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Legal support of the system “well - being” through local rule-making in the health care system of the Republic of Kazakhstan: labor law aspect

Annotation. The article raises the issues of necessity to make changes through the prism of local normative creation in the health care system of the Republic of Kazakhstan, in order to provide legal support of the system ‘Well - being’ for medical workers. The potential of local rule-making in creating conditions that promote professional well-being and sustainable development of medical organisations is studied. Particular attention is paid to legal instruments aimed at protecting labour rights, preventing professional burnout and introducing corporate ‘well-being’ programmes. The ways of harmonising domestic legislation with international standards are analysed, and innovative approaches to strengthening the system of labour well-being in healthcare are revealed. This paper concludes that it is necessary to improve the regulatory framework through the introduction of local acts, which will increase the effectiveness of protection of the rights and well-being of health care workers.

Key words: well-being, wellbeing, health care organisations, corporate culture, health care workers, doctor.

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Қазақстан Республикасының денсаулық сақтау жүйесінде жергілікті ережелер жасау арқылы “well - being” жүйесін құқықтық қамтамасыз ету: еңбек құқығының аспектісі

Аннотация. Мақалада медицина қызметкерлерінің “Әл-ауқаты” жүйесін құқықтық қамтамасыз ету мақсатында Қазақстан республикасының денсаулық сақтау жүйесінде жергілікті нормативтік құқықтық актілерді құру призмасы арқылы өзгерістер енгізу қажеттілігі туралы мәселелер көтерілген. Медициналық ұйымдардың кәсіби әл-ауқаты мен тұрақты дамуына ықпал ететін жағдайлар жасау кезінде жергілікті ережелерді әзірлеудің әлеуеті зерттелуде. Еңбек құқықтарын қорғауға, кәсіби күйіп қалудың алдын алуға және корпоративтік “әл-ауқат” бағдарламаларын енгізуге бағытталған құқықтық құралдарға ерекше назар аударылады. Отандық заңнаманы халықаралық стандарттармен үйлестіру жолдары талданып, денсаулық сақтау саласындағы еңбек әл-ауқатының жүйесін нығайтудың инновациялық тәсілдері анықталды. Осы жұмыста денсаулық сақтау қызметкерлерінің құқықтары мен әл-ауқатын қорғаудың тиімділігін арттыратын жергілікті актілерді енгізу арқылы нормативтік-құқықтық базаны жетілдіру қажет деген қорытындыға келді.

Түйінді сөздер: well-being, wellbeing, денсаулық сақтау ұйымдары, корпоративтік мәдениет, денсаулық сақтау қызметкерлері, дәрігер.

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Правовое обеспечение системы “well - being” посредством локального нормотворчества в системе здравоохранения Республики Казахстан: аспект трудового права

Аннотация. В статье поднимаются вопросы необходимости внесения изменений через призму локального нормотворчества в систему здравоохранения Республики Казахстан, с целью обеспечения правового обеспечения системы ‘Благосостояния’ медицинских работников. Изучается потенциал местного нормотворчества в создании условий, способствующих профессиональному благополучию и устойчивому

развитию медицинских организаций. Особое внимание уделяется правовым инструментам, направленным на защиту трудовых прав, предотвращение профессионального выгорания и внедрение корпоративных программ повышения благосостояния. Проанализированы пути приведения отечественного законодательства в соответствие с международными стандартами, а также выявлены инновационные подходы к укреплению системы охраны труда в сфере здравоохранения. В данной статье делается вывод о необходимости совершенствования нормативно-правовой базы путем принятия локальных актов, которые повысят эффективность защиты прав и благополучия медицинских работников.

Ключевые слова: well-being, wellbeing, организаций здравоохранения, корпоративная культура, медицинские работники, врач.

Introduction. According to the research of Ceoworld magazine [1], Kazakhstan ranks 82nd out of 89 countries in the ranking of health care system level provision.

The data of the Ministry of Health demonstrate a high need for human resources, which at the moment is more than 7.7 thousand (7,740) units [2].

The World Health Organisation estimates that by 2030 the projected shortage of health workers will be 18 million, mainly in low and middle-low income countries.

However, countries at all levels of socio-economic development face challenges to varying degrees in education, employment, deployment, retention and efficiency of their workforce [3].

We believe that the issue of quality human resource capacity of the health care system has reached the present day problems of ensuring national security of the Republic of Kazakhstan.

Research Methods. There are several approaches to research methodology, such as analytical, interdisciplinary, socio-legal, comparative, etc. In this section we look at methodological approaches through the lens of research methods. The comparative method is necessary to understand the law within one's own country.

The comparative method suggests how the differences between the law of different countries and systems are analysed. Thus, comparative study is valued for its usefulness to the national legal system.

The comparative method aims to harmonise but not to unify the different laws and legal cultures of the world.

Because often the comparative approach may involve comparing two or more national legal systems.

The comparative method «uses» an insider's view of the legal systems under study

and helps to understand the institutional structure of the concepts, thinking and organisation of the systems under consideration.

Discussion and results. The Ministry of Health of the Republic of Kazakhstan regulates the legislative framework and support measures for health workers, but all of them are mainly of a material incentive nature, at the same time, the issue of creating favourable conditions for the designated category of workers remains at an insufficient level - this is the issue of implementation of «well-being – system», which includes an integrated and comprehensive approach - creation of favourable emotional, psychological, physical, safe, stable working conditions in the professional environment.

CIPD (Certified Institute of Personnel Development) defines the concept of 'well-being' as 'creating an environment of satisfaction that enables an employee to thrive and reach their full potential for the benefit of themselves and their organisation' [4].

It is the «creation of appropriate environment», working conditions and attitudes of medical workers to the existing situation that revealed the following:

1) Deterioration of social and professional well-being; average and low satisfaction with health, social well-being and prestige of the profession;

2) High workload, emotional burnout, lack of legal regulation of labour activity during the pandemic period and as a consequence decadent and pessimistic mood;

3) Involvement in unrelated activities, despite regulatory prohibitions, preventing to «create an environment of satisfaction that allows the employee to thrive and reach their full potential for the benefit of themselves and their organization» [5].

Current legislation provides us with a set of protective measures to safeguard

physical health, and the category of «physical health» and «wellbeing» are not identical.

This makes well-being a more comprehensive concept than health, wellbeing, social security or quality of life.

Time dictates new criteria for defining the well-being of a person and, in the context of the issue at hand, of a health professional.

We realise that legislative mechanisms for regulating the situation of health workers are not flexible enough, and we believe that local rule-making can become an important tool for adaptive regulation.

The situation in the health care system requires constructive reforms in general, but the basis of any system is people - human resource and it is the creation of the most comfortable conditions for them (in conjunction with the awareness of responsibility), the main component of their effective work and as a consequence - the well-being of the people of our state.

In the Republic of Kazakhstan, no research has been conducted on the issues of local rule-making in the health care system in the Republic of Kazakhstan, in particular through the prism of the Well-being approach

Occupational problems inherent in health care workers lead to significant cognitive, emotional and physical strain.

Even under normal working conditions, health professionals face stressful situations and intense cognitive and emotional demands on a daily basis. Cognitive demands include, among many others, the need to make important medical decisions and the need to focus attention in the face of frequent distractions.

In these circumstances, the development and evaluation of interventions to improve the well-being of health professionals is of paramount importance. Improving the well-being of physicians requires a multidimensional approach that includes interventions at the systemic, organisational and individual levels.

In the Republic of Kazakhstan, as mentioned above, there is a severe shortage of human resources in the health care system, and the problem of health workers' turnover and 'retention' in the workplace is no less acute.

The Ministry of Health of the Republic of Kazakhstan regulates the legislative framework and support measures for health workers, but all of them are mainly of a material incentive nature, at the same time the issue of creating favourable conditions for this category of workers remains at an insufficient level - this is the issue of introducing a "well-being system", which includes an integrated and comprehensive approach - creating favourable emotional, psychological, physical, safe, stable working conditions in the professional environment.

It is the implementation of the 'well-being' system, with the help of local norm-setting, that will improve the situation created for health workers.

Time dictates new criteria for defining the well-being of a person and, in the context of the issue under consideration, of a medical worker.

In general, the issues of 'well-being' approach to employees gained its popularity and implementation in the world in 2005[6].

In 2019, the UK General Medical Council published the report 'Caring for doctors caring for patients' [7].

This report states that to ensure well-being and motivation at work, and to minimise stress in the workplace, people have three basic needs and that all these three basic needs must be met:

A. Autonomy/control - the need to be in control of our work life and to act in accordance with our work and life values.

B. Belonging - the need to be connected to others in the workplace, to care for them and to feel valued, respected and supported.

C. Competence - the need to feel effective and achieve valuable outcomes such as high quality health care.

Quality of care and improvement is extremely difficult if the well-being of HCWS is unacceptable.

WHO has declared 2021 as the International Year of the Health Workforce [8], and although the well-being of people with disabilities has been a concern for decades, Covid-19 has brought more attention to the importance of clinicians' well-being [9].

The well-being programme is now defined as follows: well-being is a

contemporary trend in human resource management, primarily focused on improving employee well-being, increasing employee engagement [10].

The essence of the 'well-being' programme consists in systematic, comprehensive improvement of the main spheres of employees' life activities that most affect their performance. Numerous studies have shown that employees' well-being affects their productivity, teamwork, efficiency, work with customers and much more [11].

Why is it important? In today's economic environment, where uncertainty and complexity have increased, companies have to work much harder to stay competitive and maintain positive financial dynamics. It is for this reason that the importance of human resource within a business has increased. According to statistics, happy employees can provide an organisation with benefits such as a 13% increase in sales, 19% increase in task completion [12]. Maximising the use of human resource potential is one of the ways to solve economic problems [13]. Implementing employee wellbeing programmes is a long-term objective. The main feature of well-being is its systematic nature.

The justification of the importance of the need for constructive changes can be started with a question: how many medical workers do you know who would be provided with the most favourable conditions for work through the prism of labour relations?

The well-being of doctors and other health workers is extremely important to the health service. Stress and work overload definitely affect the quality of care for patients, as well as the health and wellbeing of health

professionals. Research has convincingly shown that HCW well-being improves quality of care, productivity and patient satisfaction [14].

In addition, the likelihood of committing a serious medical error is approximately 50% higher among doctors with high levels of emotional burnout [24]. Another aspect of stress and work overload is the difficulty in recruiting and retaining general practitioners (GPs), and professional exhaustion and demoralisation are among the factors associated with these problems [15].

A national GP Worklife survey of job satisfaction among GPs in England found that 35% of GPs intended to give up direct patient care in the next five years [16].

In Scotland, 26% of GPs said they were unlikely to be working in general practice in five years due to workload and unmanageable stress [17]. In an unpublished survey of health professionals in Iceland's largest primary care centre, 10% of staff said they often think about not returning to work the next day [18].

Conclusion. The situation in the health care system requires constructive reforms in general, but the basis of any system is people - human resource and the creation of the most comfortable conditions for them (in conjunction with the awareness of responsibility), the main component of their effective work and as a consequence - the well-being of the people of our country.

We realise that legislative mechanisms for regulating the situation of medical workers are not flexible enough, and we believe that local rule-making can become an important tool for adaptive regulation.

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