Features of the Investigation of Corruption Abuses in the Medical Industry

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ABSTRACT
On the basis of the analysis of the reporting information of international organizations to counteract medical corruption, a review of modern scientific sources on corruption in the healthcare sector, the types of corruption abuses in the medical industry are identified. The classification of corruption abuses is presented taking into account the method of committing the offense and its subject - a certain worker of the medical field. It was found that there is important coverage in world information sources of procedures for investigating corruption abuses in the medical industry. There are revealed features of the investigation of corruption abuses of medical workers committed with the use of their official position, using the preparation of medical documentation, and cases of extortion and obtaining unlawful benefits. There are presented sources for obtaining information and the types of data that are necessary to prosecute a medical worker who committed offenses involving corruption. Among the complex of forensic methods for investigating medical corruption, the authors focused on the consideration of key and important for proof procedural actions - examination of medical documents; examination of the place where the medical professional was given of an undue benefit; the work of the accuser (informant) of medical corruption, his interrogation; simultaneous interrogation of participants in a corruption offense in the medical industry. There was proposed procedure and tactics for interrogating the accuser, who reports about obtaining unlawful benefit by a specific medical professional. Caveat has been identified that must be applied when conducting the simultaneous interrogation of two or more persons when investigating corruption in the medical industry.

INTRODUCTION
Corruption reaches into all spheres of public life, creates social tension and economic collision, contributes to the spread of illegitimate types of social practices, threatens national security, it is really opposed to the constitutional and social order; corruption is the reason for the large-scale growth of the "shadow" economy, reaches power institutions, creating preconditions for growth crime rate. Assessment of the widespread corruption in the healthcare sector is extremely complicated by the social and legal ambiguity of informal relations in the medical industry, with which the idea of "medical corruption" is formed. The consequences of corruption abuses in the medical industry are tendencies towards depopulation, deterioration in the health status and morbidity of the population.

Corruption in healthcare costs more than money. The cost of healthcare corruption is human lives.

The world community conducts a several types of studies on the existence of corruption in general and the development of corruption in certain spheres of public life, including in the medical industry. The following projects are known: Anticorruption Policies Revisited Research on corruption in the health care sector was updated [23]. There is a research project ANTICORRP to study the factors that contribute to or hinder the development of effective anti-corruption policies. This interdisciplinary project consisted of twenty research groups in fifteen countries of the European Union [3]. In 2003, the UN Convention against Corruption was adopted, which was ratified by almost all countries of the world. The acts provided by this Convention may be related to the health sector. In particular, these are: corruption of public officials of medical institutions; embezzlement, misappropriation or other misuse of state budget funds allocated for health care; using the influence of health officials for selfish purposes; medical abuse of their official position; illegal enrichment of medical workers and other corruption abuses.

At the same time, both sides of this offense are usually interested in concealing corruption abuses in the medical industry. Therefore, such corruption offenses are difficult to detect, disclose and investigate.

LITERATURE REVIEW
The problems of countering corruption in the healthcare sector were studied by A.M. Babenko, F.Yu. Berdychevsky, T.O. Balebanova, O.M. Bazhanov, V.S. Batygareva, V.O. Glushkov, L.S. Demchenko, O.M. Dzhuzha, O.M. Kostenko, S.V. Plokhova, V.V. Shasty, S.G. Stetsenko, V.N. Floria and others. Including: M. Afzal, R. Bate, S. Batt, J. Biddle, K. De...

In particular, S. Batt examines corruption in the pharmaceutical industry and the moral crisis in medicine as a consequence of such corruption. On many issues, pharmaceutical policy is not in the public interest, it only follows the pursuit of profit and superprofits. The overproduction of drugs, among which there are also low-quality ones, the increase in prices for drugs that are in great demand, prompts pharmaceutical companies to commit corruption abuses in the health sector of those countries that can become a place of sale of drugs. As a result, this leads to too many unnecessary deaths [6]. Corruption in the pharmaceutical industry is also reported by Justin B. Biddle. In his article, he examines the corrupt mechanisms that exist in the healthcare sector, and discovers the connection between these antisocial processes in the functioning of organized criminal groups for the supply and sale of counterfeit drugs, leading to the death of patients [8]. The same problem is explored by Jonas Lindblom in his article "Deadly drugs and organized crime: How medicine industry has corrupted health care" [15].

Other researchers (V. Batyrgareieva, A. Babenko, S. Kaia; R.) consider medical corruption using the example of the functioning of the healthcare system in specific states and regions. The "Flint Study" of the impact of corruption on the quality of medicine in Latin America, conducted by R. Bate and A. Mathur, showed that counterfeit and substandard medicines are a significant problem here. In particular, the authors note a broad-spectrum antibiotic - ciprofloxacin [5]. Among the detected insignificant percentage (10%) of substandard drugs - a fourth part was a fake; others are simply of poor quality. Based on these studies, it was concluded that corruption is a key predictor of low-quality drugs [11]. V. Batyrgareieva, A. Babenko, S. Kaia investigated the spread of corrupt practices in the medical field of Ukraine. As a result of a sociological survey of citizens, including workers in the medical industry, scientists have established that corruption in the healthcare sector can be conditionally divided into the following main levels: first - from a patient to a doctor or other medical worker; the second (in the hospital) - from the employee of medical institutions to the hospital management; the third one - at the state level regarding public procurement of medical products [7]. Kevin De Jesus-Morales and Vinay Prasad explored corruption in the procurement of medicines. They conducted a comparative study on financial fraud in the procurement of drugs at the state level and corruption schemes within individual medical institutions [10]. The researchers note conflicts of interest in the medical industry and inadequate response of the authorities to detection of such facts. The findings emphasize that anti-competitive interest policies in medicine should be at least as strong as policies already in place in the public sector [18]. Closely related to the problem of medical corruption in the procurement of medicines is the issue of corruption abuse in access to HIV/AIDS medicines, which was investigated by Jillian Clare Kohler, Tomas Chang Pico, Taryn Vian, Tim K. Mackey. The controversial article reveals cases of antiretroviral drug theft, corruption and conspiracy in their procurement found in countries such as the Central African Republic, Bangladesh, Malawi and Guinea. The authors propose to address structural deficiencies in procurement mechanisms and supply chain management systems for medical products and drugs, primarily in antiretroviral therapy [14]. Tim K. Mackey and Raphael E. Cuomo direct their attention to solving these and other problems in public procurement of medicines. They researched the use of digital technologies in the fight against corruption, for transparency and accountability in the procurement of medicines. Cost savings on anti-corruption indicators were calculated and the priority was given to centralize e-procurement systems, harmonize regulatory norms with the setting of standards, and include additional anti-corruption technologies in procurement processes to improve access to medicines [17]. However, these scientists paid insufficient attention to the issue of investigating corruption abuses in the medical industry, which, given the current challenges of the world global pandemic caused by SARS COVID-2019, is of particular relevance and practical importance.

METHODOLOGY

The article is based on statistical and analytical information contained in sociological research of scientists, published in public publications, as well as data from reports of the European Commission, the European Network against Fraud and Corruption in the Healthcare (EHFCN), the Group of States against Corruption (GRECO) and other international organizations.

The work uses the methods of comparative jurisprudence (comparative studies), empirical, statistical, sociological, formal-logical and synergetic methods. The practical experience of law enforcement activities of the authors of the article was used during substantiating the tactics of investigating corruption abuses in the medical industry.

RESULT

Authors' analysis of global health corruption research, reports from the European Commission, the European Health Fraud and Corruption Network (EHFCN), the Group of States against Corruption (GRECO), and other international countermeasures corruption, showed that corruption abuses in the medical industry include the following types of offenses:

I. Abuse associated with the implementation of medical services to the population:

a) Illegal actions in the procurement of medicines, medical products, equipment in the health care system (in particular, holding contracts at inflated prices according to documents; bribery of officials of medical institutions for the sale of certain medicines);

b) Provision of unlawful benefits for obtaining a license in order to carry out a certain type of medical activity.

c) Provision of unlawful benefits to heads of the medical industry, officials of regulatory bodies for failure to carry out inspections or failure to report negative results of inspections of the activities of medical institutions.

d) Abduction of targeted financing money, medicines and medical equipment by using of their official position (abduction, misappropriation or other inappropriate use of state budget funds allocated for health care);

II. Abuse related to unlawful benefit to a medical professional as an official:

a) Claim of unlawful benefit (violation of the right to free medical care)
b) Receiving unlawful benefits for the provision of medical services.

III abuse related to the relationship between supervisors and subordinates in the medical industry:

a) The provision of unlawful benefits for the appointment to a certain position.

IV abuses related to the commission of ordinary crimes:

a) Distortion of the true cause of the death of a person (concealment of criminal death, death of a person as a result of a crime against her)

b) Committing mercenary crimes (theft and fraud of funds received from sponsors, charitable foundations, individuals).

At the same time, other manifestations of corruption in the health sector are possible in each country, the reasons for which may be different and due to local characteristics.

In particular, the classification of corruption abuses in the medical industry is substantiated by the data of the conducted surveys.

DISCUSSION
A conducted research in Ukraine [7] showed that unlawful benefit from patients or their relatives was provided for such services:

- for receiving a certificate of temporary incapacity for work or other certificates - 75% of respondents.
- for a high-quality operation to a patient, provision of medical services, consultations - about 50% of respondents. In this case, the patient was assured that he was guaranteed high-quality pre- and postoperative care, the use of the best drugs, medical devices, examination out of turn, the best conditions for staying in a medical institution.
- for prescribing the required prescription by a doctor - 10% of respondents.
- for confirmation or concealment of certain medical facts - less than 10%. Most often, doctors can confirm / hide the presence of injuries, beatings, and so on;
- for early discharge of a patient from the hospital or, conversely, the continuation of his stay - 5%;
- for the issuance of the necessary certificates of the patient’s mental state - 15%;
- for distorting the true cause of death. There are only a few such cases [7].

Another study [9] from an anonymous survey among doctors showed that the facts of illegal payment for getting a job took the 1st place. In second place is illegal payment for obtaining a license to carry out private medical activities. 25% of healthcare professionals use these regimens. There are also facts of illegal payments to officials of the Ministry of Health and its territorial bodies for avoiding unnecessary checks on the activities of medical institutions. An illegal payment is also made for the opening of private clinics, which are conveniently located on the basis of state healthcare institutions [9].

State and causes of corruption offenses in the field of health care in Ukraine: according to sociological research [17].

Features of the investigation of corruption abuses in the medical industry
Taking into account the typical ways of committing corruption abuses in the medical industry, we will reveal the features of the investigation of certain corruption offenses.

Investigation of corruption abuses of medical workers committed with the use of official position through the preparation of medical documentation.

The great majority of corruption abuses in the medical industry are accompanied by documentary registration of illegal actions committed by a medical worker - the subject of a crime. Consequently, in these cases, medical documents are subject to identification, seizure and examination.

A medical worker, after committing a corruption abuse, can destroys, distorts, fails to make the necessary records, substitutes or carries out other types of forgery of medical records.

Such medical records include: records in the patient’s medical history, outpatient’s medical record, an operational protocol, operation journal, anesthesia card, anesthesiology journal, X-ray journal, laboratory research journal, death analysis journal, journal of treatment and control commissions and other documents, as well as traces of their forgery.

It should be noted that the documentary registration accompanies the patient from the moment of his appointment with a doctor in a medical institution, calling an ambulance doctor or staying in a medical and prophylactic institution until discharge and closure of certificate of sick leave or registration of disability. In case of a fatal outcome, an autopsy report is drawn up, a departmental expert commission is drawn up on the quality of the treatment performed, a decision is made by the medical and control commission, and in some cases an official check is carried out in a medical institution.

As noted by Khyzhniak V.V., Olkhovskyi V.O., Morgun A.O., Kutsenko K.V., Morgun O.O. [13] depending on specific circumstances of corruption abuse are important for the investigation process: extracts from the medical history of the patient’s condition upon admission to the hospital, diary entries that record his condition during the entire period of treatment, protocols of operations, clinical diagnoses, regimens of intended drug therapy, volume and frequency administration of medicinal substances, the results of laboratory studies, the nature and volume of resuscitation measures, the data of the protocol of the pathological autopsy of the corpse, the results of the histological examination or the data of the primary forensic medical examination, the results of clinical and anatomical conferences with a review of the medical documentation, as well as the conclusions of the commission of departmental investigation [21].

Medical records review by the investigator
With regard to medical records, the investigator, detective or other person conducting an investigation must take into account its types of corruption investigation. Namely:

The first group - normative documents (decisions, orders, law) regulating relations in the field of public health protection.

The second group - administrative documentation (regulations, orders, treatment and preventive care establishments) related to the provision of medical care.

The third group - technological documents (medical standards, recommendations, manuals, protocols, instructions, annotations, etc.) that regulate the process of providing medical care.

The fourth group - production documentation for the provision of medical care, which records information (about the process of medical care) are provided.

A forensic technical examination of the documents is assigned to study medical records. The purpose of this type of study is to get answers to questions about the time
the document was made, whether changes were made to it, determining the relative prescription of the document (text), the time of making certain records, establishing the fact that the patient’s medical history was completed and other questions clarified).

A number of questions during the investigation of corruption abuses in the medical industry concern the information that needs to be established about the medical worker - the subject of the crime [23]. There are typical forensic sources based on the subject of a corruption offense:

1) information whether he/she is a medical or pharmaceutical worker, regardless of his educational and qualification level and position (doctor, nurse, paramedic, pharmacist, etc.)

2) information, whether he/she is a doctor with the authority for a specific surgical or other intervention in the provision of medical care to a specific patient.

3) data, whether he/she is a person belonging to the nursing staff (obstetrician, paramedic, etc.), with the presence / absence of an established educational and qualification level for the provision of medical care.

4) the permissive component for the provision of medical care to this patient: whether he/she had the right or license to provide a certain type of medical care, etc.

5) possession of the necessary amount of knowledge, skills and abilities that give the right to admission to professional activity: did he have the necessary specialization and work experience in the specialty, a certain professional category, certification, etc;

6) the presence of certain personal qualities necessary for the provision of medical care adequate to normal or extreme conditions: physical endurance, mental stability, the absence of negative inclinations, etc. Investigation of cases about medical workers which have obtained illegal benefits.

In the course of investigating this group of corruption abuses, we will focus on the specifics of carrying out typical investigative actions.

Review of the office of a medical worker suspected of corruption

Review is an investigative (detective) action, which consists in direct observation and investigation by an investigator of material objects related to the circumstances of a criminal offense, carried out in order to detect and fix them [21].

There are the following types of inspection in the investigation the obtaining of an unlawful benefit: 1) inspection of the object of unlawful benefit to establish its features, belonging to a certain person earlier; 2) inspection of the place of transfer of unlawful benefits; 3) inspection of the meeting place of the participants of the crime in order to identify material traces.

As 300 investigators of the National Police of Ukraine interviewed in 2020 noted, the inspection of the locus in quo and the inspection of the area during the investigation of the obtaining of unlawful benefit by the official were carried out in 70.0% of cases [20]. The review consists in the perception and fixation by the investigator of the objects of the material situation in order to identify and seize traces of a corruption offense committed by a medical worker, namely: money, medical documents, records and other objects and traces associated with obtaining an unlawful benefit.

An important preparatory act before the arrest in the office of a medical worker who is a bribe-taker is the proper marking (“notice”) of the object of unlawful benefit, usually money. This can be done by scanning bromknot and rewriting their numbers; the application of the relevant special substances on the subject of unlawful benefit; using of material for packaging unlawful benefits, part of which remains with the investigator (with the aim of subsequently establishing the belonging of parts of the material to one whole). For each of these actions, the investigator keeps a report [27]. There are personal search of a suspected person during the arrest (physical capture), which is carried out immediately after the arrest in case of refusal to voluntarily surrender the received object of unlawful benefit, documents relevant to the investigation. The report of the search records the state of things in the pockets, lying on top, and what is below. This applies to cases where a personal search is carried out at immediately after the transfer of an item of unlawful benefit, and it is important to note the exact location of this item.

During the examination, in the process of investigating the obtaining of unlawful benefits by a medical worker, various traces are found, namely: fingerprints on the transferred funds, footprints indoors and on the ground, wheel tracks. The most typical traces of these cases are:

- money and valuables transferred to a medical worker.
- checks, product labels, labels from items transferred to a corrupt official.
- traces of substances on the subject of unlawful benefit in the clothes of a corrupt person - microparticles, separated fluffs, hair, threads.
- fingerprints of the person who provided the object of unlawful benefit, on certain items of the furniture of the office of the medical worker in the case of his statement that this person has never visited his office.
- fingerprints of the participants in the crime on the subject of unlawful benefit in the case of their statement, according to which they are not in any relationship.
- wheel tracks of persons involved in the transfer and abating of unlawful benefits - in case of denial of such a meeting and transfer of unlawful benefits [12].

Therefore, the object of inspection of the locus during the investigation of a corruption offense committed by a medical worker is generally an office building, where the transfer of the object of unlawful benefit takes place [1]. The peculiarity of such an inspection is that it starts mainly from the center of the room. And this should be considered the starting position in the room where the transfer of the illegal reward took place. In service offices, this is the table at which the visitor and the medical worker - the recipient of the unlawful benefit. Inspection begins with this table, fixing its location relative to other objects in the office - windows, entrance doors, walls. For further verification of the testimony from parties to the process, it is also important to fix the position of the chair on which the person who provided the unlawful benefit was sitting, his distance from the table and the recipient’s chair [23].

Corrupt healthcare professionals sometimes claim that the object of unlawful benefit was planted there. They do not consider where the specified object was found. There are cases when the detainees pursued some such version, although the funds provided were found in the pocket of their clothes - a medical gown.

During the inspection of the locus in quo of the incident in the office of the medical worker, it is necessary to measure the distances, as well as the objects that were in front of the visitor, as well as where the object of unlawful benefit was found. If it is found under the table, it is necessary to
The anti-corruption legislation of many countries of the world provides for the existence of such a subject for exposing corruption crimes as a whistleblower. Generally, a whistleblower is an individual, if he is convinced that the information is reliable, he reports on possible facts of corruption offenses committed by another person, if such information became known to him in connection with his labor, professional, economic, social, etc. The passage of her service or study or her participation in the procedures provided for by law, which are mandatory for the commencement of such activities, service or training [22]. The practice of European countries in combating corruption has shown that cooperation with whistleblower and ensuring their protection is one of the important aspects of the state’s anti-corruption policy. There are all conscientious civil servants who became aware of the facts of corruption [11]. Whistleblowers, as persons assisting in the identification of corruption abuses in the medical industry, may be witnesses in criminal proceedings or persons who cooperate with the investigation or confrontations. In fact, whistleblower is an applicant for a corruption offense. In the criminal process, it becomes necessary to interrogate the accuser.

In general, interrogation is an investigative (detective) action, the content of which is obtaining testimony from a person who has information relevant to the criminal offense under investigation [21]. Taking into account the official position of corrupt managers in the medical industry, interrogating the whistleblower to ensure his safety may include staying in another room, including outside the courthouse, using videoconferencing technology or in another way, which makes it impossible to identify him and provides the parties in the criminal proceedings the ability to ask questions and listen to the answers to them. If there is a threat to identify the voice of the accuser, the interrogation may be accompanied by the use of acoustic interference.

To ensure effective interrogation of a whistleblower who reports that a particular healthcare professional has received an unlawful benefit, interrogation tactics are proposed [14]. During the interrogation of the whistleblower, they find out: who the whistleblower works (or where he studies), in what relations of subordination the whistleblower is with a corrupt medical worker; what services the whistleblower performed for the medic; specific facts about the agreement between the physician and the person on the issue that must be resolved in case of obtaining an unlawful benefit; where the criminal agreement was reached; the agreed amount of the unlawful benefit; who was present at the illegal agreement; who else could have known about the corrupt activities of a medical worker; under what circumstances and how they agreed to transfer the unlawful benefit, they will not disguise it as a legal operation, the provision of charitable assistance; the whistleblower needs protective or security measures; there are some materials, objects, documents, etc., evidence of corruption abuses by a medical worker [26]. The whistleblower also clarifies in detail the situation of previous events related to the crime: persons who issued passes, accompanied the corruptor to a corrupt medical worker, who was in his office, left it or entered it again, etc.

Simultaneous interrogation of two or more persons already interrogated (confrontation)

A type of interrogation in criminal proceedings, including those carried out in the investigation of corruption abuses in the medical industry, is the simultaneous interrogation of two or more persons already interrogated, face-to-face interrogation or confrontation. This type of interrogation is carried out to clarify the reasons for the discrepancies in the testimony of participants in criminal proceedings.

As noted by 300 investigators of the National Police of Ukraine interviewed in 2020, interrogation during the investigation of an unlawful profit by an official was conducted in 86.9% of cases, and more than half of it were interrogations (confrontations) - 48.4%.

The investigator, summoned for simultaneous interrogation, alternately offers to testify about the circumstances of the corruption offense, for the clarification of which the interrogation is carried out, after which questions are related to them. The social-communicative paradigm and dissemination of information in the system of public administration become important [2].

The general purpose of conducting the simultaneous interrogation of two or more persons already interrogated is to establish those testimonies of the interrogated that are reliable, and the degree to which those testimonies that were previously reported are true. The cognitive essence of this investigative (search) action lies in the continuous analysis and comparison of the testimony received from the interrogated persons, between themselves and with the information in the materials of criminal proceedings.

The tactics of simultaneous interrogation of two or more persons already interrogated in the investigation of corruption abuses in the medical industry is based on cognitive techniques - stories, questioning, analysis of
facial expressions and gestures, logical methods of comparison. The investigator is trying to verify the testimony of the suspect, victim, whistleblower or other persons about the circumstances of giving and receiving an unlawful benefit, as well as to identify all accomplices in a criminal offense - a "corruption chain".

At the same time, in making a decision to carry out this investigative (search) action, there is a reservation. Firstly, the investigator takes into account, first, the availability of information, allows him to objectively assess the testimony of participants in criminal proceedings about obtaining an unlawful benefit; secondly, the possibility of the influence of a corrupt medical worker, gives false testimony on the person, exposes him. In this aspect, it should be borne in mind that simultaneous interrogation is not recommended between persons who are in material, official, family or other dependence on each other. In particular, such clauses should be observed when planning the simultaneous interrogation of the head of the medical institution, his deputies, the head of the department and other officials suspected of obtaining an unlawful benefit with subordinate workers - doctors, nurses, service personnel.

Therefore, during the investigation of corruption abuses in the medical industry, simultaneous interrogation (face-to-face confrontation) is not recommended to be carried out between persons who are in official dependence on each other in order to prevent the negative influence of a corrupt official on a subordinate employee.

CONCLUSION

Based on the analysis of the reporting information of international organizations and open scientific publications, it has been established that medical corruption is considered from the standpoint of its origin, causes, types and consequences for the population. Among a number of corruption abuses in the medical industry, we have proposed their specific types, taking into account the method of committing the offense and its subject - a healthcare worker.

In addition to preventive measures to neutralize medical corruption, improve moral and ethical principles in society, which are recommended both in public procurement of medicines and in ordinary patient-doctor relations, we have revealed typical procedural actions and an effective procedure for their conduct in the investigation of identified corruption abuses in the medical industry. This will ensure objectivity in proving the guilt of persons and facilitate compensation for losses caused by corruption offenses. The mentioned tactics of examining medical documents, collecting information about the subject of a corruption offense, examining the place where the medical worker received an unlawful benefit, the work of the whistleblower of medical corruption and his interrogation, as well as the simultaneous interrogation of the participants in the crime is aimed at the maximum efficiency of the investigator’s work with guarantees of observance of rights and the legitimate interests of various procedural persons.

REFERENCES


