

Legal Aspects of Organising Chaplaincy Services in the Hospitals of Republic of Latvia in the Context of Patients and Their Relatives Right to Receive Spiritual Health Care

Keywords: *chaplain, chaplaincy services, freedom of thought, conscience and religion, hospital patient, spiritual health care*

This study analyses fifth paragraph of Article 3 of the Law On the Rights of Patients which states a patient and his or her relatives have the right to receive mental care which, in accordance with the laws and regulations governing the activities of chaplain services and religious organisations (Law On Religious Organisations; Cabinet Regulation No. 134 of 15 February 2011, Rules for chaplaincy service; other Cabinet Regulations which regulates the requirements to medical treatment support person professions), shall be provided by the chaplain of a medical treatment institution.

The right to receive mental care is considered as a unique and specific patient right and the purpose of this right is very closely linked to the human right to freedom of thought, conscience, and religion established in such legal acts as Convention for the Protection of Human Rights and Fundamental Freedoms, International Covenant on Civil and Political Rights, Universal Declaration of Human Rights, The Constitution of the Republic of Latvia.

The study presents the results of analysed national legal acts, scientific literature in the field of medical law and the results of the empirical study that the author has examined in Latvian hospitals.

1. The purpose of mental care is to help patient and his or her relatives identify and address their mental needs, and to receive support and religious consultations in the health care process of patients, especially in the event of major illnesses. Accordingly, the term “mental care” in article mentioned before is incorrectly used. This term in the English language generally refers to mental illness. The correct term should be “spiritual health care” (also used below in this article) which is related with religion.

2. Fifth paragraph of Article 3 of the Law On the Rights of Patients does not define who is the chaplain of a medical treatment institution. The laws and regulations governing the activities of chaplain services and religious organisations define different types of chaplains: “chaplain of a professional health care institution”, “professional health care chaplain”, “associate health care chaplain” etc. According to Cabinet Regulation No.193 of 24 February 2009, Regulations on the Procedure for Certification of Medical Support Persons and Professions of Medical Support Persons to be Certified, chaplains of health care institutions should be medical treatment support persons and only “professional health care chaplains” qualify. According to Medical Treatment Law medical treatment support persons are persons who do not have the right to engage in health care, but who are directly involved in ensuring it. Medical treatment support persons are entitled to get involved in the provision of health care process if they are certificated and registered in the Register of medical practitioners and medical treatment support persons which is held by the Health Inspectorate of Latvia.

3. Fifth paragraph of Article 3 of the Law On the Rights of Patients does not define what kind of medical treatment institution is where the chaplain performs their official duties, hospital or outpatient treatment institution. The laws and regulations governing the activities of chaplain services and religious organisations define different types of medical institutions where the chaplain performs their official duties: “medical institution”; “health care institution”; “place where the pastoral care of a normal clergyman is not available” (for example hospital). In the author's opinion, the normative acts should define that the professional health care chaplain should perform duties in hospitals. In the author's view only the patients who are in the hospital can't visit the places where the pastoral care of a normal clergyman is available (for example church), because they are stationed in a hospital and not allowed or able to wander to different places due to health issues. And their relatives who may have to be around patients may have need for spiritual health care.

4. The chaplain services of spiritual health care don't include the right to perform religious activity which is within the competence of the priest of the church (for example receiving the Sacrament of Anointing of the Sick which is a religious ritual organised by the priest). There can be rare exceptions where chaplain can perform religious activity if the church has given them permission to do this. In accordance with Law On Religious Organisations of Republic of Latvia religious activities may be performed in hospitals if the persons present therein so wish. The anticipated time and place for an event shall be co-ordinated with the administration of the hospital.

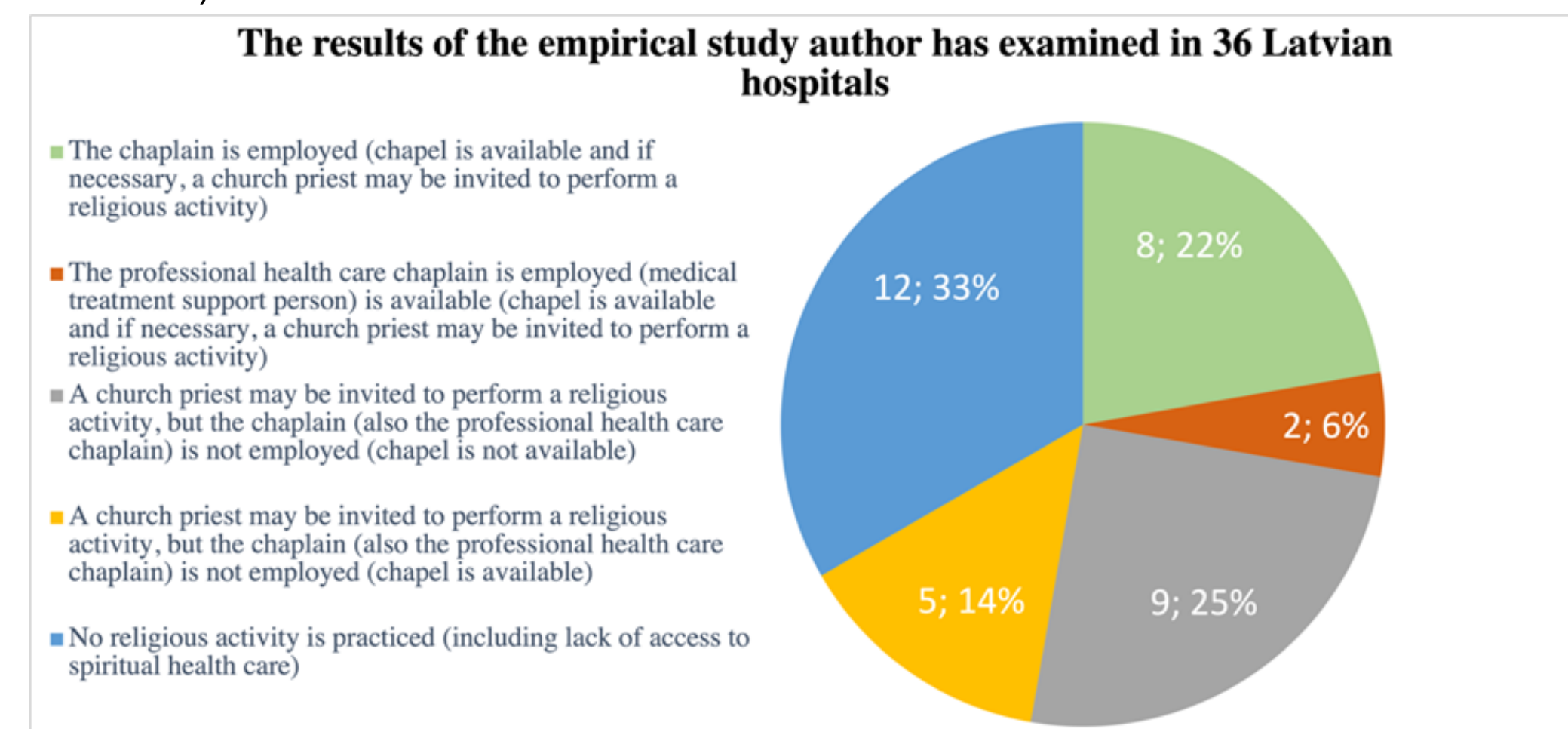
5. National legal acts do not provide or specify exactly how spiritual health care should be organised in the medical treatment institutions. In practice there are several legal and practical problems in the implementation of this right.

5.1. The author has examined in an empirical study – circulated questionnaire as to the effectiveness, and the efforts made in Latvian hospitals to implement the right to receive mental care. 36 Latvian hospitals were surveyed.

5.1.1. The chaplain is employed in 10 of the surveyed hospitals (in all these 10 hospitals spiritual health care is available to patients and their relatives and medical practitioners). Only 2 hospitals employ professional health care chaplains (medical treatment support persons which are registered in the Register of medical practitioners and medical treatment support persons). In all these 10 hospitals a hospital chapel is available and if necessary, a church priest may be invited to perform a religious activity.

5.1.2. In 14 hospitals, if necessary, a church priest may be invited to perform a religious activity, but the chaplain is not employed. 5 of them have a hospital chapel.

5.1.3. 12 hospitals admitted not engaging in any religious activity (including lack of access to spiritual health care).



According to the results, only 2 of the 36 Latvian hospitals surveyed are providing the proper right to receive spiritual health care as stated in Article 3 of the Law On the Rights of Patients. Mostly hospitals lack an understanding of how to organise spiritual health care. Chaplains should be medical support persons, but hospitals believe that spiritual health care can be provided by people who are not educated in working with patients – for example, a church priest.

6. According to the author's research, the fifth paragraphs of Article 3 of the Law On the Rights of Patients, the most correct legal formulation, should be as follows: “Patient and his or her relatives have the right to receive spiritual health care in hospital, which, in accordance with the laws and regulations governing the activities of chaplain services and religious organizations, shall be provided by the professional health care chaplain.”

In the opinion of author, amendments need to be made not only in Article 3 of the Law On the Rights of Patients, but also laws and regulations governing the activities of chaplain services and religious organizations. These legal acts should be improved with the procedures of exactly how to provide spiritual health care. The national controlling authority in health care – the Health Inspectorate of Latvia, should control medical treatment support persons and hospitals in employing them and the quality of medical support in hospitals, because medical treatment support persons are involved in providing the patients' rights.