



RESPONSES TO INFORMATION REQUESTS (RIRs)

15 January 2013

UKR104121.E

Ukraine: the structure and administration of the health system; access to health care throughout Ukraine; ability of people to access their medical records and procedures for doing so; who has access to medical records; the types of medical documents and their contents; falsification of medical documents; whether medical staff are legally required to report instances of violence to the police

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1. Structure and Administration of the Health Care System

In a 2010 review of the Ukrainian health care system, the European Observatory on Health Systems and Policies, a Brussels-based partnership of the World Health Organization, various Western European governments, financial organizations and academic institutions (European Observatory n.d.) states that "the Ukrainian health care system is still based on the integrated Semashko model" (2010, 15). The European regional office of the World Health Organization (WHO) describes the Semashko model, which was developed and implemented in the former USSR, as being "state run, highly centralized and chronically underfunded in real terms" (UN n.d.).

In correspondence with the Research Directorate, the Coordinator of the Vinnytsya Human Rights Group (VHRG), an NGO in Vinnytsya the activities of which include protecting patients' rights, provided information that was [translation] "produced" by a member of the organization who is a physician and reflects the organization's viewpoint (VHRG 24 June 2012). The Coordinator stated that the Ukrainian system [translation] "is much like that of the former USSR," offering universal healthcare, with every citizen registered to a local physician and receiving care from cradle to grave (ibid.).

The European Observatory on Health Systems and Policies' review states that "officially the system is financed by general taxation and formally

provides universal access to unlimited care free at the point of use in public medical facilities" (2010, 15). The review adds that "[a]part from the development of a formal private sector, the basic organizational structure has essentially remained unaltered since the Soviet period" (European Observatory 2010, 16-17).

The review further indicates that the health system is officially state controlled, nationally administered by the Ukrainian Ministry of Health, and is managed through regional and local government institutions (ibid., 15, 16). The review also notes that "[m]ost medical services are provided to the population in facilities which are under local self-government at the regional, district, municipal or village level," but that "due to poor government financing of the health system, the population is required to pay for outpatient and inpatient pharmaceuticals as well as provide unofficial remuneration to medical personnel" (ibid., 15). In addition, the review provides the following information regarding private health care in the country:

The private sector of the health system is rather small in Ukraine and consists mostly of pharmacies, medico-prophylactic facilities (inpatient and outpatient), and privately practicing physicians ... They receive their financing mostly through direct payments from the population for medical services and devices (ibid., 16).

2. Access to Health Care Throughout Ukraine

According to the VHRG, in Ukraine, Ukrainian citizens are obligated to register their residences and frequently encounter [translation] "considerable trouble" in accessing health care outside the locality of their permanent residence (24 June 2012). The VHRG explains that individuals need to provide evidence of their legal place of residence to ensure access to treatment at health care facilities (24 June 2012).

The review by the European Observatory on Health Systems and Policies states that, while officially, patients may choose doctors and health care facilities, in practice it is difficult to do so due to the way in which health care is funded (2010, 25). The VHRG adds that [translation] "people are legally entitled to go to any national or community medical clinic across Ukraine for medical treatment; however, in practice this is almost never the case, with known instances of treatment denied when away from one's place of residence" (24 June 2012). In correspondence sent to the Research Directorate by the Executive Director of the Ukrainian Helsinki Human Rights Union (UHHRU), a Kiev-based association of human rights organizations, information reflecting the viewpoints of both UHHRU and the Kharkiv-based Legal Analysis and Strategies Institute (LASI), an NGO whose activities include providing legal support for the defense of human rights, similarly indicated that there are legal rights authorizing treatment in areas outside of one's registered residence, but, unlike the VHRG, they state that, while people are occasionally denied these rights, they are generally able to obtain medical treatment (5 July 2012).

According to UHHRU and LASI, the main obstacle to accessing health care, within the area of people's registered residence and outside of that area, is a "tacit" need to pay for medical services, which is "common in medical facilities" (5 July 2012).

The European Observatory on Health Systems and Policies' review indicates that "[t]here is no specific legal mechanism for patient complaints procedures within the health system" (2010, 25).

3. Access to Medical Records

According to the review by the European Observatory on Health Systems and Policies, "[b]y law all citizens have the right to access information about their health and services available to them, but the mechanisms for accessing such information are not transparent" (2010, p. 25). Other sources concur that patients have the right to access their medical records (UHHRU and LASI 5 July 2012; VHRG 24 June 2012). According to the VHRG, the right to access medical records is provided through various pieces of legislation, including the Fundamental Principles of Ukrainian Healthcare Legislation, the Information Act, and the Civil Code of Ukraine (ibid.). However, the VHRG noted also [translation] "this right may be sometimes restricted under the law" as determined by a Constitutional Court decision, but did not provide details (ibid.).

The information provided by the VHRG states that a primary medical record is normally created at a child's birth and this record is [translation] "promptly transferred" to a paediatrician near the child's residence (ibid.). According to the VHRG, [translation] "the child's first in-patient medical file is created" at their paediatrician's clinic (ibid.). The VHRG specifies that this medical file is referred to as [translation] "Form 025" (ibid.).

The VHRG notes that the Form 025 is supposed to be kept in the local health facility, but it is given to a patient upon written request, and then stored in the person's home (ibid.) According to the VHRG, [translation] "almost everyone" does this in Ukraine (ibid.). The VHRG specifies that if an individual obtains his or her file, the health facility will not keep any of the medical information on an individual as it is not mandatory to store copies (ibid.). According to the VHRG, Form 025 contains detailed information on the holder's medical history, including [translation] "data on all medical examinations at the local health facility, all visits to the doctor or conversely house calls, vaccinations, sick leave, hospital stays, etc." but not dental visits (ibid.). The VHRG further notes that there is no legal requirement for medical treatments or examinations undertaken at the patients [translation] "own initiative" to be recorded in Form 025 (ibid.). However, the VHRG added that [translation] "if an individual has received in-patient care the situation is different, and the medical record, termed the Case History, is never released to the individual, but stored in the hospital archives for 25 years" (ibid.).

3.1 Challenges in Accessing Medical Records

Sources also note that, in practice, there may be obstacles in accessing all or part of medical records (UHHRU and LASI 5 July 2012; VHRG 24 June 2012). UHHRU and LASI stated that "there may be cases of withholding information or providing incomplete information, as well as difficulties in access to information" (5 July 2012). The VHRG likewise states that there are [translation] "systemic and widespread" problems in accessing the information and ensuring its privacy (24 June 2012). The VHRG specifies that

[translation]

only criminal investigation and prosecutorial authorities and the courts, and only in the context of trying a criminal case, may be given access to medical documentation without the patient's permission. In practice, violations of medical confidentiality are widespread, and the situation is getting progressively worse. (VHRG 24 June 2012)

However, according to the VHRG, [translation] "in the private health sector, patients have better access to their medical information, and it is more difficult for other parties to obtain this information (with the exception of information relating to a criminal prosecution)" (ibid.). In addition, the VHRG says that, [translation] "[i]n rural areas, information privacy is violated much more easily than in cities" (ibid.). Corroboration could not be found among the sources consulted by the Research Directorate.

The VHRG adds that, [translation] "[g]enerally speaking, no one in Ukraine is immune, and even under considerable risk that their confidential medical information will be disclosed" (ibid.). UHHRU and LASI note that most workers in health care facilities have access to patients' medical records, although it is "virtually impossible" for people who are not employed in such facilities to obtain access to these records (5 July 2012).

3.2 Obtaining Copies of Medical Records

UHHRU and LASI indicate that patients who want to obtain copies of their medical records are required to make a written request to the head of the health care facility (5 July 2012). The VHRG similarly states that,

[translation]

[a]s a rule, someone with the right to receive copies of their medical data submits a written request for the information to the management of the medical facility, providing grounds for said request; when the decision to satisfy the request is made, copies of the documents are made, if necessary certified with the institution's seal. (24 June 2012)

Sources state that a representative of a patient may obtain medical records on his or her behalf (VHRG 24 June 2012; UHHRU and LASI 5 July 2012; KHPG 4 July 2012). According to UHHRU and LASI, obtaining medical records can be done by a patient's relatives or a proxy, and a proxy must submit the patient's written request and a letter of authorization, attested by a notary, to the head of the health care facility (5 July 2012). In correspondence with the Research Directorate, the Director of the Kharkiv Human Rights Protection Group (KHPG), an NGO in Kharkiv that promotes and defends human rights, also states that a proxy, provided that they have power-of-attorney, is able to obtain copies of medical records, but adds that there are no specific regulations for obtaining copies of medical records (4 July 2012).

4. Types of Medical Documents and their Contents

4.1 Medical Cards

UHHRU and LASI state that Ukrainian citizens are not legally required to possess medical documents, with the exception of workers such as teachers or cooks, who require a "sanitary card" that indicates that vaccinations and other procedures have been obtained, and members of

other occupational groups who need a certificate indicating the absence of any mental disorder (5 July 2012).

UHHRU and LASI explain that there are inpatient and outpatient medical cards, and entries in the latter are made each time the holder visits the health care facility (UHHRU and LASI 5 July 2012). If a person is admitted to a hospital, the following information is entered into the person's inpatient medical card: symptoms; medical history; treatment plan; the results of treatment in the hospital, including surgery; changes in the patient's condition; and the person's condition upon departure from the hospital (ibid.). Upon discharge from the hospital, a patient is provided with an extract of the information that was recorded in the inpatient card during the patient's hospital stay (ibid.).

UHHRU and LASI add that physicians are required to enter all of the patients' medical information into the medical records, although in practice, this obligation is often ignored (ibid.). A medical forensic report is made if physicians suspect that death was caused by violence, and copies of the report can be obtained by family members of the deceased person if they submit a written request (ibid.).

4.2 Extracts and Medical Certificates

The VHRG explained that an extract from a person's inpatient or outpatient medical file is also known as Form 027, and is a document that [translation] "is usually issued upon the patient's request [and] contains medical information that applies to a specific medical situation, particularly in cases where treatment or medical care is planned to be obtained in another country or locality" (VHRG 24 June 2012). The contents of extracts are normally entered over a lengthy time period and mention various illnesses, or contain information on a period spent in a hospital (ibid.).

According to the VHRG, a medical certificate is usually the medical record of a [translation] "past (one-time) illness," and there are numerous types of certificates, including the Certificate for Duration of Sick Leave for Insurance Claim Purposes, the Certificate of Motor Vehicle-Related Injury and the Certificate for Mandatory Preliminary and Periodic Psychiatric Checkups (ibid.). However, there is no legislation that prohibits physicians from issuing medical certificates, regardless of the contents, to persons (ibid.). The certificates, as a rule, [translation] "bear the seal of the physician (round) and the medical facility (round or triangular). The content of the certificate or extract should usually correspond to the content of the primary medical documentation (inpatient or outpatient medical file)" (ibid.). The VHRG added that [translation] "[s]ometimes, certificates are issued at the request of courts or investigative bodies, and very often patients are neither informed nor their consent sought. Importantly, it is usually not required that a note be made in the primary medical documentation that a certificate or extract was issued to an individual" (ibid.). Small medical documents are usually termed certificates and large ones are normally called extracts (ibid.).

5. Falsification of Medical Documents

UHHRU and LASI state that "[o]utpatient medical records and inpatient medical cards are not documents of strict accountability, so health workers can, at their discretion, insert, edit or delete patient's data in the cards," although falsification of medical documents is uncommon (5 July

2012). According to the VHRG, the falsification of Form 025 is [translation] "not very widespread," but considering the high degree of corruption, "one may entirely assume that an individual could come to an arrangement with a physician to enter false information in their medical file or in the pertinent internal records of a clinic" (24 June 2012). Neither corroboration nor further information on the falsification of medical documents could be found among the sources consulted by the Research Directorate.

6. Legal Obligations of Medical Staff to Report Instances of Violence to the Police

UHHRU and LASI state that physicians have a legal obligation to report to the police cases of physical harm resulting from violence between people, including domestic violence, and that doctors report incidents of violence to the local police station by telephone (5 July 2012). Moreover, all medical records are required to contain information on the manner in which physical injury occurred, and victims of violence are able to obtain copies of these records by making requests to hospitals (UHHRU and LASI 5 July 2012). The KHPG also states that medical institutions are required to notify police by telephone of injuries of a "criminal nature," such as bruises, or injuries caused by firearms and knives, and adds that medical institutions are required to maintain records of violence in a registry for that purpose; victims of violence have a legal right to obtain these records, but are unable to do so in practice (4 July 2012). Corroboration of this statement could not be found among the sources consulted by the Research Directorate.

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

References

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Additional Sources Consulted

Oral sources: Representatives of the following organizations did not respond to requests for information within the time constraints of this Response: All-Ukrainian Council for Patients' Rights and Safety; Boris Hospital and Medical Center; Center for Civil Liberties; five law firms in Kiev; Medicom; Odessa Medical University; P.L. Shupik National Medical Academy of Post-Graduate Education — Department of Family Medicine; Ukraine — Ministry of Health; Ukrainian Medical Association.

Internet sources, including: Amnesty International; British Broadcasting Corporation; Council of Europe; Doctors Without Borders; ecoi.net; Factiva; Freedom House; Ireland — Refugee Documentation Centre; *Kyiv Post*; Physicians for Human Rights; Radio Free Europe/Radio Liberty; Somatosphere; TryUkraine.com; Ukraine — Government Portal, Ministry of Health; United Nations — Office of the United Nations High Commissioner for Human Rights, Refworld.