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\*Małgorzata Cyrych

# Legal aspects of national healthcare service in Cuba

## Prawne aspekty ochrony zdrowia na Kubie

Varna Free University, Varna, Bulgaria

### Keywords

healthcare service, medicine, organization, Cuba, legal aspects

### Słowa kluczowe

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### Address:

\*Małgorzata Cyrych  
Varna Free University, Varna, Bulgaria  
src.emergency@gmail.com

### Summary

In the Republic of Cuba, the last remaining socialist state in the world, medical care was always considered a human right for all citizens. Cuba's health policy underlines primary health care along prevention, and the participation of citizens and services in the community, and such policies lead to a working fairly well health system. The Cuban experience demonstrates properly working policymaking on the provision of medical care. Although there is a large body of literature on health care in Cuba, still the topic of constitutional patient's rights to medical care is not fully explored. Therefore, the purpose of this paper is to show how Cuba's medical care system has been developed by focusing on human well-being versus financial gains.

### Streszczenie

W Republice Kuby, ostatnim istniejącym socjalistycznym państwie na świecie, opieka medyczna była zawsze uważana za prawo człowieka przysługujące wszystkim obywatelom. Kubańska polityka zdrowotna kładzie nacisk na podstawową opiekę zdrowotną wraz z profilaktyką oraz udział obywateli i usług w społeczności. Takie działania prowadzą do poprawnego funkcjonowania systemu ochrony zdrowotnej. Kubańskie doświadczenia pokazują prawidłowo funkcjonującą politykę świadczenia opieki medycznej. Chociaż istnieje obszerna literatura na temat opieki zdrowotnej na Kubie, nadal temat konstytucyjnych praw pacjenta do opieki medycznej nie jest w pełni zbadany. Celem tego artykułu jest pokazanie, w jaki sposób kubański system opieki medycznej został rozwinięty, koncentrując się na dobrobycie ludzi, w porównaniu z korzyściami finansowymi.

### INTRODUCTION

In the Republic of Cuba, the last remaining socialist state in the world, medical care was always considered a human right for all citizens. Cuba's health policy underlines primary health care along prevention, and the participation of citizens and services in the community, and such policies lead to a working fairly well health system. The Cuban experience demonstrates properly working policymaking on the provision of medical care (1). Although there is a large body of literature on health care in Cuba, still the topic of constitutional patient's rights to medical care is not fully explored. Therefore, the purpose of this paper is to show how Cuba's medical care system has been developed by focusing on human well-being versus financial gains. Scientists too often claim objectivity and empiricism used to support an argument that they make unique contributions to domestic health

system. To justify those claims in the arena of legal system of health care in Cuba, an open discussion should take place on the potential lessons to be learned from the Cuban experience. Contemporary Cuba's medical care system is unique because rather than focusing on remuneration, it has made its emphasis the health of country's citizens. Cuba from the beginning in 50<sup>th</sup> last century, has formed their medical care system into a free service, becoming the constitutional right. This article analyzes the importance of providing medical care in Cuba, formed on the constitutional principles that guarantee the recognition and guarantee of human rights in Cuba, in particular, the right to health (2). Used legal approach, highlights the meaning of the general knowledge regarding the content of the constitutional rules that support the right of Cubans to medical services. The Art. might be an interesting topic for the health professionals, that

is related to the importance of having an elementary knowledge on the constitutional rules of Cuban's constitution to be followed in medical services.

## STRUCTURE OF NATIONAL HEALTH SYSTEM

Cuba's national health system – *Sistema Nacional de Salud* (SNS) – strongly focused on prevention, using low technology is fairly effectively. Health education are promoted, and universal medical care is free, and everyone has access to a family physician and nurse. This country has managed to guarantee access to care for all segments of the populace and obtain results similar to those of the most developed countries (3). Unfortunately, the quality of primary healthcare, which has been fundamental to Cuba's success, has been declining in last decades (4). In accordance with the National Statistics Office *Oficina Nacional de Estadística e Información* ONEI between 2009 and 2014 there was a 62 percent fall in the number of family doctors, from 34,261 to 12,842 (5). At the present Cuba's health service was divided in two parts, whereas the first one for Cuban's citizens and the second for foreigners, who receive better quality care, while the national populace has to be satisfied with dilapidated facilities and a lack of medicines and professionals. The medical staff is sent abroad to earn hard currency for Cuba. Cuba's healthcare system is the existence of special clinics, reserved for tourists, politicians and other people accorded special privileges (6). The Cuban government usually reserves the best hospitals and physicians for the national privileged and foreigners, while citizens occasionally must turn to the black market or ask friends or family to send medicine (7). Cuba represents an important example where modest infrastructure investments combined with a well-developed public health strategy have generated health status measures comparable with those to developing countries. The special health care embodies control of infectious diseases, reduction in infant mortality, establishment of a research and biotechnology industry, and progress in control of chronic diseases, among others. However, under the communist style government the major public health system in Cuba, and the underlying strategy that has guided its health gains, have been to some extent ignored (8). The historical context might explain the absence of Cuba from the general conversation on public health and medicine but should not be dismissed as passive acquiescence of the health professions to the demands of communist regime (9). The main goal of national of the health care is the discovery of new knowledge and the use of that knowledge to improve health system. In major areas critical of public health and medicine facing less developed countries Cuba has achieved quite success, include creating a high quality primary health care network and an working public health system, sustaining a local biomedical research infrastructure, controlling infectious diseases,

achieving a decline in non-communicable diseases, and meeting the emergency health needs of this country (6, 10).

## 1976 – CONSTITUTION OF CUBA

The first constitution since the Cuban Revolution was drafted in 1976 and has since been several times amended. In 2018, Cuba prepared a major revision of its Constitution, which was then enacted in 2019. The 1976 constitution recommitted the Cuban government to provide its citizens with access to free medical health care, as in the Art. 80 of the 1940 constitution (11). The Cuban Constitution recognizes the right to health, and the country's single, free, universal public health system and high-level political commitment promote intersectionality as a strategy to address health problems (12). Intersectional networking is reflected in national regulations that encourage participation by all social sectors in health promotion/disease prevention/treatment/rehabilitation policies and programs. The strategy has increased the response capacity of Cuba's health system to face challenges in the national and international socioeconomic context and has helped improve the country's main health indicator.

The National Assembly of People's Power *Asamblea Nacional del Poder Popular* de la República de Cuba are the maximum authorities of the Cuban government at the local level, with members elected by popular vote. The *Asamblea Nacional del Poder*, is the supreme organ of the Cuban government and is the only body with constitutional and legislative power. La *Asamblea Nacional* has standing working commissions in place to control and supervise the activities of respective agencies, such as the Commission on Health, Sports, and the Environment *Comisión Cubana de Salud, Deportes y Medio Ambiente*. The SNS is completely financed by state resources. The system's budgetary process guarantees compliance with development objectives for the health sector. Budgetary policies are formed on an analysis of joint interests and options pursued by the Ministry of Public Health *Ministerio de Salud Pública MSP* and the Ministry of Finance and Pricing *Ministerio de Finanzas y Precios*, which are the regulatory agencies for both activities.

1976 Cuban Constitution granted the range of access to health to the category of constitutional law. Constitution embodies several provision of free medical and hospital care, through the network of rural medical service facilities, polyclinics, hospitals, prophylactic centers and specialized treatment; with the provision of free dental assistance; with the development of health dissemination and health education plans, periodic medical examinations, general vaccination and other disease prevention measure (13). Particularly Art. 43 of Cuban Constitution endorsed that the Cuban State enshrines the right that citizens, regardless of race, skin color, sex, religious beliefs,

national origin and any other lesion to dignity Human assistance in all health institutions. Note allusion to all institutions, which in fact excludes any form of discrimination. The citizens, from the constitutional point of view, does not need to credit capital, assets or other conditions to receive care in any of the institutions, including specialized center of the country in the case of medical care or in the other social institutions where services are offered in several way that contribute to the physical well-being of citizens and by that to their physical and mental health. The access to Cuban medical care is not be limited only to the system of institutions such as offices, hospitals, clinics, etc. (14). Art. No. 44 states that The Cuban government organizes institutions such as children's circles, seminars and boarding schools, care homes to the elderly and services that facilitate the working family the performance of their possibilities by ensuring their health and a healthy offspring as well as that the Cuban government grants paid maternity leave to the working woman, before and after childbirth, and temporary work options compatible with their maternal function. Further Art. 46 stipulates that everyone who works has the right to rest, which is guaranteed by the working day of eight hours, the weekly rest and the annual paid vacations as well as that the Cuban government encourages the development of facilities and vacation plans. With respect to this same issue, Art. 47 states that through the social security system, the Cuban government guarantees adequate protection to all workers hindered by their age, disability or illness, as well as, in Art. 49 that the Cuban government guarantees the right to protection, safety and hygiene at work, by taking appropriate measures to prevent accidents and occupational diseases. Art. 50 proclaims that everyone has the right to have their health treated and protected. It is important to remember that this right for citizens excludes the distinction of race, skin color, sex, religious beliefs, national origin and any other damage to human dignity.

Furthermore, 1992 Constitution stated in Art. 9 that The Cuban government carries out the will of the working people and as the power of the people and for the people, guarantees that no disabled person be left without adequate mean of subsistence and that no sick person be left without medical care. Next Art. 43 stipulated that the Cuban government consecrates the right achieved by the Revolution that all citizens, regardless of race, skin color, sex, religious belief, national origin and any situation that may be harmful to human dignity be given health care in all medical institutions. Protection of working class is protected in Art. 49, which stated that the Cuban government guarantees the right to protection, safety and hygiene on the job by means of the adoption of adequate measures for the prevention of accidents at work and occupational diseases. Anyone who suffers an accident on the job or is affected by an occupa-

tional disease has the right to medical care and to compensation or retirement in those cases in which temporary or permanent work disability ensues. The most important provision embodies Art. 50, stipulating that everyone has the right to health protection and care. The Cuban government guarantees this right by providing free medical and hospital care by means of the installations of the rural medical service network, polyclinics, hospitals, preventative and specialized treatment centers, by providing free dental care and by promoting the health publicity campaigns, health education, regular medical examinations, general vaccinations and other measures to prevent the outbreak of disease. All the population cooperates in these activities and plans through the social and mass organizations.

The new Cuban constitution approved by popular referendum in 2018, in its Chapter I, Political, Social and Economic Foundations of the State, Art. 1 defines that "Cuba is a workers' Socialist State, independent and sovereign, organized with all and for the good of all, as a unitary and democratic Republic, for the enjoyment of political freedom, social justice, individual and collective well-being and human solidarity" (15). Further in Art. 8 it states that the socialist state maintains and defends the freedom and full dignity of man, the enjoyment of his rights, the exercise and fulfillment of his duties and the integral development of his personality and as the Power of the people, in the service of the people themselves, guarantees that there is no person incapacitated for work who does not have decent means of subsistence and that there is no sick person without medical attention (16, 17).

In the approved in 2019 Constitution, Art. 46 of Chapter II establishes that all citizens have the right to life, physical and moral integrity, freedom, justice, security, peace, health, education, culture, recreation, sports and comprehensive development. Art. 72 states that a public health is a right of all citizens and it is the Cuban's government responsibility to guarantee access to free, quality medical care, health protection and rehabilitation (18). The State, to make this right effective, institutes a health system accessible to the population at all levels and develops preventive and educational programs, to which society and families contribute.

In addition, Art. 80 stipulates that the Cuban government guarantees the right to protection, safety and health at work by adopting appropriate measures for the prevention of occupational accidents and diseases. Anyone who suffers an accident at work or contracts an occupational disease is entitled to medical care and subsidy or retirement in the event of temporary or permanent incapacity to work.

## HEALTH CARE REGULATORY FRAMEWORK

Art. 1 of the 1983 Law No 41. Public Health Law Ley n°41. Ley de la Salud Publica de la República

de Cuba LSP in accordance with the 1976 Constitution, established basic principles for regulation of social relations in the field of public health in order to contribute to ensuring health promotion, disease prevention, health recovery, patients' social rehabilitation, and social welfare. Art. 4 of Law No. 41 sets out guiding principles for the organization of the Cuban health system, including the recognition and guarantee of the right to medical treatment and protection for all citizens in all parts of the nation; medical care to be provided by state institutions free of charge and the social character of the practice of medicine (19). The Act provided also for high priority given to preventive measures and actions, public health planning, application of scientific and medical advances to medical care; active public participation in health activities and planning; and international cooperation in health, including provision of medical care to other countries. The Law No. 41 defines the role of the Cuban government in guaranteeing health protection for the citizenry; determining services that are to be provided by the Cuban government through the *Ministerio de Salud Pública* MSP (20) as the steering agency of the SNS; establishing the responsibilities of municipal public health offices; and defining the basic and essential functions of the SNS. Established in 1961, the Ministry of Public Health of Cuba *Ministerio de Salud Pública* MSP is the government ministry that is responsible for determining the policies and direction of the health system in Cuba including its affiliated higher education institutions. The Ministry is the governing body of the SNS, in charge of directing, executing and controlling the application of the policy of the State and the government regarding public health, the development of the Medical Sciences and the medical-pharmaceutical industry. To guarantee the health of the Cuban population, the *Ministerio de Salud Pública* is the body of the Central State Administration that has a social commission, according to what is stated in Art. 3 of Law 41 of Public Health of 1983, the methodological, technical and scientific rector, in the provision of services, the preparation of the Public Health Branch Plan and the regulation of the practice of medicine; as well as other related activities. The activities conceived by the *Ministerio de Salud Pública* are decentralized in its planning and execution in the institutions of the health services network, subordinated to the government structures in the different territories, where one of its vice-presidents is the Provincial Director of health. The central agency located in Havana, the capital city has representations in each of the provinces and municipalities of the country called Provincial and Municipal Health Offices *Oficinas de salud provinciales y municipales* that are responsible for enforcing policies relating to health in each territory. The staff of *Ministerio de Salud Pública* is made up of a total of 785 employees, of whom 399 are women and 386 are men. The entity has con-

siderable intellectual capital, including university students and a significant number of *Ministerio de Salud Pública* medium level officials and managers have traveled through other institutions of the SNS with considerable experience in management positions in their territories, which constitutes expression of the professional level and the capacity of the internal public of the institution. Structurally, the *Ministerio de Salud Pública* is divided into six work areas and a business group that, due to its functions, will direct and guarantee compliance with the institutional mission. To these areas of work, led by deputy ministers, national departments, departments and independent departments are subordinated and in the case of the business group companies. The *Ministerio de Salud Pública* methodologically reported to the SNS that has 490 thousand 245 workers who work in 451 polyclinics; 11 thousand 550 offices; 507 dental services; 152 hospitals with 36 thousand 718 beds; 142 maternal homes; 233 grandparents' houses; 144 nursing homes with 9 thousand 399 beds; and 13 research institutes (21).

This potential made it possible to have one physician for every 137 inhabitants, one dental for every 804 and one nurse for every 122, reaching figures higher than those shown in many other states. Moreover, there is other legislation that bears on the role of the State, including environmental laws, basic sanitation regulations, a decree-law on international health regulations, and laws and regulations governing occupational health and the protection of workers. Intersectional programs and actions are promoted through the health councils in all jurisdictions of the country (22). Government officials in the areas of economic and educational policy are in charge of planning and human resources education, which has continued to exhibit a rising trend during the period 1990-1997, providing adequate coverage in all the territories. In this regard, the main difficulties involved financing for the procurement of material resources to implement technical and professional training programs (23). With respect to educational accreditation in the SNS, this is an ongoing process and involves the evaluation and reevaluation of standard requirements for professional training programs and their improvement. In 1976, the Cuban government opened 26 new institutions of higher education and created the Ministry of Higher Education *Ministerio de Educación Superior*, an administrative body charged with overseeing all of the nation's tertiary institutions. The development of Cuban higher education had traditionally been governed by multiple national ministries. Of the country's 64 institutions of higher education, 17 are affiliated with the *Ministerio de Educación Superior*, 16 with the *Ministerio de Educación*, 14 with the *Ministerio de Salud Pública*, and 17 other tertiary institutions are in part governed by the ministry related with their specialized degree programs. The process begins with each institution

conducting a self-evaluation, requesting pre-accreditation from the corresponding university or faculty of medicine, which in turn issues an opinion. If the opinion is favorable, the request for accreditation is submitted to the Commission of Evaluation and Accreditation of University Programs *La Comisión de Evaluación y Acreditación de Carreras Universitarias* (24). This commission then verifies compliance with established requirements and issues an opinion, which is then forwarded to the *Ministerio de Salud Pública* or to his/her representative for a final ruling (25).

## ECONOMIC GROWTH AND THE PUBLIC HEALTH EXPERIENCE IN CUBA

The 1959 Cuban revolution inherited a heterogeneous health sector, where university hospital and medical school existed alongside a dominant private sector and a rudimentary public system (26, 27). Municipal health facilities served employed groups, especially in the cities, while primary health care for the poor and rural populace was weak or non-existent (27). By the mid-1960s 3000 physicians had left the island, primarily for the US, and the various elements of curative medicine and traditional public health were gradually incorporated into a single structure organized under the MSP (28). In the early stages special importance was placed on basic public health improvements, including sanitation and immunization, and medical care was extended to the rural areas (29). A system of regional polyclinics and hospitals subsequently evolved, finished in the 1980s by a reorientation of the entire system toward primary health care and the education of large numbers of family physicians (30). By the 1990s the strategic goal was reached by which a group of a family physician and a nurse lived on every block and provided care for 110-180 families. In 2015 there were a total of 495,609 health workers, which represented 6.8 percent of the working age populace, and 70.6 percent of them were women. There was one physician for every 127 inhabitants (7.84 per 1,000 populace), one nursing professional for every 125 inhabitants (8.0 per 1,000 populace), and one stomatologist for every 640 inhabitants (1.56 per 1,000 populace). The family physician and nurse program has universal coverage and is formed on PHC. In 2015, education of health personnel took place in 13 universities and 25 medical schools, 4 colleges of stomatology, one nursing school, one school of health technology, three schools of technology and nursing, 15 branches of medical sciences, the Latin American Medical School, the National School of Public Health *Escuela Nacional de Salud Publica ENSAP*, the Havana Medical Sciences University *Universidad de Ciencias Médicas de La Habana*, and Preparatory School in Cojimar. The medical universities are part of the health sector and are overseen by the authority of the Cuban MSP. An education in the health sciences ensures

that professionals and technical personnel possess the skills needed to perform essential functions of the health system, including care, education, research, and administration, with emphasis paying attention to the primary care health *salud de atención primaria SAP* strategy. The updating of the family doctors and nurse program and the enhancement of the plans, curricula, and teaching literature of the medical specialties has incorporated a gender perspective as well as subjects related to efficiency, solidarity, respect for differences, and shared responsibility in sexual and family matters (31). Between 2010 and 2015, 144,510 health professionals received degrees; of these, 47,145 were in medicine and 31,533 were in nursing. At present there are 33000 family physicians, with a total doctor: populace ratio of 1:170.

## CONCLUSIONS

The real practice of human rights in terms of patient right to care and therefore of Cubans' access to medical care in Cuba, serves as mechanism in resolving social conflicts, which is term in Cuba as socialist humanism. Patient rights, as expressed in the constitutional text analyzed, have been endorsed with the concept of human health, beyond the services of medical institutions (32). By this same time the importance of preventive care of diseases through numerous institutions contributes to the development better national health. Moreover, throughout the assessment of Cuba's medical legal system, there are several serious problems needed to address. First at all, the healthcare infrastructure in Cuba requires serious attention from government, not only because several of the clinics and hospitals in operation are in dire need of repairs. There is the urgent need of more modern medical equipment, research center and more financial resources. How the government will effectively deal with increasing number of people with the non-communicable disease is important because there will be substantive medical costs for the whole populace for hospital management and health care. Because of budget deficiencies, a future burden for authorities, which pursues economic efficiency such problem should be resolved (32). Several recommendations might be taken into considerations by Cuban's agencies, including establishing methods of reflecting consumer satisfaction and opinion on medical care policies. To stay competitive in the state of art field of advanced medical care, there should be governmental authorities' disbursement in medical research and development in biotechnology. Computerization of health data for effective medical care is also necessary as well creation competitiveness between public and private medical care services in order to decrease the cost of offered medical care (33). If the Cuban Govern-

mental authorities are so concerned about the health of its populace, it could consider a transition from oppressive socialist system to demo-

cratic rule, not only for the sake of liberty, but also for the further benefits of the health of the whole Cuban populace.

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