emphasize the tilt towards medical insurance for the elderly, increase the reimbursement rate of medical insurance for the elderly, lower the starting line, etc., and increase financial input to ensure the implementation of the policies. Enterprises, social organizations and individuals that actively participate in medical insurance services for the elderly and safeguard their medical rights and interests are given recognition and rewards, such as the awarding of honorary titles such as “Advanced Unit of Caring for the Elderly in Medical Insurance” and “Elderly Medical Insurance Caring Messenger”, and practical incentives such as tax incentives and financial subsidies are given. Tax incentives, capital subsidies and other practical rewards. Mobilizing community organizations and volunteer teams to carry out regular door-to-door visits to explain medical insurance policies to the elderly and help them understand their rights and interests. Encourage the participation of enterprises, such as pharmaceutical companies to carry out public welfare lectures and

voluntary medical consultations, and insurance companies to develop supplementary medical insurance products suitable for the elderly, in order to provide them with more choices of medical insurance.

5. CONCLUSION

5.1 Research Summary

With the acceleration of population aging, the protection of medical rights and interests of the elderly has become the focus of social concern. Based on this background, this study comprehensively and deeply analyzes the legal status of the protection of medical rights and interests of the elderly in China. During the research process, through extensive data collection, in-depth research and rigorous analysis, the existing laws and regulations related to the protection of medical rights and interests of the elderly in China are systematically sorted out, and their role in protecting the medical rights and interests of the elderly is elaborated in detail, while the deficiencies are also accurately pointed out, including the unequal distribution of medical resources, insufficient regulation on the quality of medical services, and deficiencies in the legal response to the burden of medical costs, etc. The study also addresses the problems of the medical rights and interests of the elderly. The study also pinpoints the deficiencies, including uneven distribution of medical resources, insufficient regulation of medical service quality, and deficiencies in the legal response to the burden of medical costs, and puts forward a series of practical suggestions. The results of the study show that a sound legal system is of irreplaceable importance in safeguarding the medical rights and interests of the elderly. Through measures such as enacting special laws, revising existing laws and optimizing the mechanism for implementing laws, the current problems can be effectively solved to provide the elderly with more equitable, high-quality and accessible medical services. It is worth emphasizing that these measures are highly feasible in practice. Protecting the medical rights and interests of the elderly is not the responsibility of a single department or individual; it requires the concerted efforts of all departments and the participation of all of society. Government departments should play a leading role, increase

investment in medical care, optimize the allocation of medical resources, and strengthen supervision; medical institutions should actively fulfill their social responsibilities, improve the quality of medical services, and standardize medical fee charging; social organizations and enterprises should actively participate in the provision of diversified medical services and channels of assistance; and the public at large should enhance their legal awareness, pay attention to the protection of the rights and interests of the elderly in medical care, and jointly The general public should also enhance their awareness of the law and pay attention to the protection of the rights and interests of the elderly, so as to promote the improvement and implementation of the legal system. As long as all parties make concerted efforts, the goal of improving the legal system to protect the medical rights and interests of the elderly is fully achievable. This will not only help to improve the quality of life of the elderly and let them enjoy their twilight years peacefully, but also help to promote social justice, harmony and stability, and make positive contributions to the construction of a harmonious socialist society.

5.2 Future Prospects

In the era of rapidly changing technology, artificial intelligence, big data and other cutting-edge technologies are being integrated into the medical field at an unprecedented speed, and this wave of change has opened up new paths for the protection of medical rights and interests of the elderly, and at the same time brought many brand-new challenges. Future research should closely focus on how to use these emerging technologies to promote the improvement of the legal system for the protection of the rights and interests of the elderly, and thus enhance the experience of medical services and the level of health protection for the elderly.

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