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### ADMINISTRATIVE AND LEGAL REGULATION OF PRACTICE OF FOLK MEDICINE (HEALING) IN UKRAINE

**Борис Логвиненко. АДМІНІСТРАТИВНО-ПРАВОВЕ РЕГУЛЮВАННЯ ЗАЙНЯТТЯ НАРОДНОЮ МЕДИЦИНОЮ (ЦІЛИТЕЛЬСТВОМ) В УКРАЇНІ.** Статтю присвячено дослідженню проблем адміністративно-правового регулювання зайняття народною медициною (цілительством) в Україні. Встановлено, що Міністерством охорони здоров'я України приймалися спроби щодо скасування спеціального дозволу на зайняття народною медициною та дерегуляції відповідної діяльності з боку держави. Наголошено на важливості народної медицини (цілительства) як частини національної системи охорони здоров'я. Проаналізовані кваліфікаційні вимоги до фізичних осіб – підприємців, які займаються народною медициною (цілительством). Визначені умови, дотримання яких є обов'язковим для зайняття народною медициною (цілительством). Звернуто увагу на порядок видачі та анулювання спеціального дозволу на зайняття народною медициною (цілительством). Наголошено на необхідності отримання заявником атестаційно-експертного висновку, що підтверджує наявність в особи цілительських здібностей.

Зроблено висновок про необхідність посилення правового регулювання зазначеної діяльності за наступними умовними напрямками: 1) диференціація складових народної медицини (цілительства) і послуг, що охоплюються такою діяльністю; 2) збереження державного контролю і нагляду у сфері народної медицини (цілительства), де ключовим суб'єктом владних повноважень має залишитись МОЗ України; 3) посилення антикорупційних заходів у зв'язку із процедурою видання атестаційно-експертного висновку, що підтверджує наявність в особи цілительських здібностей; 4) актуалізація заходів адміністративної відповідальності у справах про порушення встановлених законодавством вимог щодо заняття народною медициною (цілительством) за рахунок удосконалення механізму правозастосування і конкретизації протиправних дій

**Ключові слова:** нетрадиційна медицина, цілительство, правове регулювання, здоров'я, медична діяльність, адміністративна відповідальність.

**Relevance of the study.** In today's world, there is often a discrepancy between technology and tradition. In particular, this applies to traditional and non-traditional treatments. Of course, in the period of threats to public health (for example, the COVID-19 pandemic), interest in both of these treatments is growing, and at the same time the related controversies are growing. It should be noted that in Ukraine the traditions of folk medicine (healing) are quite strong, because they focus on empirical experience of physical and mental health. However, the methods to which folk medicine refers do not always correspond to modern ideas about medical care and contradict treatment protocols.

Thus, back in 2018, the Ministry of Health of Ukraine initiated the revocation of a special permit for the practice of folk medicine. The argument of this decision was that the work of healers practicing folk medicine cannot belong to the competence of the Ministry, as the practice does not correspond to modern medical scientific knowledge [1]. The relevant committee of the Verkhovna Rada of Ukraine returned the bill to the subject of the right of legislative initiative for revision, and instead of abolishing state regulation of alternative medicine (healing) in Ukraine, the Ministry of Health of Ukraine proposed to improve approaches to state control in this area based on world experience [2].

Accordingly, alternative medicine (healing) in Ukraine needs proper legal regulation, which is not considered possible without revising the administrative and legal framework of such activities.

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**Recent publications review.** Studies of theoretical and practical problems in the field of health care are widely represented by the works of domestic specialists in legal and medical sciences. Among others, we can note the achievements of such scientists as: V. Yevtushenko, S. Knish, G. Mulyar, I. Senyuta, S. Stetsenko, V. Teremetsky, O. Hovpun, O. Shevchuk, I. Shemelynets and many others. However, despite the large number of scientific studies on various aspects of legal regulation of medical activities in Ukraine, the rapid development of medical science requires meticulous attention to the proper implementation of rights and freedoms in the field of health care.

**The research paper's objective** is to analyze the administrative and legal regulation of folk medicine (healing) in Ukraine and determine the prospects for its improvement.

**Discussion.** It is worth agreeing with the opinion of I. Shemelynets and K. Pyatkova, that Ukraine has implemented a number of measures aimed at integrating folk (non-traditional) medicine with official medical science. To this end, new educational institutions with in-depth study of methods of folk (non-traditional) medicine are created and special courses in folk (non-traditional) medicine, training programs (homeopathy, phytotherapy, reflexology, manual therapy, iridodiagnostics, etc.) are introduced [3, p. 20].

This approach is to some extent consistent with the World Health Organization (WHO) Strategy for Folk Medicine for 2014-2023, the executive summary of which states that folk medicine is an important and often underestimated part of the health care system. In some countries, folk or alternative medicine may be called complementary medicine. Folk medicine has a long history of application in the field of health support, as well as prevention and treatment of diseases, including chronic [4, p. 11].

At the same time, the state policy on this issue contradicts the WHO Strategy in the field of folk medicine, as evidenced by the attempts to deregulate alternative medicine (healing) carried out by the Ministry of Health of Ukraine.

N.M. Pokhmurska-Hudym notes that the desire to resolve the problem of alternative medicine in Ukraine began with the Decree of the President of Ukraine «On measures to regulate activities in the field of folk and alternative medicine» from 31.07.1998 № 823/98, which initiated the establishment of the Committee for Traditional and Alternative Medicine in the structure of the Ministry of Health of Ukraine [5, p. 220].

Today, the right to practice folk medicine (healing) in Ukraine is enshrined in Article 74-1 of the Fundamentals of Legislation of Ukraine on Health Care (hereinafter – OZ). OZ was supplemented by this article only in 2007, while the Law itself was adopted in 1992 [6].

According to this article, folk medicine (healing) is a method of rehabilitation, prevention, diagnosis and treatment, based on the experience of many generations of people, established in folk traditions and do not require state registration. The right to practice folk medicine (healing) have persons who do not have special medical education, registered in the manner prescribed by law as natural persons – entrepreneurs and have received a special permit to practice folk medicine (healing), issued by the central executive body implementing state policy in the field of health care, i.e. the Ministry of Health of Ukraine [6].

Note that the qualification requirements for individuals – entrepreneurs engaged in folk medicine (healing), and conditions for practicing folk medicine (healing) are set by the central executive body, which ensures the formation of state policy in the field of health, i.e. the Ministry of Health of Ukraine [6]. According to the Qualification Requirements, a healer has the right to use such methods of folk medicine (healing) as: aromatherapy, bioenergy information therapy, iridodiagnostics, manual therapy, acupressure, non-invasive Su-Jok therapy and phytotherapy [7].

During his professional activity, the healer performs such types of work as a) supervision of adverse reactions / actions of traditional medicine (healing), which he uses in his practice; b) keeping documentation (medical records of patients who applied to the healer and informed voluntary consent of patients for rehabilitation, prevention, diagnosis and treatment); c) work planning and analysis of its results; d) observance of the principles of medical ethics and deontology. In addition, the healer must know: a) their own rights and responsibilities; b) the main directions of folk and alternative medicine; c) general reactions of the body to treatment using the methods of folk and alternative medicine [7].

Compliance with the qualification requirements of the healer (a person engaged in alternative medicine) is confirmed by an attestation-expert opinion, which is issued in accordance with the approved Procedure and certifies that the person has healing abilities. This procedure was approved by the order of the Ministry of Health of Ukraine dated 23.09.2013

№ 822 «On the procedure for issuing an attestation-expert opinion confirming the presence of a person's healing abilities» [8]. It is also important that a healer who has not practiced folk medicine (healing) for more than three years, cannot practice folk medicine (healing) and is allowed to carry out their activities after passing the attestation-expert assessment of healing abilities, in accordance with the above Procedure [7].

Having considered the qualification requirements for individuals – entrepreneurs engaged in folk medicine (healing), it is necessary to proceed to the conditions of such activities. Thus, the practice of folk medicine (healing) is carried out in compliance with the following conditions: 1) the use of only the method of folk medicine (healing), which is based on the experience of many generations and which is stated in a special permit for folk medicine (healing); 2) keeping on paper medical documentation provided by the Conditions (medical cards of patients and informed voluntary consent for rehabilitation, prevention, diagnosis and treatment) and providing the patient with a copy of his medical records, certified by the personal signature of the healer; 3) in the absence of diagnostic, prophylactic or therapeutic effect from the use of traditional medicine methods, timely referral of the patient to a health care institution in order to provide qualified medical care; 4) determination of indications and contraindications for prescribing to patients treatment by methods of folk medicine in the provision of medical care in each case; 5) analysis of the effectiveness of the use in medical practice of folk medicine methods used by the healer; 6) providing conditions to prevent complications that may lead to deterioration of patients' health during treatment with traditional medicine; 7) knowledge of the requirements of medical ethics and deontology and their strict observance; 8) storage and provision of information about the patient in the manner prescribed by law; 9) obtaining informed voluntary consent of the patient for rehabilitation, prevention, diagnosis and treatment; 10) storage at the place of practice of folk medicine (healing): copies of documents that were attached to the application for a special permit for the practice of folk medicine (healing); medical documentation provided by the Terms; 11) prevention of use of the room (office) in which are engaged in national medicine (healing) for various functional purposes; 12) confirmation by lease or lease (sublease) agreements, or other documents that give the right to use this premises under the condition of joint use of premises (offices) by different healers; 13) compliance with the qualification requirements for individuals – entrepreneurs engaged in folk medicine (healing), approved by the order of the Ministry of Health of Ukraine from 16.03.2016 № 189; 14) current (morning and evening) and general cleaning of objects (once a week) with the use of disinfectants approved for use in Ukraine [7]. The above allows us to state that the list of Conditions for practicing folk medicine (healing) is quite wide, due to the importance of health as one of the highest social values in Ukraine and efforts to streamline these activities.

As for the procedure for issuing a special permit for practicing folk medicine (healing), the list of documents required for its receipt, and the procedure for revoking a special permit for practicing folk medicine (healing), they are established by the Cabinet of Ministers of Ukraine. The validity of such a special permit for the practice of folk medicine (healing) is five years.

An interesting point is that a person who does not have special medical education, registered in the manner prescribed by law as a natural person – entrepreneur and intends to engage in folk medicine (healing), or a person authorized by him to obtain a special permit submits the following documents: a) an application for a special permit in the prescribed form; b) information on the place of practice of folk medicine (healing) and arrangement of the premises intended for practice of folk medicine (healing) according to the form established by the Ministry of Health; c) duly certified copies of: the conclusion of the state sanitary-epidemiological examination; obtained in the manner prescribed by the Ministry of Health certification and expert opinion, which confirms the presence of a person's healing abilities [9].

The conclusion mentioned in the list of necessary documents, which confirms the presence of a person's healing abilities, is issued in accordance with the order of the Ministry of Health of Ukraine dated 23.09.2013 № 822 Procedure [8]. Thus, the submission of documents for obtaining a permit to practice folk medicine (healing) must be preceded by the applicant's certification and expert opinion, which confirms the presence of his healing abilities.

Today, the details of issuing a special permit for practicing folk medicine (healing) are covered in detail on the portal «Action» in the tab «Professional activity» (service ID – 01109) [10]. It is also noteworthy that healing using the media is prohibited, and therefore all procedures implemented through the Internet, press, radio, television, etc. – automatically

become illegal [6].

Finally, it should be noted that practicing folk medicine (healing) in violation of the requirements of the law entails liability under the law. In particular, Article 46-2 of the Code of Ukraine on Administrative Offenses provides for liability for violation of the statutory requirements for practicing folk medicine (healing). The commission of such actions entails administrative liability in the form of a fine of fifty to one hundred and fifty non-taxable minimum incomes [11].

In this aspect, an interesting opinion is given by V.V. Yevtushenko, pointing out that the main task of the legislator should be to clearly define the subject of criteria and objectives of true folk medicine, distinguishing the latter from the dubious non-traditional practice of «healing» with their subsequent inclusion in the content of relevant norms of Code of Ukraine on Administrative Offenses [12, p. 148].

**Conclusions.** Concluding the review of the administrative and legal regulation of folk medicine (healing) in Ukraine, it should be noted that this type of activity requires strengthening of legal regulation in the following conditionally defined areas: 1) differentiation of components of folk medicine (healing) and services covered by such activities; 2) preservation of state control and supervision in the field of folk medicine (healing), where the Ministry of Health of Ukraine should remain the key subject of power; 3) strengthening of anti-corruption measures in connection with the procedure of issuing an attestation-expert opinion, which confirms that a person has healing abilities; 4) updating of measures of administrative responsibility in cases of violation of the requirements established by law for practicing folk medicine (healing) by improving the mechanism of law enforcement and specifying illegal actions.

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#### ABSTRACT

The article deals with study of problems of administrative and legal regulation of folk medicine (healing) in Ukraine. It has been established that the Ministry of Health of Ukraine has made attempts to revoke the special permit for practicing folk medicine and deregulate the relevant activities by the state. The importance of folk medicine (healing) as part of the national health care system is emphasized. Qualification requirements for individuals – entrepreneurs engaged in folk medicine (healing) are analyzed. The conditions which observance is obligatory for practice of national medicine (healing) are defined. Attention is paid to the procedure for issuing and revoking a special permit for practicing folk medicine (healing). Emphasis was placed on the need for the applicant to obtain an attestation-expert opinion confirming that the person has healing abilities.

The conclusion about necessity of strengthening of legal regulation of the specified activity in the following conditional directions is made: 1) differentiation of components of national medicine (healing) and the services covered by such activity; 2) preservation of state control and supervision in the field of folk medicine (healing), where the Ministry of Health of Ukraine should remain the key subject of power; 3) strengthening of anti-corruption measures in connection with the procedure of issuing an attestation-expert opinion, which confirms that a person has healing abilities; 4) updating of measures of administrative responsibility in cases of violation of the requirements established by the legislation concerning employment in national medicine (healing) at the expense of improvement of the mechanism of law enforcement and specification of illegal actions

**Keywords:** non-traditional medicine, healing, legal regulation, health, medical activity, administrative responsibility.