

HEALTH CARE FINANCING REFORM AND METHODS OF GENERATING REVENUE

(1.5 days – 10 academic hours)

Topic Overview: There are new models being used to generate revenue in Ukraine, such as health insurance, partnerships with private companies, leasing of space to pharmacies and other facilities and user fees. However, these models are often not widely used or understood. At present, health insurance plans (known as *likarnyana kasas*) are small and inexpensive, but they provide only limited coverage to patients. As these new models for generating revenue become more widespread, it is important for both *kasa* managers and hospital managers to understand how to set fees, avoid problems and ensure that *kasas* provide a public service rather than enable corruption and misuse of funds.

Objectives of the Module:

1. Participants should understand the laws governing increasing revenue and reducing costs in health care;
2. Participants should understand the mechanics and financial implications of alternative models of generating revenue, and how to use them in a productive way;
3. Participants should understand the value of paying doctors and medical professionals for health, rather than for disease, as the current system does.

STRUCTURE OF THE MODULE:

Lecture 1: (2 academic hours)

Reforming the Health Care Financing System

(V. Paschenko)

Case 1: (3 academic hours)

Reform of the Primary Health Care Based on New Economic and Legal Interrelations

(V. Paschenko)

Lecture 2: (2 academic hours)

The *Likarnyarna Kasa* as a Form of Social Insurance and an Additional Source of Health Care Financing

(V. Paschenko)

Case 2: (3 academic hours)

Organizing a *Likarnyana Kasa* in Pereyaslav District

(V. Paschenko)

REFORMING THE HEALTH CARE FINANCING SYSTEM

By Viktor Paschenko

1 **Reforming the Health Care Financing System**

Victor Paschenko, Associate Professor

2 **The Public System of Health Care Financing**

Under the Budget Code of Ukraine, health care financing is decentralized and comes from budgets at different levels.

- The State budget of Ukraine finances inpatient and outpatient medical care provided at national-level hospitals and polyclinics;
- The budget of the Autonomous Republic of Crimea finances inpatient and outpatient medical care provided in oblast and republican-level hospitals, polyclinics, dispensaries, medical centers and health centers;

3 **(Continuation of previous slide)**

- Oblast budgets finance inpatient and outpatient care provided in oblast-level polyclinics, maternity hospitals and emergency rooms.
- Village, township and district budgets finance primary health care as well as inpatient and outpatient medical care in district hospitals, ambulatories and FAPs (feldsher/akousherski punkt/ rural primary health care facility.)

4 **Characteristics of the Current Health Care Financing System**

- Financing remains inadequate, despite increases.
- Subsidized medical care is gradually being replaced by paid medical care—with both official and unofficial payments.
- Financial support from township councils to reform and operate primary health care, based on general practice/family medicine, appears to be impossible, due to their complicated economic status.
- Due to insufficient funds, more than 50% of medical equipment is out of date and worn out. In terms of high-tech equipment, Ukraine ranks among the poorest countries in the world.

(Continuation of previous slide)

The purchase of new equipment is tied to misuse of funds:

- The needs of rural ambulatories and district hospitals are being ignored. Priority is given to expensive equipment.
- Equipment prices are often inflated.
- Once purchased, equipment may lie around uninstalled or unused.
- Equipment is used inefficiently.
- Due to inefficient use of equipment, international health care standards are not being met.

5

(Continuation of previous slide)

Financial shortfalls result in a shortage of health care professionals. In Kyiv, there is a shortage of 2,700 doctors and 13,500 nurses.

In publicly-funded health care facilities, managers have limited financial flexibility, particularly in terms of:

- Defining optimal staffing patterns, because of current standards;
- Defining the optimal number and distribution of beds;
- Introducing incentives for staff, because they are restricted by heavy taxes and budget limitations;
- Finding additional sources of funding;
- Disposing of property and equipment.

6

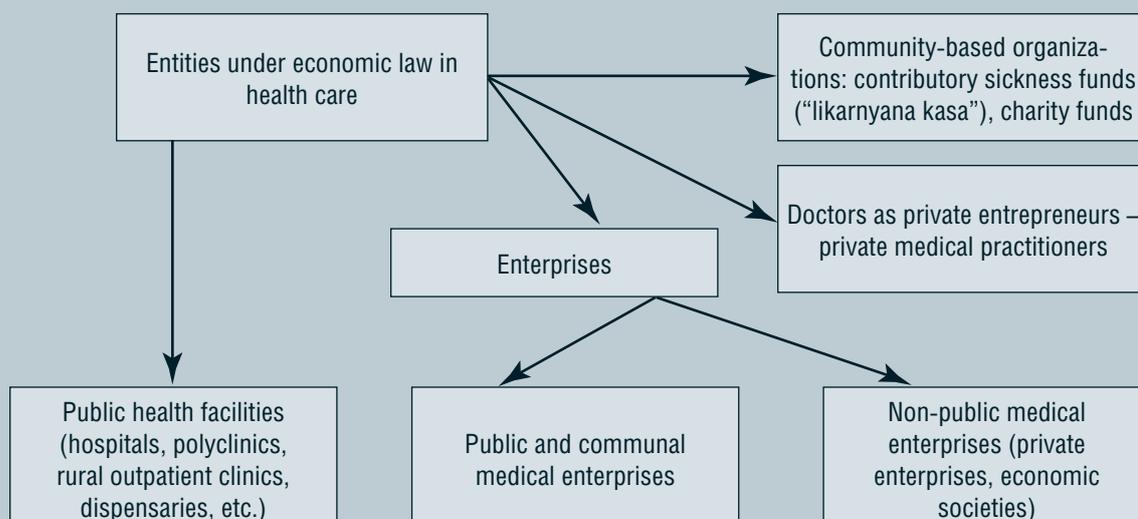
- **That said, the shortcomings of the Ukrainian health care system are not only due to inadequate financing; they can only be addressed through systems overhaul and reform.**
- **To overcome the current crisis, additional funding is needed, but the way the health care financing system works also needs to be changed.**

7

- Because the rights of publicly-funded institutions are narrower than those of public enterprises, some health care facility managers would like to expand their rights, and the rights of their facilities, by becoming medical enterprises. However, then they are faced with inadequate budgets and a lack of additional funding opportunities.
- The experience of former Soviet republics (Armenia, Estonia, Latvia, Lithuania), where governments granted health care facilities the right to be independent economic entities, has demonstrated that this is economically efficient as well as improving the quality and accessibility of medical care.

8

Economic Law and Types of Health Care Facilities



Entities in Economic Law: Specific Features

10 **All entities in economic law have a number of distinct features:**

- A specific organizational-legal structure;
- Legally separate property that is assigned to them;
- A specific legal economic status.

Entities in Economic Law: the Goal of Activities

11 Each type of entity in economic law is established and operates for a specific purpose or goal. Their articles of incorporation and bye-laws are the legal documents that regulate their field of activity and overall goal. The founders have the right to define the entity's field of activity and goal, guided by the law, their own interests and available opportunities.

- For example, enterprises are established to make a profit and have the right to engage in any economic activity that is not prohibited by law: production, scientific and research, and commercial activity.
- Public health facilities are established by government authorities to provide medical care to the population.
- A community-based organization's activities might aim to represent and defend its legal social, economic, creative, age-related, national, cultural and other interests.

Entities in Economic Law: Rights

12 **The rights of entities can be classified as the founder's rights, property rights and management rights.**

The founder's rights are based on Paragraph 4 of the Law of Ukraine, "On property," which provides that an owner "may use property to engage in economic activity and other types of activities not prohibited by law." The founder's rights include deciding an enterprise's field of activities, determining its legal business structure, a right to decide on its establishment, and a right to change the enterprise's activities and legal business structure in accordance with established procedures.

Property Rights

Property rights include the right of ownership, the right to operate/use the property economically, the right to acquire property legally – to buy, lease or receive property (personal chattels as well as real estate) by legitimate means; to conduct economic and commercial activity; to be a plaintiff or defendant in court in connection with any property owned or leased.

13

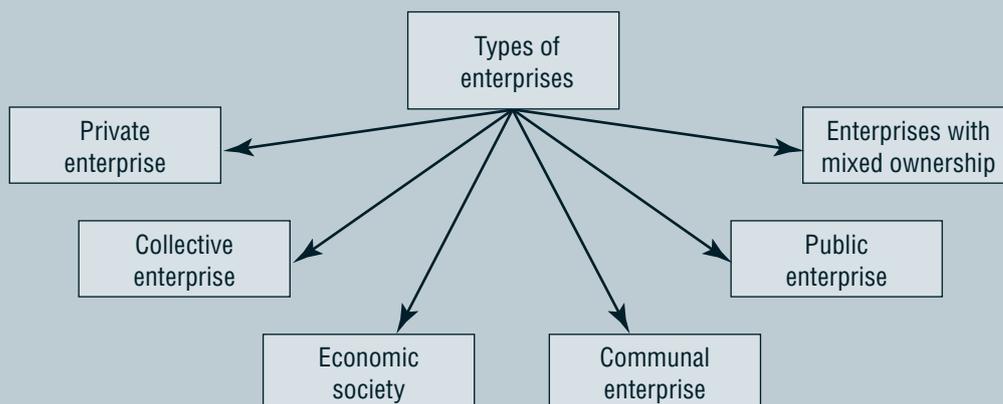
Management Rights

Management rights include the following:

- The right to determine the structure of an enterprise, i.e. the number and structure of its subdivisions;
- The right to adopt and amend the bye-laws and other constituent documents;
- The right to approve regulations on the enterprise's subdivisions;
- The right to establish management bodies and oversee their activities, to appoint officials and determine their duties.

14

Types of Enterprises According to the Form of Ownership



15

An **enterprise** is an independent economic entity legally established and registered to carry out economic activities that meet society's needs for goods (products, works, services) while making a profit. It operates on the basis of its bye-laws, has certain rights and is responsible for meeting its obligations.

16

Establishing an Enterprise

Founders (co-founders) of enterprises can be physical and legal entities, except in cases specified in the Law of Ukraine. Property owners and the bodies they authorize have the same right.

Economic legislation stipulates how to establish an enterprise.

An enterprise can be created in the following ways:

- Pursuant to a decision of one or more owners or of a body authorized by them;
- As a result of a restructuring mandated by the Antimonopoly Committee of Ukraine;
- Through the reorganization of an existing enterprise, i.e. one or more structural subdivisions breaking away from an operating enterprise, with the agreement of its owner or authorized body.

17

Registration of an Enterprise

18

- After all required documents are submitted, the registration process should take no more than five working days. Once completed, the applicant receives a state registration certificate, which allows him/her to open a bank account. The registration authority must submit the enterprise's registration information to the appropriate tax authorities and the government statistical office within 10 days.

Rights of an Enterprise

19

1. An enterprise plans its own activities, based on a public contract, agreements with partners and the market situation;
2. An enterprise markets its own products and sets their prices, except where otherwise stipulated by law;
3. An enterprise determines its own management and staffing structures;
4. The owner of an enterprise, or a body authorized by him/her, sets its own payroll scale and salaries;
5. An enterprise is free to use its after-tax profits;
6. An enterprise is free to engage in foreign economic activity;
7. An enterprise may contract with other entities.

Characteristics of a Public (Budget-Funded) Health Care Facility

20

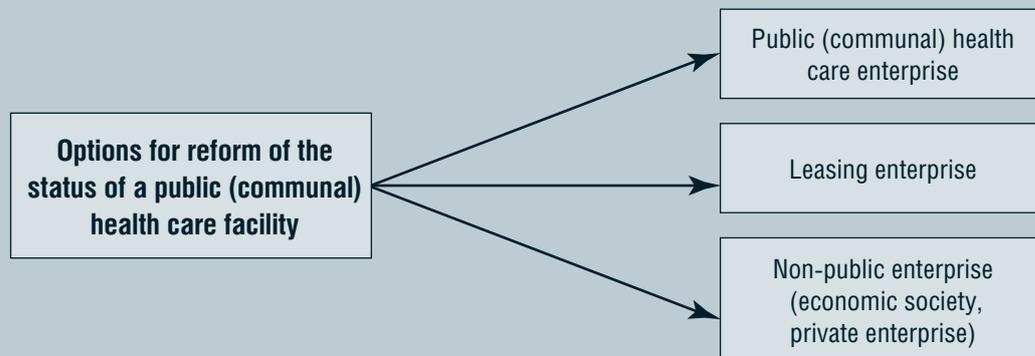
1. The State defines what a health care facility can and cannot do.
2. A public health care facility is subordinate to State authorities.
3. It has the right to operate and manage State property on its territory.
4. It must meet its obligations with its financial assets.
5. If it cannot meet its obligations, the State steps in.
6. **A public health facility is financed from the State budget.**

Characteristics of a Public Health Care Enterprise

21

1. The enterprise must perform the tasks required by the State, but it produces a profit for itself.
2. The enterprise can contract with governing authorities, and is not a subordinate body like publicly-funded facilities.
3. Enterprises have full economic authority over State-owned property—not only the right to operate and manage it, like publicly-funded facilities.
4. An enterprise meets its liabilities with all the assets in its statement of assets and liabilities, and not only with its financial assets, like publicly-funded facilities.
5. The state is not responsible for the enterprise's liabilities.
6. **A public health care enterprise is self-financed.**

Reforming the Status of Public Health Care Facilities



22

Conclusions Emerging from a Comparison of the Status of a Publicly-Funded Health Care Facility and a (Medical) Health Care Enterprise

- The economic activities of a publicly-funded facility are more strictly regulated by the State than those of an enterprise.
- A health care facility that assumes the status of an enterprise (even a State-run enterprise) has broader management and property rights.
- A health care enterprise can contract with local authorities. The guaranteed package of public health care services is funded under the contract, in compliance with the Law of Ukraine, "On Production Supplies for State Needs."

23

A Change in Status Allows Health Care Facilities to Better...

- Define and meet the State's financial responsibilities to patients;
- Implement managers' initiatives and increase the effectiveness of resource-use;
- Obtain non-government funds to upgrade the technology and conditions of health care facilities;
- Provide incentives for health care workers to increase productivity and retain experienced staff.

24

Leased or Rented Enterprises

- The status of a leased enterprise is granted to an enterprise set up by a leaseholder who leases the entire property of an existing State-run (communal) enterprise, organization or subdivision in order to engage in entrepreneurial activity.
- In the health care sector, the leaseholder is a legal entity such as a group of employees in a health care facility who want to rent the property. They lease the property from the State Property Fund of Ukraine and its regional subdivisions and from other bodies authorized by local councils to manage property.

25

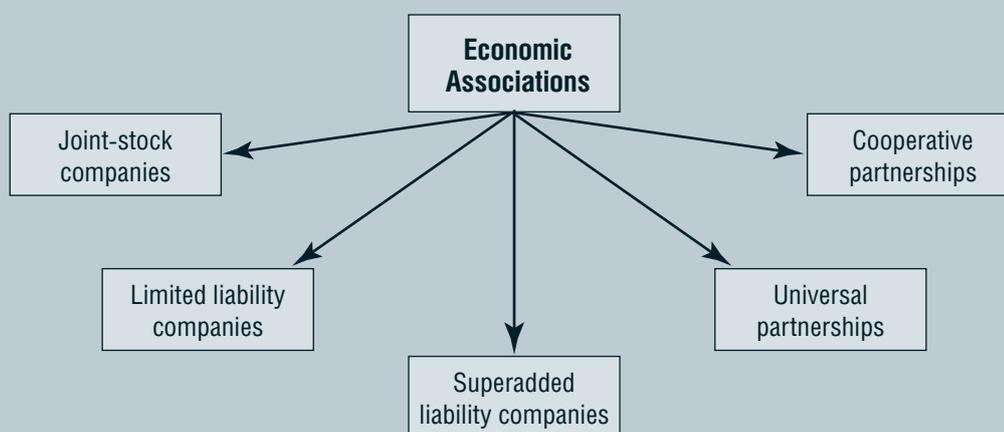
Procedure for Establishing a Leased or Rented Enterprise

26

- The decision to rent a property complex is made by a health care facility's employees;
- An economic association is formed;
- The economic association contacts the relevant administrative body under the health care administration that is responsible for the facility. It asks for the support of all the employees to rent the entire property of the health care facility;
- The association clears the decision with the State or local health care administration;
- The association obtains permission to rent the property from the Cabinet of Ministers (in the case of State health care facilities) or the local council (in the case of communal health care facilities;)
- All parties involved sign the rental agreement.

Economic Associations in Health Care

27



Private Medical Practice without Establishing a Legal Entity (Enterprise)

28

A physician who decides to engage in private medical practice must register as an entrepreneur – a physical person, with the State registration bodies at his/her place of residence.

Registering as an Entrepreneur

29

An entrepreneur must register with:

- State registration bodies – data transmission stations;
- The State Tax Administration;
- The Pension Fund of Ukraine and the Social Insurance Fund of Ukraine;
- If he/she plans to hire labor, the doctor must register with the Fund for Mandatory State Social Insurance of Ukraine for Unemployment and with the Fund for Social Insurance for Accidents at Work and Occupational Diseases.

He/she must also :

- Obtain stamps and seals for his/hers practice;
- Open a bank account.

Legal Structures to Operate a Family Doctor Outpatient Clinic

- A clinic as a structural subdivision of an outpatient clinic;
- A clinic as a legally independent economic entity;
- A clinic as a budget organization – a health care facility;
- A clinic as a State-run enterprise;
- A clinic as a non-State enterprise;
- A clinic as a family medicine practice, with the doctor as an entrepreneur.

30

Relationship Between a Family Doctor as a Private Entrepreneur and the Authorities

- As a private entrepreneur, a family doctor can contract with local authorities.
- Budget funds are allocated to a family doctor on a *per capita* basis. Using budget funds to pay for services provided is defined as a partial fund deduction;
- A family doctor also uses budget funds to pay for maintenance and equipment rental, utilities and communal services, medications and supplies for ambulances and to pay employees' salaries.

31

Comments to slides

Slide 2. According to the Budget Code of Ukraine, health care financing is decentralized and comes from budgets at different levels.

1. Funds from the State budget of Ukraine cover:

- Primary health care, ambulatory inpatient and outpatient health care in generalist public health care facilities;
- Specialized and highly specialized ambulatory inpatient and outpatient health care services provided in specialized hospitals and medical centers, including military hospitals;
- Sanatorium and spa health care services for children, veterans and TB patients;
- Sanitary epidemiological monitoring.

2. The Budget of the Autonomous Republic of Crimea finances health care facilities at the republican level and the oblasts, specifically: primary health care services, ambulatory inpatient and outpatient health care services in outpatient clinics and hospitals, dispensaries, health care centers, orphanages, blood transfusion centers, health centers, etc.

3. Oblast budgets finance health care facilities at the republican and oblast levels, specifically primary health care services, ambulatory inpatient and outpatient health care services in general health care facilities, maternity hospitals, rapid and emergency health care services.

4. Funds from district-level, town/city budgets, villages and settlements cover primary health care services, ambulatory inpatient and outpatient health care services in district hospitals, ambulatories and obstetric stations.

Slide 4. The health care financing situation in Ukraine can be characterized as follows:

Despite budget increases, financing is still inadequate and, according to expert data, covers only one third to half of existing demand. The consolidated budget for 2008 constituted 32.1 billion UAH, or 3.6% of GNP. This translates into 689 UAH (135 USD) per citizen. There is a gradual shift from free health care services to payment for services; this includes the introduction of both formal and informal fees. According to official sources, trends in budget and off-budget funding over the last 10 years show an increase of 18% - 38% in revenues from off-budget funding sources.

1. Given the desperate economic situation of village councils in Ukraine, they cannot fully fund the transition of primary health care to general or family medicine and the ongoing maintenance of those services.

2. Insufficient funding has led more than 50% of health care equipment becoming obsolete. Ukraine ranks alongside the poorest countries in the world in terms of high-tech equipment.

Slide 5. 3. The process of procuring new equipment is fraught with problems.

- The needs of rural ambulatories and district hospitals have been ignored. Priority is given to expensive equipment. The cost of such equipment can include up to 40% kickback from medical supply companies.
- Often, equipment is procured at an artificially inflated price.
- Purchased equipment is not put into operation in a timely way. In 2007, 347 million UAH were spent on procurement. As of September 2008, almost 70% of that equipment still needed to be put into operation.

- Equipment that is put into operation is used inefficiently. In the European Union, one mammography machine is used to examine 50 patients in a single shift. In Ukraine, only six patients are screened with that same machine in the same period of time. The same is true for other types of equipment.
- As a result of the ineffective use of equipment, the population's need for up-to-date health care examinations is not being met.

Slide 6. 4. Lack of financing results in a shortage of health care professionals. In Kyiv there is a shortage of 2,700 doctors and 13,500 nurses. 6,000 physicians recently went to work abroad. Nurses are overworked: they see 40 to 50 patients per shift, with a monthly salary of 700 to 800 UAH.

5. The status of health care facilities as publicly-financed organizations undermines the economic independence of facility managers as follows:

- In determining the optimal staffing structure because of existing Ministry of Health regulations;
- In determining the optimal number and distribution of beds
- In introducing incentives for staff, because of rigid salary scales and limits on raising additional budget funds;
- In raising additional funds
- In controlling property.

Slide 7. However, shortcomings are not limited to inadequate financing. They are systemic and can only be overcome by overhauling the whole health care system.

Identifying additional funds on its own will not be enough to overcome the crisis. The management of the health care financing system needs to be changed.

Slide 8. Since the rights of publicly-funded institutions and organizations are narrower than those of public enterprises, some managers would like more rights for their health care facilities. However, then they are faced with inadequate budgets and a lack of additional funding opportunities. Doctors can gain more rights and find additional funding sources by becoming a health care enterprise.

This is particularly true for dental practices. At the moment, according to the law, accounting practices for fee-for-service health care services in state-run health care facilities are considered "entrepreneurial activity." There is a contradiction between the legal form of economic activity and the nature of the activity. Due to chronic shortages of budget funds, the existence of dental clinics as budget-funded entities has become an obstacle to the further development of dental services in a market economy.

The experience of former Soviet republics (Armenia, Estonia, Latvia, Lithuania), where governments granted health care facilities the right to be independent economic entities, has been shown to be economically efficient as well as improving the quality of, and access to, health care services.

Slide 9. Different economic scenarios are emerging with independent economic entities –entities in economic law that are related to their economic activity. Entities of economic activity are engaged in independent economic activities. They own their own property and assume responsibility for it, in line with their liabilities and within the limits of the property, except where stipulated by law.

Economic laws govern the following health care facilities, which thus become subjects of economic law: all types of public health care institutions financed from the government budget (hospitals, dispensaries, outpatient clinics), state health care facilities that are self-financing, State-operated health care enterprises, non-govern-

mental health care enterprises in different forms (joint-stock companies, limited companies, etc.) and affiliated companies.

Slide 10. All entities in economic law have a number of features outlined in Ukrainian law, namely:

- A legal organizational structure;
- Legally separate property that is assigned to them;
- A specific legal economic status.

1. Legal organizational structure can be defined as the entity's structure, stipulated or sanctioned under the law, where an economic or managing activity of the entity in economic law is taking place.

2. The second characteristic of the subject of economic law is property, which is legally separate and assigned to the entity in the form of fixed assets, working capital and other variables. The entity under economic law is independent in terms of property. The property's legal status (title) is determined by laws and statutes.

3. The third characteristic of an entity in economic law is its legal economic status. This means that the entity can acquire property rights and personal non-property rights *sui juris*, those of entering into certain obligations and appearing before judicial authorities. Entities in economic law (except subdivisions of different organizations and those citizens who are involved in entrepreneurial activities) are considered to be legal entities.

Slide 11. Each type of entity in economic law is created and operates for a specific goal or purpose. The constitutive documents of entities in economic law (articles of incorporation, bye-laws) set the legal framework that regulates their field of activity and overall goal. The founders determine the nature of an entity's activities and its goals, guided by the law, their own interests and available opportunities.

For example, enterprises are considered to be commercial organizations that, according to the law, have the right to engage in economic activity to make a profit – i.e. production, research or commercial activities—so long as they are not prohibited by law.

Public health care entities are set up for the State to provide public health care. Their purpose is determined by the bye-laws or regulations approved by the local administration.

The purpose of a community-based organization can be to represent or protect social, economic, creative, age, national, cultural and/or other common interests.

Slide 12. To achieve set goals and objectives, all legal entities are granted certain rights protected by the State. The entities' rights are determined by economic legislation and vary according to the type of entity: the rights of enterprises and their associations, those of financial and commission agencies, health care facilities, and government bodies.

Entities' rights can be classified as those of the founder(s), property rights and management rights.

Founder's rights are based on Article 4 of the Law of Ukraine, "On Property," according to which the owner "may use property to engage in economic and other activities not prohibited by law." Founders' rights include deciding on an enterprise's field of activity, determining its legal business structure, making decisions about its establishment and the right to change the activities and the legal business structure in accordance with established procedures.

Slide 13. *Property rights* are either “general” or “special.”

The general rights of enterprises and economic associations are regulated by Articles 20-30, 37 of the Law of Ukraine “On Property.”

General rights include the following:

- To own property, operate/use it, to acquire assets and other valuables whose cost appears in the enterprise’s balance sheet of assets and liabilities;
- To engage in economic and commercial activity and to appear as a plaintiff or defendant in court to protect one’s property rights on behalf of the enterprise;
- To acquire property (movable and fixed) through legal purchase, rental or any other legitimate means;
- To be responsible for the property according to the bye-laws – to sell it, exchange it, rent it out, to pledge or give it away for free temporary use and to remove key assets from the enterprise’s statement of assets and liabilities.

In addition to their aforementioned general rights, enterprises also enjoy special property rights, like the issuance and circulation of securities, stocks, bonds, investment saving certificates and bills of exchange. Enterprises can only issue only those types of securities stipulated in the relevant legislation.

Slide 14. *Management rights*

Enterprises and other entities under economic law manage their own activities and their business. Management is regulated by bye-laws in line with the principles of applicable legislation. The basic principle is that of combining the owner’s right to use his/her property for economic purposes with self-government by the enterprise’s employees. The owner exercises the right to manage, both directly (in the case of private or collective enterprises) and through bodies that he/she authorizes (in the case of State-run enterprises and economic associations).

Among management rights are the following:

- To determine the structure of the enterprise – i.e. the number and composition of its subdivisions;
- To adopt and change its bye-laws and other constituent documents;
- To approve regulations on the enterprise’s structural subdivisions;
- To shape its management structures and control their activities, to appoint officials and determine their duties.

The composition and powers of an enterprise’s decision-making bodies depend on the form of property serving as the enterprise’s foundation. This is determined by the enterprise’s bye-laws.

Slide 15. Ukrainian legislation classifies enterprises by their legal organizational structure. The classification of an enterprise as communal, State-operated, joint or foreign is dependent on the type of property they own.

A private enterprise is a legal organizational-type structure based on the property of a physical entity. In a private enterprise, the property and its management often are not separate – the owner is also an entrepreneur directly involved in managing the enterprise;

A collective enterprise is a legal organizational structure based on the property of the enterprise’s employee(s);

An economic society is an enterprise established by linking the finances and possessions of physical and/or legal entities for carrying out entrepreneurial activities;

A communal enterprise is based on the property of a territory, specifically on the property of a district, city or oblast;

A public or State-run enterprise operates on the basis of State-owned property;

An enterprise with mixed types of ownership is based on mixed forms of property (on the basis of joining different forms of property).

Slide 16. The concept of an enterprise is a broad one. It defines enterprises of all kinds and types of property as economic entities. It also defines industrial, agricultural, commercial and health care enterprises. Thus, it is a broad concept used in different branches of the economy.

Thus, an enterprise is an independent economic entity legally established and registered to carry out economic activities that meet society's needs for goods (products, works, services), while earning profits. It acts based on its bye-laws and enjoys certain rights and meets obligations related to its activities. It is a legal entity, has independent statements of assets and liabilities, its own bank account, a seal with its name and it meets its financial obligations using its assets.

Slide 17. Founders (co-founders) of enterprises can be physical and legal entities except in cases stipulated by the Law of Ukraine. Property owners and the bodies they authorize have the same right.

The founders exercise their rights by determining how the enterprise is organized, its field of activity and specific goal; by deciding to establish it; by approving its bye-laws, by transferring funds and assets to and from the enterprise's account; and finally, by establishing the administrative bodies and defining their powers.

Economic legislation regulates the ways in which enterprises may be established. An enterprise can be established in the following ways:

- Pursuant to the decision of its owner(s) or of a body authorized by the owner(s);
- As a result of restructuring the enterprise, in compliance with the Antimonopoly Committee of Ukraine;
- Through the reorganization of an existing enterprise, provided its owner or a body authorized by him/her, has consented – i.e. one or more subdivisions breaking away from an existing enterprise, pursuant to a resolution of the enterprise's employees.

Enterprises can be set up in Ukraine or abroad, by subdivisions of their own. They become entities in economic law that do not have the rights of a legal entity – i.e. its branches, representative offices, divisions and so on, having the right to open current and settlement accounts.

Slide 18. As stipulated in the Economic Code of Ukraine, enterprises must register with the state.

An enterprise is officially established and assumes its rights and responsibilities as a legal person on the day it is registered with the State.

Once all the requisite papers are submitted, the registration should be completed within five working days. Then the applicant receives the state registration certificate, which authorizes him/her to open a bank account. Within 10 days, the registration authority must submit the enterprise's registration information to the relevant government bodies—the Tax Administration and the Department of State Statistics.

Registration can be declined for only two reasons: if the procedure for establishing an enterprise is not followed or if the documents do not comply with the provisions of the applicable legislation. According to Ukrainian law, the enterprise cannot be denied registration because it is considered undesirable.

State registration can be terminated voluntarily, at the request of the enterprise, or it can be mandated by a ruling of a general or arbitration court.

Slide 19. An enterprise has broader rights of economic activity than a publicly-funded entity. In particular:

1. An enterprise can plan its own activities, based on a contract, agreements with partners and the market situation determining the prospects for future production.
2. An enterprise can market its own products and sets their prices – except when that conflicts with the law.
3. An enterprise can determine its own management and staffing structure.
4. The owner of an enterprise, or a body authorized by the owner, determines the budget for payment of labor and official salaries, as well as other types of revenues consistent with current legislation. Salaries are set in a labor agreement. Enterprises are allowed to use wage rates developed by government ministries as a guideline.
5. An enterprise manages its own after-tax profits.
6. An enterprise can engage in foreign economic activity.
7. An enterprise can contract with higher authorities.

Slide 20. The economic activities of a publicly-funded health care facility are as follows:

1. The State determines what the health care facility can and cannot do.
2. The health care facility is responsible to State authorities.
3. It has the right to operate and manage State property on its territory.
4. It must meet its obligations with its financial assets.
5. If it cannot meet its obligations, the State steps in.
6. A public health care facility is financed from the State budget.

Publicly-funded facilities have very limited opportunities to identify non-budget funding. This results in their inability to guarantee citizens their constitutional right to free, quality health care services.

Slide 21. Compared to a publicly-funded facility, a health care enterprise—even a State-funded enterprise—has broader property and management rights. For example:

- While it must perform the tasks set by the State, the enterprise also produces a profit for itself.
- The enterprise can contract with government authorities and is not subordinate to them, like publicly-funded facilities.
- Enterprises have full economic authority over State-owned property—not simply the right to operate and manage the property, like publicly-funded facilities.
- An enterprise meets its liabilities with all the assets in its statement of assets and liabilities—and not only with its financial assets, like publicly-funded facilities.
- The state does not assume responsibility for the enterprise’s liabilities.
- A public health care enterprise is self-financed.

Slide 22. There are three options to reform the status of public health care facilities under existing legislation:

After State-operated communal entities, a public or communal health care enterprise is the second most tightly State-managed type of health care facility, since the State owns the property. So the State, as the owner of the property, decides key issues related to the enterprise’s activities.

A leasing enterprise, established by employees who rent a health care facility's state-operated (communal) property, has more autonomy to carry out economic and financial activity, compared to a public (communal) enterprise.

A non-public health care enterprise is totally free to decide issues related to its economic and financial activity under the Laws of Ukraine, "On Enterprises in Ukraine" and "On Economic Associations."

Slide 23. The following conclusions emerge from a comparison of the status of a publicly-funded health care facility with that of a health care enterprise:

1. The economic activities of a publicly-funded facility are more strictly regulated by the State than those of an enterprise.
2. After assuming the status of an enterprise (even a State-operated enterprise), a health care facility has broader management and property rights.
3. A health care enterprise builds can contract with local authorities. The guaranteed package of public health care services is funded on a contractual basis, in compliance with the Law of Ukraine, "On Production Supplies for State Needs."

When a health care facility obtains entrepreneurial status, it acquires more property and management rights.

Slide 24. A new organizational and legal status for health care facilities will make them more effective:

1. To define and meet the State's financial responsibilities to patients;
2. To implement managers' initiatives and increase the effectiveness of resource-use;
3. To obtain non-government funds to upgrade the technology and conditions of health care facilities;
4. To provide incentives for health care workers, which increases their productivity and helps retain experienced staff.

The experience of former Soviet republics (Armenia, Estonia, Latvia, Lithuania) whose governments gave health care facilities the right to become more independent in their economic activities, proves that these measures can effectively improve access to, and quality of, health care services.

Slide 25. One way to become more economically independent is to lease a health care facility's property.

- The status of a leased enterprise is granted to a leaseholder for the entire property of an existing State-operated (communal) enterprise, organization, or subdivision in order to engage in entrepreneurial activity.
- In the health care sector, the leaseholder is a legal entity, for example a group of employees in a health care facility who wish to rent a property. They lease the property from the State Property Fund of Ukraine and its regional subdivisions and other bodies authorized to manage property by local councils.

This method was used to establish a leasing enterprise for the Kherson Oblast Dental Outpatient Clinic. After becoming a leasing enterprise, the outpatient clinic continued to function as an organizing, methodological, counseling, informational and analytical entity, consistent with the agreement signed with the Kherson Oblast Administration,.

Begun over five years ago, the Kherson Oblast Dental Outpatient Clinic is very successful.

Slide 26. Establishing a leasing enterprise is a multi-step process:

- The decision to rent an entire property is made by a health care facility's employees;
- An economic association is established;
- The economic association contacts the appropriate administrative body of the health care administration that is responsible for the facility. It requests the support of all employees to rent the entire property of the health care facility;
- The association clears the decision with the State or local health care administration;
- The association obtains permission to rent the property from the Cabinet of Ministers (in the case of State health care facilities) or from the local council (in the case of communal health care facilities;)
- All parties involved sign the rental agreement.

This method was used to establish a leasing enterprise for the Kherson Oblast Dental Outpatient Clinic.

Slide 28. One way to reform primary health care is for a district physician to register as a general practitioner—a family doctor—in private practice.

A physician who decides to engage in private medical practice must register as an entrepreneur—a physical person, with the appropriate State registration bodies.

Slide 29. A physician who wants to go into private practice must register as a private entrepreneur with the following local authorities:

- State registration bodies – data transmission stations;
- The State Tax Administration;
- The Pension Fund of Ukraine and the Social Insurance Fund of Ukraine;
- If hired labor will be engaged, the doctor must register with the Fund for Mandatory State Social Insurance of Ukraine for Unemployment as well as with the Fund for Social Insurance for Accidents at Work and Occupational Diseases.

He/she must also:

- Obtain seals and stamps for the practice;
- Open a bank account.

Slide 30. Legal business structures for a family doctor outpatient clinic:

1. A clinic as a structural subdivision of an outpatient clinic;
2. A clinic as a legally independent economic entity;
3. A clinic as a budget organization – a health care facility;
4. A clinic as a State-operated enterprise;
5. A clinic as a non-State enterprise;
6. A clinic as a family medicine practice with the doctor as an entrepreneur

Slide 31. The relationship between a family doctor who is a private entrepreneur and the authorities:

- As a private entrepreneur, a family doctor can contract with local authorities.
- Budget funds are allocated to a family doctor on a per capita basis. Using budget funds to pay for services provided is defined as a partial fund deduction;
- A family doctor uses the budget funds to maintain and rent equipment. He/she also uses the funds to pay for utilities and communal services, for medications and supplies for ambulances and to pay employees' salaries.

Case 1

REFORM OF THE PRIMARY HEALTH CARE BASED ON NEW ECONOMIC AND LEGAL INTERRELATIONS

By Viktor Paschenko

Mykola Petrovich reread the Economic Code of Ukraine many times over. Each time, he wondered how he could use the information in it to improve funding for his hospital. He read the Code over and over, but he could not see a single way to translate its provisions into reality. He was especially frustrated because he had recently attended a six-month training course in general and family medicine at the National Medical Academy of Postgraduate Education, where he had learned a lot of useful and exciting information about how to improve his practice. Unfortunately, he had no opportunity to use his new skills, since his clinic, with its out-of-date equipment and under-funded budget, could not accommodate them. How could he diagnose cardiovascular patients if the only cardiogram available was old and broken beyond repair? How long could he continue using his Riva-Rocci apparatus when more up-to-date and convenient electronic appliances for measuring blood pressure were available? He knew that his cardiology practice was not the only field of medicine suffering. His colleagues in every field complained: obstetrics and gynecology, ophthalmology, traumatology. Medical equipment was either lacking, deteriorated or did not comply with existing standards.

Mykola Petrovich and his colleagues were not only frustrated by the lack of professional fulfillment provided by their current situation. They also had a sizable population to serve and did not have the resources to do so. The district hospital provided services for a population of 49,000, but was only equipped to serve 6,100. It had an inpatient ward with just 20 beds and an outpatient facility with several different rooms where patients could be examined for general, surgical and obstetric-gynecological conditions. The hospital staff included a head physician, three family physicians, a part-time surgeon, a full-time pediatrician and 12 nurses and attendants. Two FAPs operated in the hospital's territory. Despite a lack of funds, modern technology and medical supplies, the staff in Mykola Petrovich's hospital tried their best to serve the population.

After returning from his continuing education course, Mykola Petrovich knew that if the circumstance of his hospital did not change, his enthusiasm and vision for a new and better practice would quickly dissipate. But what could he do? Sadly, he looked out the small window in his office and at the pretty potted plants on the windowsill. He stared at the freshly whitewashed walls and the clean wooden floor of his office. He thought of his colleague, Maria Ivanovna, who had worked as a hospital attendant for over 35 years. She was always diligent, keeping everything in its place. She saw to it that there was always a fresh towel by the sink, that her uniform looked neat and clean, and that the waste was always properly disposed of at the end of the day. Mykola Petrovich met Maria Ivanovna when he became head doctor at the hospital. She was known to be a hard-working, conscientious, kind and friendly person. The satisfaction she gained from helping people get well sustained her, in spite of the hospital's financial troubles. As a manager, Mykola Petrovich felt guilty that he was unable to adequately reward Maria Ivanovna for her hard work and commitment. Because her position as hospital attendant was low on the pay scale, Maria Ivanovna bore the brunt of salary and resource cuts. Recently, her salary had been decreased again, and for years, Mykola Petrovich had been unable to provide hospital attendants with new uniforms or equipment. There was no way to reward Maria Ivanovna for her superb work and enthusiasm. However, she never complained.

Mykola Petrovich also thought about another employee—Alevtina Mikhalivna, an obstetrician. While she was a knowledgeable and highly skilled specialist, she was very hot-tempered.

Anyone who got in her way when she was angry regretted it. However, her life was hard. She had two children, a big garden and cattle to take care of, all on her own. Although married, her husband did not live at home because he had to move to find work. Alevtina Mikhailivna worked from dawn until dusk since she was unable to survive and provide for her children on her hospital salary alone. No wonder she lost her temper so easily!

Mykola Petrovich was sympathetic toward both Maria Ivanovna and Alevtina Mikhailivna, but he knew that there was nothing he could do to help them in any way. The operating costs for the hospital were so high that virtually nothing was left for improvements in the quality of care or working conditions. For example, the weather was getting colder, which meant that Mykola Petrovich would need to start maintenance on the heating system. Last year the hospital was late in repairing the heating pipes, and as a result, the pipes burst and almost froze in the winter. The price of fuel was going up, too. The equipment in the boiler room was almost 40 years old and needed a lot of fuel. Mykola Petrovich wished he could update the heating system with a more modern system that could reduce fuel costs by almost half. But again, there was only enough money to scrape by.

Sometimes, because of all his operational responsibilities, Mykola Petrovich forgot he was running a hospital. One can easily get caught up in the paperwork. He was always pressed for time as there were significant health issues in his rural populations that needed attention. Mykola Petrovich recalled a meeting of the Village Council where he had reported on the high accident rate on farms that employed hired help. The owners of these farms were not concerned with the occupational health of their workers. On paper, everything looked fine: the workers were properly instructed on security regulations, dangerous areas were fenced off and machinery was protected by safety casing. In reality, preventable injuries were constantly occurring on these farms, due to negligence. Just last week there was another accident— a worker's hand was caught under the chaff-cutter's knife. It was sheer luck that the worker didn't lose his hand. He received immediate medical care and was taken to the district hospital in time to save his hand. The labor accident rate was still very high and required decisive action. Steps to reduce the number of accidents couldn't be taken without the support of the Village Council. The entire community had to become involved because without everybody assuming responsibility for his or her own safety, there couldn't be any progress.

Mykola Petrovich had been working as head doctor of the rural rayon hospital for 20 years. During that time, he had already tried one time to restructure finances to improve the hospital's efficiency. This had resulted in the creation of a 15-bed inpatient ward and a small outpatient facility with several offices for examining patients with general, pediatric or obstetric-gynecological complaints. A major benefit of the restructuring was that some of beds could be used on an outpatient basis. There, patients could get the same type of treatment as in the inpatient ward without having to stay overnight, reducing hospital costs. In another attempt at innovation, Mykola Petrovich had also tried to set up mini-inpatient departments in people's homes. A visiting doctor and nurse service, he knew, would be especially helpful for the elderly, who couldn't travel far. Unfortunately, this effort did not succeed because the district was too large and the process too time-consuming.

Overall, the oblast administration did not like Mykola Petrovich's restructuring. Saying they were improving health care conditions and carrying out reforms, the officials were actually trying to eliminate hospital beds and turn inpatient wards into outpatient facilities. They wanted to consolidate health care in the central, rather than rural, rayon hospital. However, Mykola Petrovich knew this was unrealistic and insensitive to the needs of rural populations. Many of his patients lived too far away from the central rayon hospital to get there easily and quickly or be visited by their relatives.

The more Mykola Petrovich thought about his situation, the more he realized that he couldn't afford to eliminate inpatient beds. He simply could not do without them, since they were essential for the care for his older patients— pensioners in their seventies. They had worked hard on collective farms all their lives, and the only return for their labor was poor health. Stubborn and set in their ways, they refused to go to the central rayon hospital, saying it would rather die at home. Mykola Petrovich invited them to his hospital twice a year for a course on preventive health care to keep an eye on their health. He was even able to persuade many of them to get medical examinations in the oblast diagnostic center, so he would know how to help them if necessary.

One day, Mykola Petrovich had very few patients. The agricultural workers who made up most of the district population didn't have time to be sick because they had to take in the harvest while the weather was still good. Today was a nice day— warm and sunny. Mykola Petrovich looked out his window at an old park. The tall pine trees and trellises with wild climbing vines looked beautiful. Mykola Petrovich always thought the park would be an excellent place for an occupational therapy center for agricultural workers, whose work took a heavy toll on their bodies. All the natural conditions were there: fresh air, a nearby forest, a river down the valley and a beautiful landscape. However, he realized that establishing such a center would cost a lot of money, and as always, the budget was very limited. Last year, a group of local businessmen offered Mykola Petrovich a very good price for part of the park, where they wanted to build a recreation center with a restaurant and a hotel. They promised to renovate the hospital and provide new medical equipment if Mykola Petrovich agreed to the recreation center.

However, Mykola Petrovich was hesitant about agreeing to the idea. He thought that a recreation center would attract a lot of people who would make a lot of noise, listen to loud music, use inappropriate language and leave litter behind. He was concerned that there might be tension between the wealthy visitors of the recreation center and the rural workers served by the hospital. And he knew his older patients would never come to the hospital if there was a recreation center right across the street. Moreover, selling that land would end Mykola Petrovich's dream of establishing an occupational therapy facility there, something he knew the community really needed. He had managed to fend off the businessmen's offers, but he didn't know what would happen next. In the past, he been in a position of authority in the Village Council, and his opinion was greatly respected by the council chairman. Mykola Petrovich was not sure how long his status would last, and the money offered by the businessmen was too tempting to refuse with a clear conscience.

Mykola Petrovich looked through his papers and found some documents that described an experiment performed in the city of Komsomolsk. The city's health administration restructured its primary health care system on the basis of private health care facilities. That is, it privatized its health care system. Mykola Petrovich looked at the papers and thought again: could he use that experience as a model for his own hospital? The Komsomolsk project had received support from the state, but who was going to support him?

Besides, trying something new like this would bring Mykola Petrovich new responsibilities, leaving him overextended. Now, even with his limited funds, he still had the option to apply for additional funding from the state, which was still required by law to allocate funds for the needs of Mykola Petrovich's hospital. However, if the hospital became an independent economic entity, he would be entirely responsible for its funding. Additionally, he was not confident that his colleagues would like the idea. At the moment, there was hardly any difference in the status of the staff members, because, even though they all had different jobs, they were all employed by the state. However, if Mykola Petrovich became an entrepreneur, he would also become the employer of his colleagues. This implied taking on additional duties and responsibilities that might cause tension in the workplace.

Different options raced through Mykola Petrovich's brain as he looked through the Economic Code of Ukraine and Ukraine's Basic Legislation on Health Care. While it might not be worth becoming a private entrepreneur, by renting property, he could change the hospital's status from that of a health care facility to that of a communal enterprise. Would that be enough to give the hospital the private status needed to restructure properly? The advantage of a communal enterprise would be greater autonomy to manage the hospital's property and finances as well as more freedom to attract additional sources of funding and provide financial incentives to employees. Mykola Petrovich could always rent property later if it became necessary. He moved his computer keyboard closer and started a new file entitled "Business Plan for the Kalinivka Village Hospital Communal Enterprise."

DISCUSSION QUESTIONS:

1. What concepts are involved in current budget funding for health care facilities?
2. Does the system of budget funding allow management of finances at the local level? If so, how far can such management go?
3. What possibilities are available to a head doctor for attracting additional funding for health care services?
4. What are the advantages and disadvantages of accepting the businessmen's proposition and renting the park for a recreation center?
5. Who would benefit and who would suffer from the creation of a recreation center? Consider Alevtina Mikhalivna, Maria Ivanovna, Mykola Petrovich, the agricultural workers, the pensioners and the oblast administration.
6. What are the advantages and disadvantages of restructuring the hospital according to the Komsolmolsk plan?
7. What is the difference between the status of a budgetary health care facility and that of a health care enterprise?
8. Who would benefit and who would suffer from the restructuring that Mykola Petrovich is proposing? Consider the roles of Alevtina Mikhalivna, Maria Ivanovna, Mykola Petrovich, the agricultural workers, the pensioners, and the oblast administration under the new system.
9. Who would oppose the new system, and who would support it? How could Mykola Petrovich turn opposition into support?
10. How could Mykola Petrovich structure economic activities under the new system? How could he use the new system to address current problems?

TEACHING NOTES:

Teaching Objective:

1. Participants should understand how to change the financial status of district hospitals;
2. Participants should learn how to approach reforming a hospital's financing system based on recent Ukrainian legislation, in order to attract additional funding and improve the quality of health care for rural district populations.

After the discussion, students should come to the following conclusions:

1. The status of health care facilities today is inconsistent with current market conditions and the future health insurance system. The current structure of the health care system, inherited from Soviet times, does not allow improved primary health care services through increased funding, nor better motivation for medical staff.
2. In order to achieve needed changes in the structure of the primary health care system, a change is needed in the organizational and legal structure of its economic activities.
3. Turning a rural district hospital that provides primary health care services into a communal enterprise requires submitting a business plan to the relevant authorities to justify the new economic and legal organization.

Plan of Action:

1. Develop a business plan for the project “A Rural District Hospital” with the goal of setting up a communal health care enterprise. Highlight and provide justification for the following:
 - a. The demographic situation and the needs of the district’s population;
 - b. The scope and logistics of primary health care services, as currently provided;
 - c. The scope of primary health care services that could be provided by a district hospital if it became a communal enterprise;
 - d. The medical technology and equipment that would be used in the communal enterprise;
 - e. Justification for the organizational and legal structures selected for the new economic activities;
 - f. Staff needs and how to provide for professional development,
 - g. Ways to attract well qualified specialists;
 - h. Financial needs for the hospital’s current activities and possible sources to meet those needs;
 - i. Potential risks of the new system and how to avoid them;
 - j. Involving foreign investors in the carrying out innovative projects;
 - k. Indicators to measure the success of the financial activities of the communal health care enterprise.
2. Speak with staff members about the advantages of turning a district hospital into a communal health care enterprise.
3. Decide at a staff meeting the most desirable method of transition to a new organizational and legal structure for economic activities.
4. After agreeing the formalities with the local health administration, apply to the Village Council, which owns the village hospital’s property. The application should address the hospital’s plan to change its status from a budgetary organization to a communal health care enterprise.
5. Register the communal health care enterprise with the relevant state authorities.

Expected results:

The economic restructuring of the hospital can present the following opportunities:

1. Increase funding for the district by making use of additional funding sources. Among the prospective sources are:

- a. Budgetary funds from the state;
 - b. Funds for providing additional health care services to farm workers, according to preliminary agreements;
 - c. Funds for health care services beyond those determined by the state;
 - d. Charity and health insurance funds (*“likarnyana kasas”*);
 - e. Funds for providing other health care services to the general population;
 - f. Donations.
2. Introducing partial fund holding. This provides incentives for health care providers to educate the population and prevent disease instead of focusing entirely on curative care;
 3. Introduce financial incentives for health care workers based on the scope and quality services they provide;
 4. Allow administrators to update hospital logistics, provide the district with modern equipment and fully meet sanitary standards;
 5. Provide opportunities for staff to improve their qualifications by participating in various international projects, conferences and educational seminars;
 6. Introduce modern information technologies, such as an electronic database for the district population, computerized patient records, Internet access and telemedicine consultations;
 7. Facilitate the creation of an occupational therapy center;
 8. Improve the population’s access to primary health care services, providing a greater focus on preventive measures and lower rates of hospitalization, ambulance calls and specialist referrals.

THE TOOLS FOR ADAPTING TO CHANGE

Organizational and Legal Forms of Economic Activity in Health Care

1. THE SUBJECTS OF ECONOMIC LAW

There are several different kinds of relationships between independent economic entities. These entities engage in independent economic activities and they own property for which they are responsible.

State health care institutions financed by the State budget (hospitals, dispensaries, outpatient clinics), self-financed State health care facilities, State health care enterprises, nongovernmental health care enterprises (joint-stock companies, limited companies, etc.), affiliated companies (sanatoria and vacation centers belonging to the joint-stock company “Ukrprogzdorovnitsa”), and doctors in private practice are all subject to economic law (Fig.1)

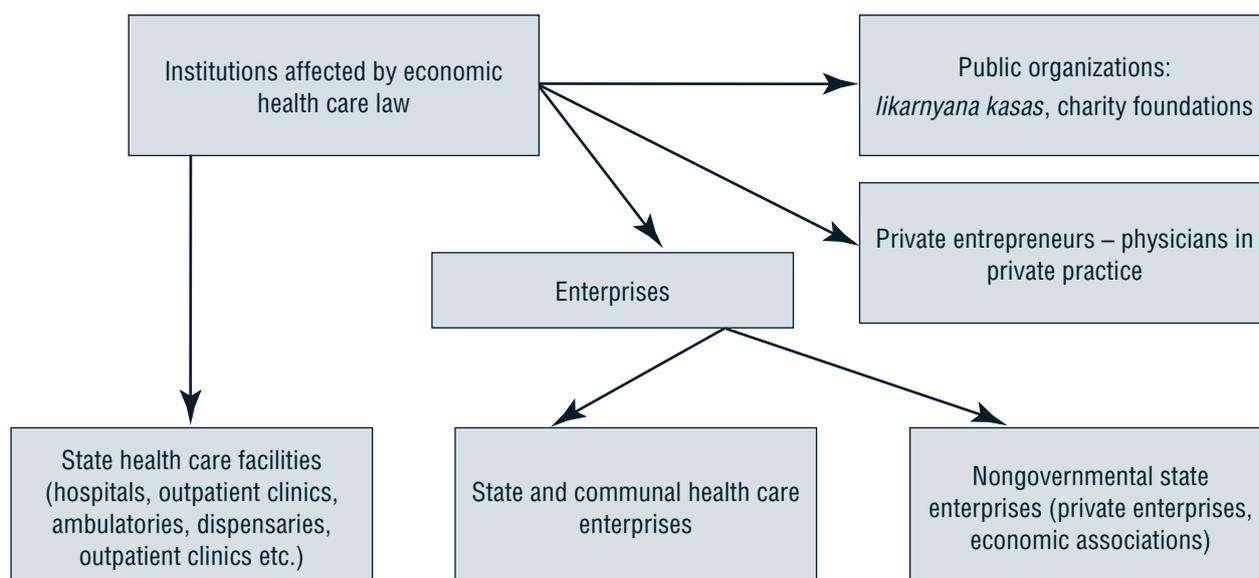


Figure 1. Different subjects of economic law in health care

2. HEALTH CARE ENTERPRISES

The concept of an “enterprise” is general. It is defined as a subject of economic activity that controls property, which includes the fields of industry, agriculture, commerce and health care. Article 16 of section 3 of “Fundamentals of Ukrainian Legislation on Health Care” states that “health care facilities are set up by enterprises, institutions and organizations with different forms of property as well as by individuals, assuming that they have the material, personnel and technical resources needed for a facility. The order and conditions for setting up health care facilities, registering and accrediting the facility with the state, and licensing a health care practice are determined by the legislative acts of Ukraine.”

All nongovernment enterprises have the legal status of health care enterprises. These include medical and sanitary units of privatized industrial enterprises, sanatoria, resorts, vacation centers of the joint-stock company “Ukrprofzdorovnitza,” all privately- and collectively-owned health care facilities established by physical and legal non-governmental persons.

As an independent economic subject, under the law of Ukraine “On Entrepreneurial Activities in Ukraine,” an enterprise carries out production, research and commercial activities aimed at making a profit (in contrast to nonprofit organizations.) The Economic Code of Ukraine stipulates that enterprises can also be established to engage in non-commercial economic activities. One of the basic conditions needed for an enterprise to function is autonomy in making economic decisions. This means that, according to the Law of Ukraine “On Entrepreneurial Activities in Ukraine,” an enterprise “has the right to make any decisions on its own initiative that does not conflict with Ukrainian legislation.”

The enterprise is a statutory economic subject. An enterprise’s bye-laws, adopted as an act of economic legislation, determine the enterprise’s activities. Among other things, the bye-laws set the boundaries of an enterprise’s capabilities.

An enterprise has the property needed to carry out its economic activities. This includes main and floating capital and other assets. This property is legally separate from that of the enterprise’s owner, but it is assigned to him/her, since he/she is treated as a subject of law. The main and floating capital are recorded on separate balance sheets. The enterprise uses its assets to fulfill its obligations. The State should not fulfill the enterprise’s obligations, nor should the enterprise fulfill those of the State.

The enterprise can operate starting on the day it is registered with the State as an economic entity.

In summary, an enterprise is an independent economic entity, created and registered according to the law to carry out economic activities for meeting needs (products, works, services) and for making profits. It functions on the basis of its bye-laws, enjoys certain rights, fulfills duties related to its defined activities, is a legal person, has its own balance, a bank account, its own stamp and fulfills its liabilities using all the assets on its balance sheet.

Ukrainian legislation stipulates that enterprises be classified based on their organizational structure and legal classification. Depending on the form of its property, an enterprise can be classified as communal, state-operated, joint or foreign (Fig.2).

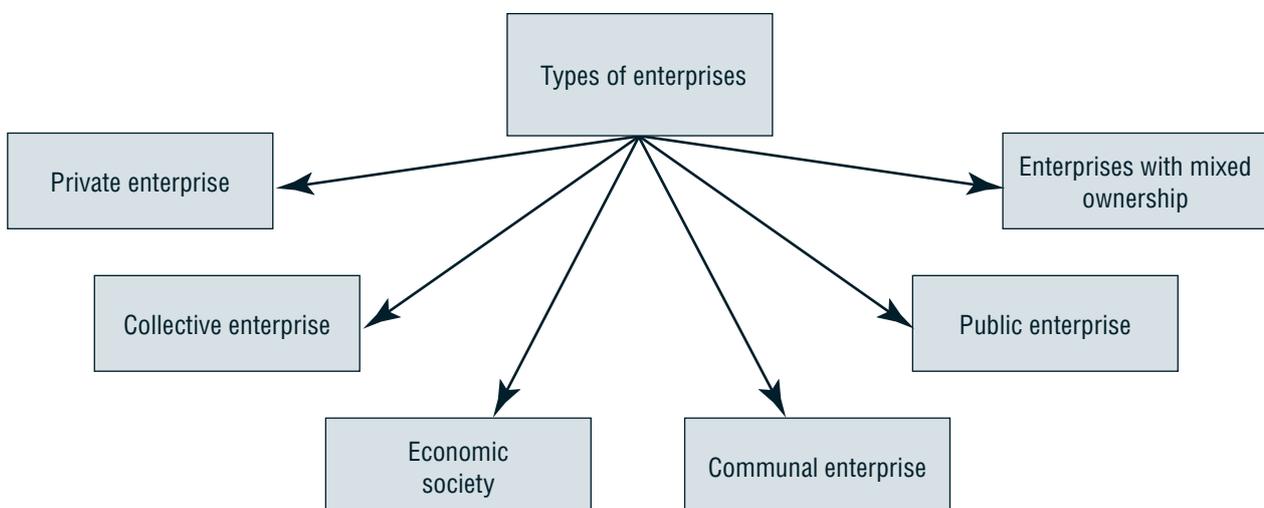


Figure 2. Types of enterprises, according to types of property

A **private enterprise** is based on the property of a physical person. Often the property and its management are not separate; the property owner is also an entrepreneur directly involved in managing the enterprise.

A **collective enterprise** is based on the property of the enterprise's employees. Included in this category are:

- Enterprises set up by employees as a result of the privatization of a State-run enterprise;
- Enterprises based on the property of a citizens association (e.g. trade unions, a public or religious organization);
- Enterprises created as a result of economic integration.

An **economic association** is created by joining finances and possessions of physical and/or legal persons to carry out entrepreneurial activities;

A **communal enterprise** is based on the property of a community such as a district, city or oblast.

A **State-run enterprise** operates on the basis of State-owned property. A government enterprise does not have the right to exercise full economic control over the property assigned to it. Such an enterprise only has the right to manage its property with the permission of the body authorized to manage the property. Other peculiarities of State-run enterprises are reflected in individual statutes.

A **joint enterprise** is based on pooling different forms of property. Joint enterprises exist as business associations. Legal persons and citizens of Ukraine and elsewhere can establish joint enterprises. There are two forms of joint enterprises: a) ordinary (national) joint enterprises and b) joint enterprises with foreign investment.

A **joint enterprise** with foreign investment is an enterprise with at least 10% foreign investment in its statutory fund. The bye-laws and activities of such enterprises are regulated by the law "On Enterprises in Ukraine" and by the law "On the Regime of Foreign Investments," dated March 19th 1996 and by "On Foreign Economic Activities," dated April 16th, 1991.

A **foreign enterprise** operates in Ukraine but was established under the laws of a foreign country and its property is owned by foreign citizens or a foreign country. The enterprise is regulated by the law of the country where it was established, not by Ukrainian law. However, the activities of foreign enterprises are covered by national legal procedures for economic activities. Depending on how an enterprise's statutory fund was created, enterprises are classified as unitary or corporate.

A **unitary enterprise** is set up by one founder who allocates the property required for the purpose, shapes a statutory fund that is not divided into shares (according to the law), approves the enterprise's bye-laws, pays salaries, manages the enterprise, oversees hiring and settles issues related to restructuring and liquidation. Unitary enterprises include state-owned and communal enterprises.

A **corporate enterprise** is set up by two or more founders by merging their property and/or their entrepreneurial and labor activities. Such an enterprise is managed jointly. Corporate enterprises include economic association as well as those founded with the private property of two or more persons.

Setting up an enterprise is determined by general and special terms contained in economic legislation.

General terms apply to all forms of enterprises and are stipulated in the law “On Enterprises in Ukraine” (Article 5), the Economic Code of Ukraine, and the Civil Code that regulates establishment of a legal person. Special terms for setting up enterprises are determined by the laws that govern each type of enterprise.

Founders (and co-founders) of enterprises can be physical and legal persons except in cases stipulated by the laws of Ukraine. The same right applies to property owners as well as the bodies authorized by them.

In the case of State-owned enterprises with general forms of property, State executive bodies under the jurisdiction of Ukraine’s Cabinet of Ministers, act as the authorized entities. This includes ministries, State committees and other governmental entities. They make decisions about establishing enterprises with State-owned property, approve the statutes, oversee their implementation, contract with a director and control the efficient use and maintenance of property.

Oblast, district, city and village councils (Paragraph 30 of Article 26 of the Law of Ukraine “On Local Self-Government in Ukraine”) and Local State Administrations (Paragraph of Article 9 of the Law of Ukraine of April 9th, 1999 “On Local State Administrations”) can act as founders of enterprises with communal forms of property.

They exercise their rights as founders by making a decision on the enterprise’s form of organization, determining the enterprise’s goal and purpose, establishing the enterprise, approving its bye-laws, controlling its funds, establishing the administrative bodies and determining the hierarchy of authority.

Economic legislation also regulates the ways enterprises can be established. They can be set up in the following ways:

- In compliance with the decision of one or several owners, or of a body authorized by him/them;
- As a result of the forced break-up of an enterprise in compliance with the Ukraine’s Antimonopoly Committee;
- By restructuring a functioning enterprise – i.e. by identifying one or more structural subdivisions in an operating enterprise pursuant to a resolution of the enterprise’s employees, provided the enterprise’s owner, or a body authorized by him/her, has given consent.

Enterprises can establish subdivisions such as branches, representative offices and divisions in Ukraine or elsewhere. These subdivisions function as independent economic entities, but they do not have the rights of a legal person.

Enterprises are established and operate under economic law based on their constituent documents. Constituent documents are acts that come take legal effect once they are approved by the enterprise’s founders.

In compliance with the Law of Ukraine “On Entrepreneurial Activities,” the following documents are considered constituent documents:

- The decision of one or more owners, or a body authorized by him/her/them, to set up an enterprise;
- The enterprise’s bye-laws.

The content of the constituent documents is determined by Articles 4, 37, 51, 65, 67 and 76 of the Law of Ukraine “On Economic Associations.” Models should be followed in developing

the constituent documents, such as typical statutes of State-run enterprises, economic associations, etc. Constituent documents must contain the following data:

- The enterprise's name (a plant, a workshop) and type;
- The owner's name and the enterprise's location;
- The goal of the enterprise's activities;
- The enterprise's legal status – its balance sheets, current accounts, company brand or mark;
- A list of the enterprise's administrative bodies, in order of their formation and competence;
- Controlling bodies, such as an audit committee and a supervisory council;
- The conditions for ceasing the enterprise's activities.

In addition to these required data, constituent documents can also contain other data regulating the enterprise's activities, provided that they do not conflict with the legislation.

Enterprises are required to register with the State in accordance with Ukraine's Economic Code, the Law of Ukraine "On Enterprises in Ukraine," and the "Terms of the Order of State Registration of Enterprises" approved by Decree № 740 of the Cabinet of Ministers of Ukraine on May 25th, 1998.

When all the required papers are completed, registration of an enterprise should take place within five working days. During this time, the applicant is granted a State Registration Certificate which authorizes him to open a bank account. The registration authority has to submit the registration data to the relevant bodies of the Tax Administration and State Statistics within 10 days.

Registration may be declined for two reasons: 1) if there is a violation of the established order for setting up enterprises or 2) if the constituent documents do not comply with the legislative requirements. It is against the law to refuse registration on the grounds that an enterprise is inexpedient.

Termination of State registration can be either voluntary or mandatory, according to the resolution of the general or arbitration court, in the following cases:

- The constituent documents are invalid or conflict with the relevant legislation;
- The enterprise carries out activities inconsistent with the constituent documents or the Law of Ukraine;
- The enterprise fails to notify the appropriate authorities of a change of address in a timely manner;
- Bankruptcy;
- The enterprise fails to properly submit tax declarations and accounting reports to the State Tax Administration within a year.

When an enterprise's State registration is terminated, it must cease entrepreneurial activities and be dissolved.

Management of an enterprise follows the bye-laws combining the property rights of the owner and the rights of employees to self-government. The owner exercises his/her management rights directly or with assistance from bodies he/she appoints. The right to delegate and choose a director belongs to the property owner. The property owners are the supreme administrative body of a group enterprise. They elect a board, which is responsible for executive functions of the enterprise.

The main measure of an enterprise's activities is profit. Either the owner or the owner's proxy determines how the profits will be used consistent with the enterprise's bye-laws. The state

can influence the use of profits through taxation. Profits can be transferred to the enterprise's employees when stipulated in the bye-laws.

The owner and/or the owner's proxy determine how and how much employees will be paid, consistent with legislation. Wages and salaries are determined by a labor agreement. Enterprises can use rate tables established as guidelines by relevant Ministries.

Enterprises plan their activities and determine possible areas of development independently with guidance from state orders and partners' agreements. Enterprises can engage in economic activities with other enterprises on a contractual basis. They can set their own prices for their products, also on a contractual basis, except where the law stipulates that they must sell products at State-established prices.

Enterprises can terminate their activities either by dissolving or restructuring. If an enterprise is restructured, all rights and obligations are transferred to the legal successors. There are five legal ways to restructure an enterprise. These are mergers, joining, division, singling out, and transformation.

Dissolution of enterprise is regulated by legislation, including the following steps:

- Setting up a dissolution committee;
- Establishing the terms for the enterprise's dissolution and terms for future claims;
- Identifying debtors and creditors and seeking debtors' arrears;
- Taking stock and assessing property, selling property, settling accounts with creditors, drawing up a dissolution balance;
- The enterprise needs to satisfy creditors' property claims using its own property, under current legislation and statutes.

3. THE LEGAL STATUS OF STATE-OWNED HEALTH CARE FACILITIES AND PROSPECTS FOR REFORM

At present, communal or municipal State-owned health care facilities in Ukraine function as budget entities when there are acute funding short-falls. However, because these facilities have the status of a "budget entity," they have difficulty obtaining additional funding beyond the budget. Since they are forced to operate with insufficient funds, they often cannot fulfill the rights of citizens to free, quality medical care.

For example, the directors of budget-funded health care facilities cannot:

- Determine the optimal staffing structure for their facility (this is regulated by the MOH of Ukraine);
- Determine the optimal number of beds and structure the bedding fund;
- Introduce incentives for staff (this is inhibited by the strict wage scales and limits on use of off-budget funds.)

While State-run budget facilities and organizations own property and thus should be entitled to manage it, current regulations limit the extent to which they can use their managerial powers. The managerial powers of these facilities are much narrower than in State-run enterprises.

State-operated budget enterprises spend the funds allocated to them in line with the budget and for their intended purposes. The key document that sets the scope, target allocations, use and monthly distribution of costs is "№ 17 Regulations on Making a Unified Estimate of Income and Expenses of a Budget Entity" approved by the Cabinet of Ministers of Ukraine on 09.01.2000.

Since the rights of State-operated facilities are much narrower than those of State-operated enterprises, some managers decide to expand the rights of their facility by obtaining the status of a health care enterprise. This is particularly true in dentistry. In many State-run health care facilities, for-profit dental services are offered as an entrepreneurial enterprise to compensate for the gap between the legal status of State-run facilities and economic realities.

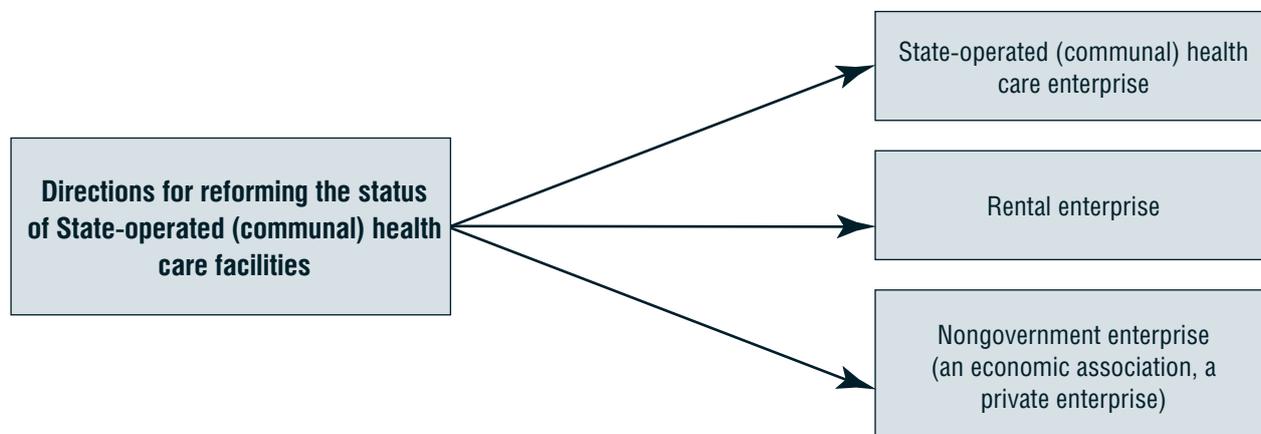


Figure 3. Options for reforming the status of State-run (communal) health care facilities

There are three ways to reforming the status of State-run health care facilities in conformity with current legislation (Fig.3):

A state-operated or communal health care enterprise is closely managed by the State because the State owns its property, thus entitling the State to decide key issues related to the enterprise's activities.

A rental enterprise is set up by employees who rent the state-owned (communal) property of a health care facility and it has more economic and financial authority than a State-operated (communal) enterprise.

A nongovernmental health care enterprise is completely free to resolve its own economic and financial issues within the framework of the Laws of Ukraine "On Enterprises in Ukraine" and "On Economic Associations."

The health care association of the Starokyivsky District in Kyiv City and the outpatient dental clinic in the Solomyansky district of Kyiv City were recently granted the status of communal health care enterprises. The Kherson Oblast outpatient dental clinic was granted the status of a rental enterprise. The Vinnytsa Oblast outpatient dental clinic was granted the status of an economic association created through privatization of communal property.

The experience of countries of the former Soviet Union (Armenia, Estonia, Latvia, Lithuania) whose governments have granted health care facilities the right to become more independent demonstrates the effectiveness of such a solution in improving access to and quality of health care services.

4. STATE-OPERATED AND COMMUNAL HEALTH CARE ENTERPRISES

State-operated and communal health care enterprises can be created by restructuring existing State-operated (communal) budget institutions or by creating new institutions through an order with separate state (communal) property. The entrepreneurial body acts as the owner's rep-

representative and performs his/her functions within the framework of the Economic Code of Ukraine and other legislative acts.

State-operated health care enterprises are set up by a Decree of the Cabinet of Ministers. Communal health care enterprises are established by decision of the relevant community (oblast, district, city and village councils.) The statutory fund of a health care enterprise is set up before the health care body registers it as an economic entity. The name of a state-operated health care enterprise is supposed to contain the words “state-operated enterprise.” The name of a communal health care enterprise is supposed to contain the words “communal enterprise” as well as an indication of the governing authority (a health ministry or a local authority.)

A health care enterprise is headed by a director assigned by, and responsible to, the relevant governing authority. A state-operated (communal) enterprise is not responsible for the owner’s liabilities or those of the relevant governing authority. However, neither the State nor the enterprise’s governing body are responsible for the enterprise’s liabilities except in cases stipulated in the Economic Code and other laws.

State-operated (communal) health care enterprises must carry out the State’s objectives and orders to assure certain population groups certain free health care services. These services are free because they are covered by the budget. The Ministry of Health and local authorities should alert health care enterprises to these requirements. These orders should be taken into consideration when health care enterprises plan their work in disease prevention and treatment.

When applicable, the state is entitled to exercise its authority as owner of the property.

State-owned property belongs to a State-operated enterprise along with the right to its economic operation. Except when otherwise stipulated, the enterprise has the right to sell or transfer the property to other enterprises, organizations, and institutions, as well as to exchange, rent or donate for free temporary use the buildings, equipment, transportation and other assets or to remove these items from its balance sheets.

Since a State-operated enterprise has the right to economic operation but not to the rights associated with property ownership, there is a special legal category for its administration (Article 37 of the law “On Property.”) This law stipulates that State-operated enterprises follow special rules concerning founding, establishing and property management, according to their statutes and approved by specially authorized bodies.

The property of State-operated enterprises and budget organizations is divided into homogeneous groups (funds) based on its intended destination. The Law of Ukraine “On Enterprises in Ukraine” (Article 10) delineates three such groups: basic funds, circulating assets and other assets (whose cost is put on a separate balance sheet.) (Table 1)

In terms of economic activity, it is important both for the State and for the health care facility whether a facility is a budget entity or a health care enterprise.

Typically, the state more closely regulates the economic and financial activities of a budget facility than those of an enterprise.

If a health care facility has the status of an enterprise (even a State-operated one), it has more administrative and property rights.

An enterprise has the right to list property on its balance sheet and engage in its full economic operation, which is more significant than a facility’s right to manage its operation. This freedom allows it to be more flexible in its responses to socioeconomic changes and to seek other sources of financing.

TABLE 1. DIFFERENCES IN THE STATUS OF A HEALTH CARE FACILITY VERSUS A HEALTH CARE ENTERPRISE

N	State-operated health care facility	State-operated health care enterprise
1	The purpose of activities: to meet the objectives entrusted to the health care facility by the State.	The purpose of activities: to make profit and meet the objectives entrusted to the health care facility by the state.
2	A health care facility interacts with governing authorities as a subordinate.	The enterprise interacts with governing authorities on a contractual basis.
3	State-owned property is used by the facility with the right to fully manage its operation.	State-owned property is used by the facility with the right of full economic authority
4	The health care enterprise uses its financial assets to cover its liabilities.	The health care enterprise uses all financial assets on its balance sheets to cover its liabilities.
5	If the facility cannot meet its liabilities, the State assumes responsibility.	The State does not assume responsibility for the enterprise's liabilities.
6	A State-funded from the budget.	A State-operated health care enterprise is self-financing..

A health care enterprise relates to local authorities on a contractual basis. The contract regulates financing of the guaranteed scope of health care for the population in the form of a state order under the Law of Ukraine “On Supplying Products for State Needs.”

A health care facility is free to determine its activities and its labor structure beyond the provisions of State orders. This enables them to provide motivation for staff. State and local authorities have no right to interfere in a health care facility's operations. A health care facility's rights as an independent economic entity are determined by legislation, statutes and agreements.

In addition to complying with State orders, a health care enterprise plans its activities based on agreements with health insurance funds, nearby health care facilities, the needs of the population, as well as enterprises, institutions and organizations that require additional health care services for employees and family members.

Transforming health care facilities into state-operated (communal) enterprises allows for the following:

- Realize the director's initiative and enhance the effectiveness of current methods of meeting the population's health care needs;
- Specify the obligations of the State to fund patient care;
- Obtain off-budget funds to strengthen aspects of health care services and improve the health care facility;
- Provide incentives for health care providers to work productively and to retain well-trained and experienced personnel.

Introducing a new legal structure will enable most health care facilities to function effectively. However, some health care facilities (sanitary, epidemiological, ambulatory, oncological and others) may decide to preserve their facility status because it is important for the State to govern their activities.

The Kyiv City Council's decision to transform the outpatient dental clinic in the Solomyan-sky District into a communal enterprise (“The Kyiv Center for New Dental Technologies”) is an example of restructuring a communal health care facility into a communal health care enterprise.

5. RENTAL ENTERPRISES IN HEALTH CARE

When an individual or organization rents the property or a subdivision of a State-operated (communal) enterprise in order to engage in entrepreneurial activity, the renting body is known as a “rental.” The renter is the owner of the property. The renter of State-owned or communal property is the Fund of State Property of Ukraine and its regional divisions as well as other bodies authorized by local councils to manage property.

The following legislation regulates the establishment of a rental enterprise:

- The Law of Ukraine “On Renting State-Operated and Communal Property” (Art. 8);
- The Economic Code of Ukraine;
- “Fundamental Ukrainian Legislation on Health Care” (Art.16);
- The Law of Ukraine “On Economic Associations;”
- Decree № 26-92 of the Cabinets of Ministers of Ukraine dated 12.31.92 “On the List of Property Complexes, Organizations Whose Renting is not Permitted” (health care organizations and facilities are absent from the list;)
- Decree № 740 of the Cabinet of Ministers of Ukraine “Regulations on the Order of State Registration of Enterprises” dated 05.25.98.

To set up a rental enterprise, the following must take place:

1. More than half of the health care facility’s employees must vote in favor of renting the property;
2. According to the Bye-laws of the Economic Association, each employee of the rental facility has the right to apply for and join the Economic Association. This can occur prior to registration as a rental enterprise;
3. The facility employees’ Economic Association can establish rental agreements with other entities;
4. The facility employees’ Economic Association addresses the Health Administration department that runs their health care facility with a request to support the employees’ initiative for rental;
5. After agreeing with the state or local administrative body to rent property, the Economic Association must seek permission from the Cabinet of Ministers (for state health care facilities) or the Local Council (for health care facilities with communal property.) The issue of renting is addressed by a Decree of the Cabinet of Ministers of Ukraine or a session of the Local Council.
6. After the Cabinet of Ministers or the Local Council has made its decision, or after the renter and the rentee have held the relevant discussions, a time-sensitive agreement can be signed. The rentee legally assumes the rights and liabilities of the rental enterprise.

This rubric was employed when the Kherson Oblast Outpatient Dental Clinic was turned into a rental enterprise. After becoming a rental enterprise through an agreement signed with the Kherson Oblast Administration, the clinic continued to function as a health care entity.

The following is a list of advantages seen in the four years that the clinic functioned as a rental enterprise:

- The facility was able to hire new, qualified personnel while retaining its previous staff;
- An opportunity arose to provide modern equipment, instruments and medications for the outpatient clinic;

- Modern design and renovation work was done on the clinic and more is planned;
- New diagnostic and treatment technologies were introduced;
- Efforts are continually being made to improve staff qualifications, including continuing education classes abroad;
- The clinic has increased its work with the population by 20%;
- The employees of the outpatient clinic are not paid according to an established wage scale but according to performance;
- Employees are ensured social security;
- 500,000 UAH are paid each year for taxes and other mandatory payments as well as 300,000 UAH for clinic maintenance.

The outpatient clinic is among the very best in Ukraine. Currently, nine outpatient dental clinics are rented by employees in Kherson Oblast. These reforms were recognized as effective and were recommended for implementation nationwide by the Ministry of Health in a decision dated 10.11.1999.

6. ECONOMIC ASSOCIATIONS IN HEALTH CARE

Among entities that have nongovernmental property, economic associations are the most widespread type of health care facilities. Economic associations include open and closed joint-stock companies established through the medical and sanitary units of privatized industrial enterprises and many limited companies.

Economic statutory associations are legally classified as enterprises based on collective property, with certain special features in terms of establishment, activities and legal status. Thus, these associations operate according to the Law of Ukraine “On Economic Associations,” which determines the rules for such associations and their founders and participants. Statutory enterprises vary, and they are also governed by the legislation on enterprises.

The main feature that distinguishes economic associations from other legal entities is joint ownership of participants’ property and the objective of making a profit, based on an agreement to engage in joint economic activities. According to the legislation, all associations are considered legal persons. They follow the constituent documents approved by the participants and have their own name.

In terms of capital formation, associations are divided into joint-stock and non-joint-stock entities. Associations can take a) limited liability; b) additional responsibility; c) universal partnership; and d) limited partnership (Fig. 4). Joint-stock associations and associations with limited and additional responsibilities are established and operate according to the constituent agreement and bye-laws. These statutory and economic entities are enterprises with collectively owned property. Associations with full and limited partnership function according to constituent agreements.

The characteristics of economic associations can be found in the Law of Ukraine “On Economic Associations.”

A joint-stock company has a statutory fund, is divided into a number of shares (each with the same face value) and is liable only for property. In a joint-stock company, each participant is liable only up to the value of his/her personal share.

1. The statutory fund of a joint-stock company is formed by selling shares to multiple people.

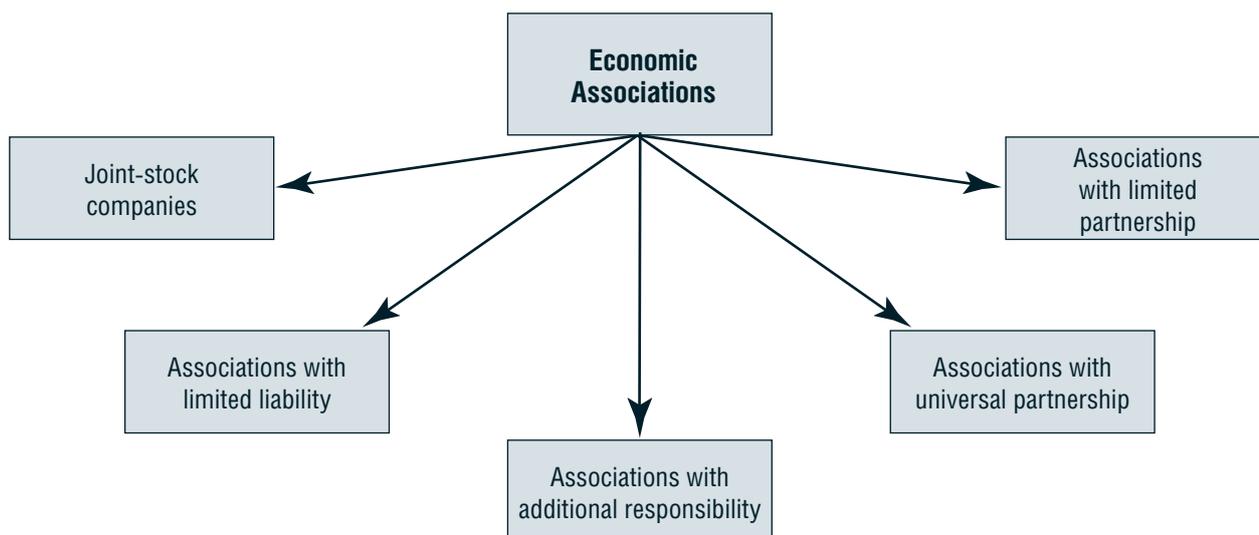


Figure 4. Types of Economic Associations

2. Joint-stock companies have the public status of security providers. They can sell their stock in accordance with the Law of Ukraine “On Securities and the Stock Exchange.”
3. Individuals who purchase shares from a joint-stock company are its shareholders and the owners of nominal shares are registered on the relevant roll.
4. Shareholders’ liability is limited to the value of their shares.

A share in a joint-stock company has the following characteristics:

- Indicates possession of a part of the joint-stock company’s property;
- Entitles the shareholder to participate in the management of the company
- Entitles the holder to a portion of the company’s profit, in the form of dividends;
- Indicates the right to a portion of the company’s property in case of dissolution;
- Entitles the shareholder to demand his/her shares through sale, transfer or inheritance.

A joint-stock company has the right to set up subsidiary companies, give them property, assign directors and exercise other ownership rights. Legislation stipulates that joint-stock companies must have a company brand and trademark approved by its board and registered with the Chamber of Commerce of Ukraine.

Open and closed joint-stock companies differ in how their shares function. Shares of open joint-stock companies can be distributed by open subscription or through buying and selling on a stock exchange or a securities market other than a stock exchange. In closed joint-stock companies shares are distributed among its founders. They cannot be distributed at a stock exchange through subscription or by buying and selling.

Nongovernmental legal persons can found a joint-stock company with virtually no limitations, so long as their bye-laws do not prohibit entrepreneurial activity.

Governmental legal persons (facilities and organizations) can be founders and participants of joint-stock companies following the principle of permission. Ministries under the Cabinet Ministers of Ukraine as well as State committees and other central bodies of State executive power that are authorized to manage State-owned property can also found joint-stock companies. Oblast State Administrations can act as founders of joint-stock companies (on the owner’s behalf) on the basis of communal property. Regulation of shareholders in State property is determined by

the bodies that deal with privatization, namely the Fund for State Property of Ukraine, its regional departments and its representative offices.

According to the Decree of the Cabinet of Ministers of Ukraine “On Regulation of Activities of Subjects of Entrepreneurial Activities Set up with Participation of State-Operated Enterprises” dated 31.12.1992, State-operated enterprises, except banks, cannot directly found joint-stock companies (with the exception of banks).

A company with limited liability is the most common type of joint-stock company in Ukraine. According to Article 50 of the Law of Ukraine “On Economic Associations,” a company with limited liability is a company with a statutory fund divided into parts (the size of which is determined by statutory documents), that meets its liabilities using all assets on its balance sheet, and where each participant meets his/her liabilities only within the value of his/her shares. Thus, the company’s liability is limited to its assets, while the liability of its participants is limited to their investments in the statutory fund.

The size of the statutory fund in a company with limited liability must be at least equivalent to the sum of the 100 lowest salaries in the company as determined by the minimum salary rate.

The shareholders’ meeting is the highest administrative body of a company with limited liability. At the meeting, shareholders are authorized to do the following:

- Determine the company’s activities, approve its plans and determine its budget for implementation (by unanimous vote);
- Introduce changes to the company’s bye-laws (by unanimous vote);
- Elect and terminate members of the executive body and audit committee;
- Approve the annual report on company activities, the accounts and conclusions of the audit committee and the order for distribution of profits;
- Set up, restructure or dissolve subsidiary and affiliated enterprises and representative offices, and approve their bye-laws and regulations;
- Approve the company’s organizational structure and internal documents;
- Terminate the company’s participants (by unanimous vote);
- Determine the terms of payment for employees;
- Make decisions on cessation of the enterprise’s activities.

Under the enterprise’s bye-laws, some other issues can be entrusted to the stockholders.

Company stockholders must be convened at least twice a year. Meetings are considered to have a quorum if they are attended by stockholders who control 60% of the votes. The number of votes allotted to each stockholder is proportional to the number of shares he/she owns.

The executive body of a company with limited liability may be either its Board of Directors or a single director. The board is headed by a general director. Individuals who are not part of the association can be members of the executive body. The Board of Directors (or director) settles all issues related to the enterprise’s activities except those that come under the sole jurisdiction of the shareholders meeting. The authority of the Board of Directors (or director) is determined by the Article of Ukraine “On Economic Enterprises” and the constituent documents of the enterprise.

The audit committee—appointed by shareholders and consisting of at least three company shareholders—oversees the company’s financial activities.

An **association with additional responsibility** has a status analogous to that of an association with limited liability, except that shareholders are responsible for covering the association’s debts with their investments in the statutory fund. If these sums do not cover the debt, sharehold-

ers are responsible for covering it with their own property, in proportion to each shareholder's investment.

According to Article 66 of the Law of Ukraine "On Economic Associations," an **association with universal partnership** is an association where all shareholders are involved in joint entrepreneurial activities and assume collective responsibility for meeting the liabilities with their property. Collective responsibility works by holding all shareholders accountable for covering all debts with their own property, as needed in dissolution of the company, regardless of the number of shares they own.

An association with universal partnership is established and functions according to a constituent agreement (this type of association does not have bye-laws.) The association's business can be carried out by all shareholders, by one or by several acting on behalf of the association. The shareholders entrusted to do the association's business must provide shareholders with full information on the business, on demand.

Since all shareholders in an association with universal partnership are engaged in joint entrepreneurial activities, they cannot enter into outside agreements that might compete with the association. Shareholders also do not have the right to participate in other competing associations (except joint-stock companies.) In case of violation, the shareholder concerned must compensate the association for damage.

The name of the association should contain the first or last name of one of the participants, for example "Voronin and Co." or "Hermes and Co." The association's profits are not taxed. The profits are divided among the participants, who pay taxes on their incomes separately.

In an **association with limited partnership**, one or more participants manage the enterprise and take joint responsibility for the association's liabilities with their property, while other participants have only limited responsibility.

In this type of association, the investors do not participate in the management of the association. The amount of profit gained by an investor is determined by the amount of his/her investment.

Investors in associations with limited partnership have the following rights:

- To act on behalf of the association;
- To require the return of his/her investment if the enterprise is dissolved (in the case of participants with full responsibility);
- To require annual reports and balance sheets and to independently audit the association.

One example of such an association is the outpatient oblast dental clinic that was privatized by its employees.

7. PRIVATE HEALTH CARE PRACTICE WITHOUT ESTABLISHING AN ENTERPRISE

Recently, private health care practices established as entrepreneurial activities, without setting up an enterprise, have become quite widespread, owing to a simplified system of taxation, registration and accountability (a standard tax payment) for small-scale entrepreneurs, pursuant to Presidential Decree № 727/98 dated 07.03.1998,

Citizens of Ukraine and other countries have the right to engage in entrepreneurial activity without setting up an enterprise.

A physician who decides to establish a private health care practice must register as an entrepreneur with the state registration authorities in his/her place of residence.

1. State Registration of the Entrepreneur.

Entrepreneurs register with the State according to the “Regulation of state registration of subjects of entrepreneurial activities” approved by Decree № 740 of the Cabinet of Ministers dated 05.25.1998, with amendments and supplements.

For an individual to be registered he/she needs to submit the following papers to the body of state registration:

- 1) A registration card which also serves as an application;
- 2) A certificate (or copy) of tax identification;
- 3) Two photographs;
- 4) A receipt for payment for State registration.

In addition, he/she need to show a personal ID (e.g. a passport).

The fee for State registration should be the sum of at least 1.5 citizens’ pre-tax income.

If all of these documents are submitted, the state registration body is required to issue a certificate within 10 working days.

2. Registration with the State Tax Administration.

In compliance with № 80 “Instruction on the registration order of taxpayers approved by the State Tax Administration of Ukraine” dated 02.09.98, entrepreneurs must contact the State Tax Administration in their place of residence to register within five days after receiving the certificate of State registration. They must use the approved form (№ 5-OOP) for their application and submit a copy of the certificate of State registration and their personal identification card or passport.

After registering the entrepreneur, the Tax Administration provides him/her with the relevant certificate, in compliance with Form № 4 OPP, which is needed to open a bank account.

3. Registration with the Ukraine Pension Fund

According to Law № 1058-IV of Ukraine “On Mandatory State Pension Insurance” dated 07.09.2003, and № 21-1 “Instruction on calculating and paying the fees to the Pension Fund of Ukraine” dated 12.19.2003, entrepreneurs must contribute to mandatory pension insurance and register with the Pension Fund of Ukraine in their place of residence within 10 days after obtaining the certificate of State registration or signing an agreement with employees.

The following documents need to be submitted for registration:

- 1) An approved application form;
- 2) A verified copy of the State registration certificate;
- 3) A verified copy of the certificate of tax identification and registration;
- 4) Verified copies of employment agreements, if applicable.

The taxpayer should receive the relevant registration certificate within 10 days after registration.

4. Registration for Unemployment Insurance

This is mandatory for entrepreneurs if they hire employees according to item 2 of Article 27 of № 2240-III Law of Ukraine “On Mandatory State Social Security due to the Temporary Loss of Earning Capacity and Expenses Caused by Births and Burials” dated 01.18.2001 and № 16 “Instruction on the Order of Receiving, Accounting and Spending the Funds of the Social Security Fund of Ukraine,” dated 06.26.2001.

To be registered, entrepreneurs must submit an application on the approved form, indicating their passport data and address. The payer receives a registration number and a notice of registration. There is no fixed timeframe for when entrepreneurs must register with the Social Security Fund. However, there is a 10-day registration window for newly-established enterprises and entrepreneurs are encouraged to follow this guideline. If a private entrepreneur has signed a labor agreement with a hired worker, he/she must register with the Pension Fund within a 10-day period.

Entrepreneurs who do not hire labor may pay for social security if they wish. Registering and contributing to the Social Security Fund entitles the entrepreneur to financial assistance in case of temporary loss of earning capacity, labor or childbirth.

Registration with Ukraine’s Fund for Mandatory State Social Security for Unemployment and with Ukraine’s Social Security Fund for Accidents during Production and Occupational Hazards is mandatory for enterprises that employ hired labor. Registration for enterprises that do not employ hired labor is voluntary.

Seals and stamps. To carry out economic activities (purchasing equipment and materials), a private doctor needs to have the stamps and seals of an entrepreneur. To obtain permission to produce the seals and stamps, a private entrepreneur must apply to the relevant body in charge of domestic affairs with a copy of the State registration certificate, two copies of the seal and stamp templates and a receipt for payment for permission to produce the seals and stamps.

The government body in charge of domestic affairs has five working days to issue or to refuse the seals and stamps, indicating the reasons for refusal, as stipulated by Ukrainian legislation.

Opening bank accounts. The instructions “On Opening, Using and Closing Accounts in National and Foreign Currency” approved by № 492 Decree of the Board of the National Bank of Ukraine, dated 11.12.2003, outlines how to open a bank account.

Opening a bank account requires the following documents:

Application for opening an account;

- 1) A notarized copy of the State registration certificate;
- 2) Confirmation of tax registration;
- 3) A certificate of registration from the Pension Fund;
- 4) A card with the applicant’s signature, witnessed by a bank employee.

No later than three working days after the account is opened, the private entrepreneur must notify the tax authorities of where the account is registered.

To engage in a private health care practice, a doctor must obtain a license from the Ministry of Health (Section 1.3.) Registration, accountability and taxation are regulated by the relevant document (see Appendix 1.)

A doctor in private practice can choose the general or a simplified system of taxation (a standard tax rate.) Under the general system, a tax rate of 13% is applied to income. In a simplified system (a standard tax rate), the tax rate is established by local authorities and must be between 20 and 200 UAH. This is the rate regardless of the amount of income obtained.

8. ORGANIZING A GENERAL HEALTH CARE PRACTICE – FAMILY MEDICINE

A family medicine practice exists to meet the needs of the local population at the primary health care level, either in an ambulatory clinic or in the patient's home.

A family medicine ambulatory clinic provides the following services:

1. Early identification of disease to ensure treatment with the aim of recovery or full remission;
2. Determining the needs of people who require specialized health care services and making arrangements for these types of services;
3. Carrying out prevention measures in the population;
4. Integrating community-level activities to improve health care services.

A family medicine ambulatory clinic has the following functions:

1. Providing first aid and emergency care for patients with acute and unexpected diseases, traumas or poisoning;
2. Diagnosing diseases in the population and making decisions about patient care;
3. Providing preventive care and treatment for diseases in the clinic and, when possible, in patients' homes; arranging transportation to other facilities when needed;
4. Arranging services in inpatient daytime clinics, outpatient clinics, homes, hospitals and maternity homes; and arranging rapid and emergency medical assistance;
5. Conducting disease prevention and health promotion activities by involving services from various sectors, communities and organizations.
6. Providing check-ups and health education on a continuing basis;
7. Managing health care quality and effectiveness by examining morbidity and mortality rates, demographic data and socio-economic conditions and developing a strategy to improve health care services;
8. Setting up expert committees to deal with temporary loss of income for medical reasons.
9. Arranging medico-social assistance for patients who need it;
10. Educating the population on hygiene and healthy lifestyles, in light of the socio-economic situation in the area.

Arrangements for health care services made by a family doctor differ from those made by a district doctor (Table 2).

Ambulatory family medicine clinics can be set up as subdivisions of State-operated outpatient clinics, as independent facilities stipulated by the Law of Ukraine "On Property," or as independent economic entities (Fig. 5).

TABLE 2. DIFFERENCES IN THE STRUCTURE OF HEALTH CARE SERVICES PROVIDED BY A DISTRICT DOCTOR AND A FAMILY DOCTOR

HEALTH CARE ARRANGEMENTS MADE BY A DISTRICT DOCTOR	HEALTH CARE ARRANGEMENTS MADE BY A FAMILY DOCTOR
1 A district doctor’s knowledge and skills are primarily in the area of general therapy.	1 A family doctor’s knowledge and skills are not just in general therapy, but also pediatrics, surgery, obstetrics and gynecology, otolaryngology, ophthalmology, etc.
2 Provides health care services as a general practitioner.	2 Provides health care services as a general practitioner and, to a limited extent, as a specialist.
3 A patient does not choose a district doctor.	3 A patient chooses a family doctor
4 A district doctor provides patients with health care services during working hours.	4 A family doctor’s working hours are unlimited.
5 A district doctor can live outside his/her district.	5 A family doctor lives in his/her district.
6 A district doctor works as an employee	6 A family doctor works either under an agreement or on a contractual basis as a private entrepreneur.

In many Western European countries, specifically in those with social medical insurance (e.g. France, Germany, etc.), general practitioners work as entrepreneurs on a contractual basis. A general practitioner has both economic—making a profit—and social motivations—recognition by colleagues and clients of his/her professional skills. In this situation, the health care system and State authorities seek to link the private interests of general practitioners with society’s interests in order to provide citizens with accessible, high quality health care services. This is achieved through national medical standards and guidelines as well as a financing system that provides incentives for doctors to act in the best interests of their patients.

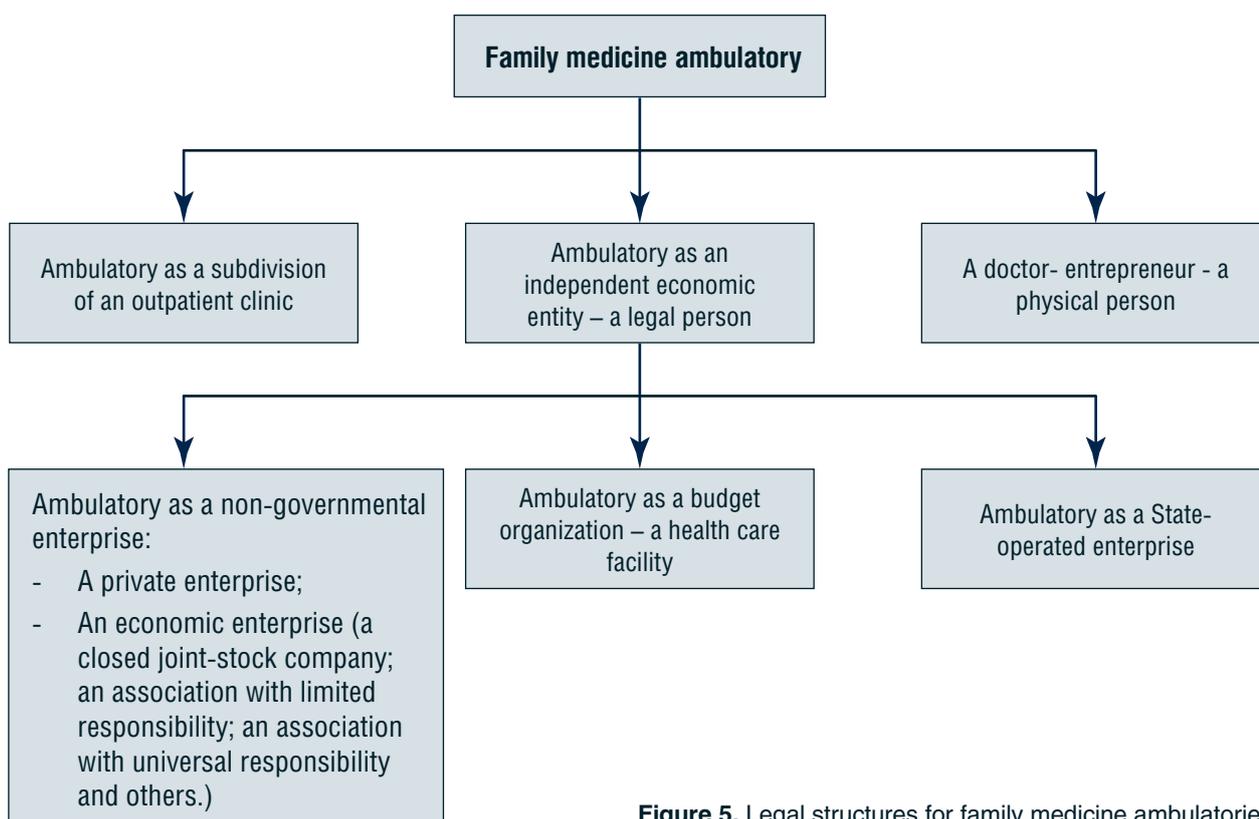


Figure 5. Legal structures for family medicine ambulatories

The health care reforms underway in Central and Eastern Europe, where most physicians are currently employees, entitles them to greater independence. In some countries, general practitioners have the authority to manage budget funds.

Reforms in the Ukrainian health care system started in 1997 in the City of Komsomolsk, Poltava Oblast. The City Council approved “The Concept for Providing the Population of the City of Komsomolsk with Health Care Services” and “Rationalization of a Health Care System in a Period of Financial and Economic Crisis.” The concept seeks to achieve the following:

- Multiple sources of financing for health care facilities;
- Different types of property that are important to disease prevention and care
- Good access to primary health care services;
- Development of family medicine and family group practice.

In 1997, a communal enterprise “The Komsomolsk Self-Accounting Outpatient Clinic” was established. It demonstrated how different types of property can be used to advance the needs of a city health care system. In 2001, the “Territorial Health Care Association” was established, unifying a network of independent health care facilities, including 11 general practitioners in private practice, who now cooperate with the Territorial Health Care Association on a contractual basis.

According to an agreement signed between the management of Komsomolsk Territorial Health Care Association and a general practitioner/family doctor, the activities of a physician in private practice are supervised by the hospital’s Department for Information Analysis. Accountability reports, indicators and quality of care are analyzed quarterly.

The budgets of physicians in private practice are dramatically different from those of other ambulatories. Budget funds are allocated to a family doctor on a capitation basis. This type of payment for services (with budgetary funds) is called partial fund withholding.

A family doctor uses funds to maintain the space and equipment he/she rents. He/she also provides free food for children under age two from underprivileged families, pays his/her employees, and reimburses patients for the cost of certain health care services provided in the city’s disease prevention and care facilities.

A privately practicing doctor decides personnel issues independently in accordance with labor legislation. He/she may obtain additional funds for providing health care services beyond the scope laid out in the agreements. Any funds that remain after meeting these expenses are profit.

As a private entrepreneur paying taxes at a standard rate, a doctor in private practice submits quarterly reports on his/her financial activities to the Tax Administration. He/she also submits monthly reports on the use of funds to the accounting department of the central city hospital and the Territorial Health Care Association.

The project leaders observed positive results with the contracting model for family doctors:

- Improved access to primary care;
- Decreased rates of hospitalization;
- Decreased numbers of patients visiting specialists;
- Decreased numbers of ambulance calls.

In 2002, 37% of the city population received primary health care services from privately practicing general practitioners.

THE LIKARNYARNA KASA AS A FORM OF SOCIAL INSURANCE AND A SOURCE OF ADDITIONAL REVENUE FOR HEALTH CARE

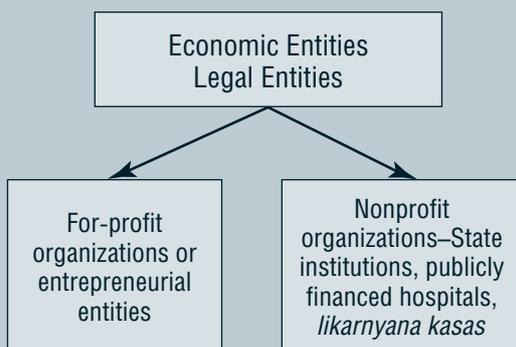
By Viktor Paschenko

1 The *Likarnyarna Kasa* as a Form of Social Insurance and as a Source of Additional Revenue for Health Care

V.M. Pashchenko
Senior Lecturer

2 Legal entities can be classified into two broad groups based on how they generate revenue, regardless of their type of ownership or property:

- For-profit organizations or entities that engage in entrepreneurial activities;
- Nonprofit organizations



4 What is a *Likarnyarna Kasa*?

- A *likarnyarna kasa* is a nongovernmental membership organization that helps finance patients' health care and protects their rights. It is based on voluntary individual contributions that support health care services defined in the benefit program.

5 Legislation Governing *Likarnyarna Kasas*

- *Likarnyarna kasas* operate under the Law of Ukraine, "On Citizens Associations" and "On Charitable Activities and Organizations;"
- Legal entities and individuals, including the President of Ukraine, deputies, officials and clerks of various State authorities and self-governing bodies, and their family members, can participate in activities with registered charitable organizations, provided their donations are within their income (received and declared.)

6 Legislation (continued)

Likarnyarna kasas are also regulated by the following documents:

- Basic Ukrainian legislation on health care ;
- The Law of Ukraine, "On State Social Standards and State Social Guarantees;"
- The Law of Ukraine, "On Protecting Consumers' Rights;"
- Decree № 063/2000 of the President of Ukraine, "On Additional Measures to Improve Health Care Services for the Ukrainian Population," dated 09.08.2000;
- Decree № 1313/2000 of the President of Ukraine, "On the Concept of the Development of Health Care Services for the Ukrainian Population," dated 12.07.2000.

Likarnyana Kasas – A Step toward Quality Health Insurance

7

- *Likarnyana kasas* use a health insurance model to generate and spend revenue, to maintain quality standards in health care, and to collaborate with health care facilities.

Establishing a *Likarnyana Kasa*

8

- A *likarnyana kasa* may be established as a charitable membership organization or as a public association by Ukrainian citizens, foreign citizens or persons without citizenship aged at least 18 (or at least 15 in the case of youth and children's organizations;)
- Bodies of State administration or local government, State-run and communal enterprises and Ukrainian institutions and organizations financed by the government cannot found a charitable organization.

Official Recognition of a *Likarnyana Kasa* as a Citizens Association

9

- Citizens associations must be officially recognized, which occurs when the organization registers with the Ministry of Justice of Ukraine, local authorities or the executive committees of rural or urban Councils of People's Deputies;
- It is illegal for associations that are not registered, or that have been officially dissolved, to conduct activities;
- Once it is registered, a citizens association becomes a legal entity;
- The legalizing authority informs the mass media of the registration of the citizens association;
- International civic organizations must register with Ministry of Justice of Ukraine.

Registering a *Likarnyana Kasa*

10

- Charitable organizations register with the appropriate authority: the oblast state administration, state administrations of the cities of Kyiv or Sevastopol or with the authorities of the Autonomous Republic of Crimea;
- They must pay a State registration fee set by the Cabinet of Ministers, which cannot exceed the sum of 10 citizens' minimum pre-tax incomes.

Documents Required for State Registration

The following documents must be submitted to register a charitable organization:

- An application from the founder or the founder's representative;
- Bye-laws (regulations);
- Minutes of the constituent assembly's meeting;
- Information on the organization's founder(s) and administrative bodies;
- Information on any local branches of the organization;
- Receipt for payment of the State registration fee.

11

Bye-laws

The primary regulatory document for a *likarnyana kasa* is its bye-laws. These address the following topics:

- The organization's legal name, status, organizational form and location;
- The organization's goal and key activities;
- Sources of financing, budget, mechanisms for accountability and control;
- Rights and responsibilities of members, membership process;
- Governing bodies and any local branches and their activities and powers;
- Mechanism to amend the bye-laws;
- Mechanisms to close, dissolve and restructure the organization.

12

A *Likarnyana Kasa's* Authority

The management body of a *likarnyana kasa* is a group convened at least once a year by the board and publicized to all *likarnyana kasa* members.

The management body has the following responsibilities:

- Approving and amending the bye-laws;
- Electing members of the executive and controlling bodies;
- Deciding the key areas of activity;
- Approving regulations to govern all elected positions in the executive and controlling bodies;
- Approving employees' salaries;
- Establishing facilities, organizations and enterprises;
- Restructuring and dissolving the organization;
- Other issues as stipulated by the *likarnyana kasa's* bye-laws.

The management group's decisions are recorded in minutes signed by its head and secretary.

13

Executive Body of the *Likarnyana Kasa*

- The *likarnyana kasa's* executive body is an Executive Board, consisting of *kasa* members elected at a general meeting;
- The Board's authority is defined in the *kasa's* bye-laws;
- One Board member is elected by the group to be its head;
- Board meetings should take place regularly, once or several times a month, depending on the *kasa's* activities;
- Members of the *kasa's* executive body are not paid for their work, except for the Board's director;
- Expenses incurred by members of the *kasa's* Executive Board in performing their duties may be reimbursed from *kasa* funds, pursuant to a Board resolution.

14

Purview of the *Likarnyana Kasa's* Board

The Board has the following responsibilities:

- Adopting resolutions;
- Arranging and convening membership meetings;
- Preparing and presenting projects, programs and proposals for *kasa* activities;
- Approving the annual plan of activities;
- Addressing membership issues, including membership fees;
- Approving staffing schedules and salary decisions;
- Using the *kasa's* property effectively;
- Performing other functions as stipulated by the *kasa's* bye-laws and the executive body.

15

Administrative Executive Body

The administrative executive body of the *likarnyana kasa*, or the Board of Directors, implements the *kasa's* activities, specifically:

16

- Programs to provide health care services for members (in ambulatories, inpatient facilities, at home, etc.);
- Ensuring supplies of medications for members;
- Submitting financial reports to the board for approval;
- Monitoring the diagnoses and treatment of members.

Likarnyana Kasa Workgroups

Depending upon its activities, a *likarnyana kasa* may have the following workgroups:

17

1. An administrative group consisting of the director and his/her deputy (these positions are established if the *kasa* has over 10,000 members;)
2. A technical group, including departments of quality control and patients' rights and a group to make the social, financial and organizational arrangements for members to receive medical care;
3. A group responsible for financial issues, including an accountant, a cashier and a pharmacist.

Likarnyana Kasa Controlling Bodies

A *likarnyana kasa* has the following controlling bodies:

18

1. **An audit committee** which ensures oversight and audits of the *kasa's* financial operations and submits its findings for consideration at a general membership meeting. When necessary, the audit committee can convene special meetings of the *kasa's* Board of Directors. The audit committee (comprised of at least three people) is elected by *kasa* members at general meetings;
2. **A Supervisory Board performs the executive and control functions of the *kasa*.** Its structure is determined by its members who cannot belong both to the Board of Directors and the Supervisory Board. The Supervisory Board represents the interests of *kasa* members between general meetings, within the limits set out by regulation.

Management Structure of a Likarnyana Kasa

19



Activities of a *Likarnyana Kasa*

- Providing medications and diagnostic procedures for members in inpatient and outpatient facilities and emergency departments;
- Providing health care facilities with medications, equipment and instruments;
- Financing disease prevention programs and introducing new treatment methods based on Ukrainian and foreign experience;
- Organizing training for health care providers, such as scientific seminars, publishing medical literature and developing partnerships with international organizations;
- Providing needy patients with medical and financial assistance;
- Helping with services or individual charitable activities;
- Making agreements to support charitable activities;
- Authorizing the use of property;
- Granting permission to use the *kasa's* name, logo and symbols;
- Funding charitable activities;
- Protecting patients' rights and interests so as to provide them with quality health care services.

20

The "Emergency Aid" Program Includes...

- Urgent and emergency health care services in patients' homes;
- Rapid diagnostics;
- Hospitalization in specialty inpatient departments, including intensive care units;
- Emergency surgery;
- Arranging for well-qualified specialists to provide complete emergency care on days off, holidays and after hours.

21

The "Outpatient Clinic" Program Includes...

- Primary health care services and identification of risk factors;
- Laboratory tests and diagnostic procedures as needed;
- Medications (on the approved list) for outpatient treatment;
- Counseling by specialists in various fields and, if necessary, in other health care facilities.

22

The "Inpatient Clinic" Program Includes...

- Laboratory tests and diagnostic procedures following the latest standards and counseling by specialists;
- Medications, dressings, medical products, food for special diets, etc;
- Surgical treatment, anesthetics and arrangements for post-operative care;
- Treatment in intensive care and resuscitation departments.

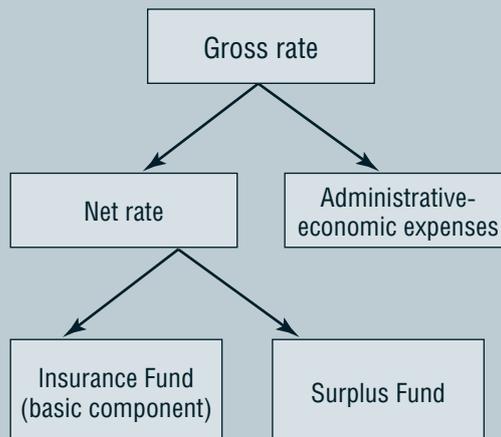
23

The “Disease Prevention” Program Includes...

- Annual checkups for early identification of conditions such as cardiovascular disease, respiratory disease, cancer, etc.;
- Prevention of chronic diseases, colds and other seasonal illnesses through medication, vitamins and immune modulators;
- Recovery and health improvement (in sanatoria and health resorts) after acute and chronic diseases.

24

Insurance Rate Structure



28

The “Family Doctor” Program Includes...

The “Family Doctor Program,” or ambulatory outpatient health care service, is the most complicated in terms of the Medical Escort service. It is best to combine the function of a family doctor with that of the *likaryana kasa’s* authorized doctor, since the family doctor is closely involved in treatment and ensuring that the patient receives all needed health care services.

25

Monitoring Diagnosis and Treatment

Monitoring must be carried out in several areas:

- Monitoring the diagnosis and treatment of patients’ conditions;
- Controlling the rational use of medications;
- Controlling the cost of care.

29

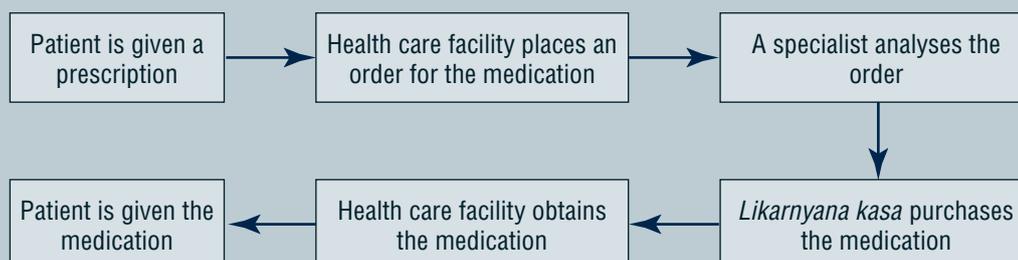
Likaryana Kasas Derive Income From:

- Membership fees;
- Charitable donations and grants;
- Proceeds from collecting donations, fundraising events and lotteries;
- Income from deposits and securities;
- Income from enterprises.

Credit is not a permissible source of funding.

26

Providing Medication to *Likaryana Kasa* Members



27

Monitoring Patients' Diagnoses and Treatment must be Conducted at Three Levels

- **Level I** – The health care facility's authorized doctor (a specialist)
He/she assesses a patient's diagnosis and treatment, using an expert assessment card. The analysis is based on the patient's medical record in an inpatient facility (F. № 003-4/0) and on prescription sheets (F. № 003-2/0). Health care services are assessed in terms of their appropriateness for the patient's condition and conformity to accepted standards of care. Health facilities give their prescription sheets and expert assessment cards to the *likarnyana kasa* on a monthly basis for peer review.
- **Level II** – The *likarnyana kasa* specialist
Based on the information provided by the health care facility specialist, the *kasa* specialist compiles the information from monitoring Level I and analyses resource use according to the health care facility's disease classification forms.
- **Level III** – Chief specialists of the local health department
A special Specialists' Committee is formed to oversee the process; it cooperates with the *likarnyana kasa* on a contractual basis.

30

Comments to Slides

Slide 2. Legal entities can be divided into two broad groups, depending on how they generate revenue, regardless of their type of ownership and property:

- For-profit organizations or entities that engage in entrepreneurial activity;
- Nonprofit organizations.

According to item 7.II.1 of the Law of Ukraine “On Taxation of Income from Enterprises,” nonprofit organizations include:

- a. State entities and local governments in Ukraine, their facilities and organizations funded from the budget;
- b. Charitable funds and organizations, including *likarnyana kasas*;
- c. Pension funds and credit associations;
- d. Legal entities other than those in paragraph “b” that do not aim to make a profit;

Slide 4. Civic organizations – *likarnyana kasas* and charities – are of primary interest to the health care sector because they can help finance the chronically under-funded health care system and serve the poor and most vulnerable segments of the population.

A *likarnyana kasa* is a non-governmental membership organization that helps pay for patients’ health care and protects their rights. It is based on voluntary contributions that support additional health care services within the scope of a defined health care program.

Slide 5. *Likarnyana kasas* have their legal foundation in the Law of Ukraine “On Citizens Associations” and “On Charitable Activities and Organizations.” Most (59%) *likarnyana kasas* are established under the law, “On Citizens Associations,” but others (28%) are established under the law, “On Charitable Activities and Organizations,” and still others (13%) are founded under both laws. *Likarnyana kasas* differ, based on which law was used to found them (Appendix 2, Table 1).

The law “On Citizens Associations” emphasizes the *likarnyana kasa*’s activities as a membership organization. If the *kasa*’s bye-laws refer to both laws, it can use the rights defined under both laws.

Legal entities and individuals, including the President of Ukraine, deputies, officials and clerks of various State authorities and self-governing entities, as well as their family members, can participate in activities with registered charitable organizations, provided their donations are within the limits of their declared income.

Slide 6. *Likarnyana kasas* also rely on the following documents to define their activities:

- *The basic Ukrainian health care legislation* stipulates, in Article 18, the possibility of health care financing from insurance and charity funds, as well as other sources not prohibited by law;
- *The Law of Ukraine “On State Social Standards and State Social Guarantees”* allows for control over the scope and quality of health care services provided by public organizations;
- *The Law of Ukraine “On Protecting Consumers’ Rights”* states that the protection of patients’ rights is needed to ensure adequate information and safe services for patients;
- *Presidential Decree № 063/2000 “On Additional Measures to Improve Health Care Services for the Ukrainian Population,”* dated 09.08.2000, recommends the practices employed by *likarnyana kasas*;

- *Presidential Decree № 1313/2000 “On the Concept of Improving Health Care Services for the Ukrainian Population,”* dated 12.07.2000, addresses the development of health care’s social collective sector.

Slide 7. *Likarnyana kasas* are a step toward quality health insurance. They follow a health insurance model to generate and spend revenue, to maintain quality standards of health care and to collaborate with health care facilities.

Given the current state of inadequate health care financing, *likarnyana kasas* can serve as a prototype for mandatory health insurance as well as a tool for mastering the skills required to institute health insurance.

The activities of *likarnyana kasas* are not limited to serving member patients. In many cases, *likarnyana kasas* regularly help upgrade the conditions at health care facilities, for example by purchasing equipment, renovating facilities, etc.

Slide 8. *Likarnyana kasas* can be established as charitable membership organizations or as public associations by citizens of Ukraine, foreigners or persons without citizenship who are at least 18 years of age (or at least 15 in the case of children’s and youth organizations). Bodies of State administration or local government, state-operated and communal enterprises and government-funded institutions and organizations cannot found charitable organizations.

All citizens over the age of 18 can become members of a *likarnyana kasa*. Families and groups of individuals can become members when provided in the *likarnyana kasa*’s bye-laws. In the case of family membership, parents pay for children under the age of 18 and for youth who are students. Enterprises, institutions and organizations can hold group membership, regardless of property or ownership type. Organizations that have a group membership can either fully or partially pay the membership fees of their employees.

Slide 9. Citizens associations must be officially recognized, which occurs when the organization registers with the Ministry of Justice, local authorities or the executive committees of Councils of People’s Deputies, in compliance with “The Regulation on the Order of Legalization of Citizens Associations” approved under Decree № 140 of the Cabinet of Ministers, dated 02.26.93. International civic organizations must register with Ukraine’s Ministry of Justice. Activities by associations that are unregistered or have been officially dissolved are illegal. Once it is registered, a citizens association becomes a legal entity. The legalizing body informs mass media of the registration of the citizens association.

Slide 10. Charitable organizations may register with the oblast state administration, the Kyiv or Sevastopol City administration, or the authorities of the Autonomous Republic of Crimea. They must pay the state registration fee established by the Cabinet of Ministers, which cannot exceed the amount of 10 citizens’ minimum pre-tax incomes.

Slide 11. The following documents must be submitted to register a charitable organization:

- An application from the founder of the organization or the founder’s representative;
- The bye-laws (regulations);
- Minutes of the constituent assembly’s meeting;
- Information about the founder(s) and the organization’s administrative bodies;
- Information on any local branches of the organization;
- Receipt for payment of the State registration fee.

Slide 12. The bye-laws are the primary regulatory document of a *likarnyana kasa*. They address the following:

- The organization’s legal name, status, organizational form and location;

- The organization’s goal and key activities;
- Its funding sources, budget, mechanisms for accountability and control;
- The rights and responsibilities of members and the membership process;
- The governing bodies and any local branches and their activities and powers;
- The mechanism for amending the bye-laws;
- Mechanisms for closing down the organization’s activities, dissolving it and restructuring.

The bye-laws can also cover other topics relevant to the establishment and operation of a *likarnyana kasa*. A *likarnyana kasa*’s founders develop its bye-laws, which must be adopted by its members at a general meeting and approved by the local administration.

The bye-laws cannot conflict with Ukrainian law.

Slide 13. Management of a *likarnyana kasa* is vested in a group that meets at least once a year at a meeting convened by the board and publicized to *kasa* members. Delegates are elected following *kasa* regulations. The management body operates according to the bye-laws and may make decisions on all matters related to the *likarnyana kasa*’s activities in the presence of no less than two thirds of the members. This includes:

- Approving and amending the bye-laws;
- Electing members of the executive or controlling body ;
- Determining the major areas of activity;
- Approving the program of activities;
- Approving regulations for the executive bodies and elected delegates;
- Approving employees’ salaries;
- Establishing facilities, organizations and enterprises;
- Restructuring and dissolving the organization;
- Other issues as laid out in the *likarnyana kasa*’s bye-laws.

The management group’s decisions are recorded in minutes signed by its head and secretary.

Slide 14. The *likarnyana kasa*’s executive body is a Board that consists of *kasa* members elected at a general meeting. One Board member is elected by the board to be its head. The Board’s authority is defined in the bye-laws. Board meetings occur regularly, once or several times a month, depending on the scope of the *kasa*’s activities.

Members of a *kasa* Board are not remunerated for their work, except for the Board’s director. Expenses incurred while performing official duties for the *likarnyana kasa*’s executive Board may be reimbursed from *kasa* funds, pursuant to a board resolution.

Slide 15. The Board has the following responsibilities:

- Enacting resolutions;
- Making arrangements for, and convening, membership meetings;
- Preparing and presenting projects, programs and proposals for *kasa* activities;
- Approving the annual plan of activities;
- Addressing membership issues, including membership fees;
- Approving the staffing schedule and staff salaries;
- Making effective use of the *likarnyana kasa*’s property;

- Performing other functions as stipulated in the *likarnyana kasa's* bye-laws and the executive body.

Slide 16. The administrative executive body of the *likarnyana kasa*, or the Board of Directors, carries out the *likarnyana kasa's* activities, which include the following:

- Implementing programs to provide health care services for members (in ambulatory health care facilities, inpatient clinics, at home, etc.)
- Ensuring supplies of medications for members;
- Submitting financial reports to the board for approval;
- Monitoring the diagnostic and treatment services provided to members.

The director manages the *likarnyana kasa* and is responsible for its finances. He/she opens bank accounts, hires and fires employees and issues orders, instructions and other directives within the scope of the authority vested in him/her.

Slide 17. Depending on the scope of its activities, a *likarnyana kasa* may have the following workgroups:

1. An administrative group – the director and his/her deputy (these positions are established if the *likarnyana kasa* has more than 10,000 members);
2. A technical group, including departments of quality control and patients' rights, as well as a group to organize social, economic and logistical matters to help members receive better health care;
3. A group in charge of financial matters, including an accountant, a cashier and a pharmacist.

Slide 18. A *likarnyana kasa* is comprised of the following controlling bodies:

1. An audit committee that is responsible for oversight and audit of its finances and submits its findings for consideration at a general membership meeting. If necessary, the audit committee can convene special meetings of the *likarnyana kasa's* Board of Directors. The audit committee, which must include at least three individuals, is elected by the *likarnyana kasa's* members at general membership meetings.
2. A Supervisory Board that performs executive and control functions of the *kasa*. The structure of the board is determined by its members. Members cannot belong both to the Board of Directors and to the Supervisory Board. The Supervisory Board represents the interests of *likarnyana kasa* members between general membership meetings, within the limits set by regulation.

The Supervisory Board regulates the activities of the Board of Directors and the Administrative Executive Board, including: carrying out resolutions adopted at general membership meetings; implementing annual plans; making proposals to improve activities; overseeing the efficient and targeted use of property and funds; convening members when necessary; and exercising other types of authority granted by members at general meetings.

Slide 20. The activities of a *likarnyana kasa* can take several forms, while fulfilling the bye-laws' objectives and protecting patients' health and rights. Functions of *likarnyana kasa*s include:

- Providing assistance to members with medications and diagnostic procedures in inpatient and outpatient clinics and emergency departments;
- Providing health care facilities with medication, equipment and instruments;
- Financing programs to prevent disease and introduce new treatment methods based on Ukrainian and foreign experience;

- Making arrangements to train health care providers, such as conducting scientific seminars, publishing medical literature and developing partnerships with international organizations;
- Providing medical and financial assistance for needy patients;
- Rendering aid through services or individual charitable activities;
- Entering into agreements to assist with charitable activities;
- Authorizing the use of the organization's property;
- Granting permission to use the *kasa's* name, logo and symbols;
- Funding charitable activities;
- Protecting patients' rights and interests so as to provide them with quality health care services.

A *likarnyana kasa* agrees to cooperate with a health care facility so as to provide its members with quality health care services. Under the agreement, the health care facility provides ambulatory, inpatient and outpatient health care services—both planned and urgent—for *likarnyana kasa* members, while the *kasa* provides financial support for expenses not covered by the budget.

Slide 21. The “Emergency Aid Program” includes the following:

- Urgent and emergency health care services in patients' homes;
- Rapid diagnostics;
- Hospitalization in specialty inpatient departments, including intensive care units;
- Emergency surgery;
- Complete emergency care provided by qualified specialists on days off, holidays and after hours.

Slide 22. The “Outpatient Clinic Program” includes the following:

- Primary health care services and identification of risk factors;
- Laboratory tests and diagnostics as needed;
- Medications (on the approved list) for outpatient treatment;
- Counseling by various specialists and, if necessary, in other health care facilities.

Slide 23. The “Inpatient Clinic Program” includes the following:

- Laboratory tests and diagnostics in compliance with the latest standards and counseling from specialists;
- Medications, dressings, medical products, foods for special diets, etc;
- Surgical treatment, anesthesia and arrangements for post-operative care;
- Treatment in intensive care and resuscitation departments.

Slide 24. The “Disease Prevention Program” includes the following:

- Annual checkups for early identification of conditions such as cardiovascular or respiratory diseases, cancers, etc;
- Prevention of chronic disease, colds and other seasonal illnesses through medications, vitamins and immune modulators;
- Recovery and health promotion (in sanatoria and health resorts) after acute and chronic diseases.

Slide 25. The “Family Doctor Program,” or ambulatory outpatient health care service, is the most complicated because of the Medical Escort service. Ideally, the family doc-

tor should also be the *likarnyana kasa's* authorized doctor, since a family doctor is closely involved in treatment and has an interest in ensuring that the patient receives all needed health care services.

Slide 26. A *likarnyana kasa* can derive income from the following sources:

- Membership fees;
- Charitable donations and grants;
- Proceeds from collecting donations, fundraising events and lotteries;
- Income from deposits and securities;
- Income from enterprises.

Credit is not a permissible funding source.

Slide 27. *Likarnyana kasa* members receive medications through the *kasa's* pharmacy. The stock of medicines is organized to meet the needs of members. Medications are supplied in conformity with a special form developed by the oblast health administration. The form contains a list of the most effective and cost-effective medications.

Members can receive medication from the facility pharmacist by presenting a prescription signed by their doctor, the head of department and the specialist. After the patient has received the medication, the pharmacist notes the total spent on treatment on his/her card.

Slide 28. Membership fees are the main and most predictable funding source for *likarnyana kasa's*. A *kasa's* financial proceeds must cover the cost of treating its members as well as its administrative expenses. Membership fees are set using the same actuarial calculations used in the insurance business. Membership fees are actually an insurance rate and are determined accordingly.

The cost of membership fees depends on the program chosen by the members of the *likarnyana kasa*.

Slide 29. Monitoring the diagnosis and treatment of *likarnyana kasa* members is an essential function of *likarnyana kasa's*. It must be conducted across several areas:

- 1) Monitoring the diagnosis and treatment of patients;
- 2) Controlling the rational use of medications;
- 3) Controlling the cost of treatment.

Slide 30. The *likarnyana kasa's* system for monitoring patients' diagnosis and treatment operates at three levels:

Level I – The health facility's authorized doctor (a specialist). He/she assesses a patient's diagnosis and treatment using an expert assessment card. The analysis is based on the patient's medical record in the inpatient facility (Form № 003-4/0) and the prescriptions (Form. № 003-2/0.) The services provided are assessed in terms of their appropriateness for the patient's condition and conformity to accepted standards of care. Health facilities give the prescriptions and expert assessment cards to the *likarnyana kasa* monthly for peer review.

Level II – The *likarnyana kasa's* specialist. Using the information provided by the health facility specialist, the specialist at the *likarnyana kasa* analyzes the results from monitoring Level I to assess resource use according to the health care facility's classification of diseases forms.

Level III – Chief specialists of the local health department who monitor activities. A Specialists' Committee is formed to oversee the process and cooperate with the *likarnyana kasa* on a contractual basis.

ORGANIZING A *LIKARNYANA KASA*

By Viktor Paschenko

It was autumn outside – the weather was cool and rainy. Mykola looked out the window into the yard and recalled the lines of a famous Ukrainian novel, “It’s raining all the time, while cold autumn fog curls above, dropping its wet braids on the ground. Boredom floats in grey obscurity, accompanied by hopelessness and the soft sobbing of sadness...” But Mykola had no time for sadness or boredom. Winter was about to set in and the heat would have to be turned on. But first the dilapidated pipes of the heating system urgently needed to be replaced. As usual, there was no money in the budget for that. So Mykola would have to make do with the limited funds he had.

Mykola had managed to scrape together some money in addition to his budget by renting out two isolated and unused hospital wards to a private entrepreneur as a car repair workshop. This modest income was really helpful at times, because there was always something that needed to be done, and never enough money. For instance, Mykola remembered that not long ago, the ambulances needed to be repaired. And now it was the old heating pipes.

Mykola looked through his hospital budget once again and realized that he would have to go back to the District Health Department for additional funding. Not only did the pipes need to be replaced, but it would cost more to heat the hospital this year, since the cost of public utilities went up again. Mykola knew he would get the money he needed because the authorities could not let the hospital go without heat in winter. Officially, the State provided well for hospitals: the government guaranteed funding for salaries, public utilities, medicine and food for patients. However, Mykola could still remember times when his employees’ salaries were delayed for months. The only incentives he could offer them were their own enthusiasm and sense of duty. Unfortunately, that enthusiasm didn’t help employees support their families and some of the specialists on Mykola’s staff gave up medicine for careers in business.

The district where Mykola worked, Pereyaslav Rayon, was home to 139,000 residents, 70,000 of whom lived in the district capital. The district health care system included a district hospital with 350 beds, an outpatient department and a maternity hospital. There were three district hospitals, 14 outpatient clinics and 19 FAPs in the district. The funding situation for these facilities had begun to improve and the amount of money in the system was increasing each year. In his own hospital, Mykola had managed to do some decorating, purchase new linens for the outpatient clinic, and provide new uniforms for his staff. Though he is ashamed to think of it now, there were times when patients had to come to the hospital with their own bed linens.

With inflation rates still high, financing the hospital was difficult. Last year the official inflation rate was 19%, although Mykola believed it was actually twice as high. Since almost 60% of hospital funds were spent for salaries, a percentage that increased every year, and another significant portion went for public utilities, very little remained to purchase medications.

The bit of money left over once these operating costs were covered went for urgent care procedures. But the budget only allotted 4 UAH per day for patient care. What can a doctor do for a patient with that kind of money?

Doctors certainly could not provide patients with free medications they way they used to. The doctors at Mykola’s hospital gave patients a list of the medications needed and then sent them to purchase them at the pharmacy. Patients had come to accept this process long ago and

they took it as a given; however, that didn't mean they could afford to buy the medications. It was no problem for those who had money, but what about the lonely pensioner who worked on the collective farm all his life and could hardly survive on his meager pension? Who would pay for his treatment? By law, he could not be refused treatment, but his inability to pay might mean that he received inferior care.

Mykola knew from his colleagues in other districts that a lack of funding for hospitals was a common problem, and many of them had addressed this issue by setting up small health insurance funds known as *likarnyana kasa*s. His friend in Kirovograd Oblast had set up a *likarnyana kasa* that had been working effectively for several years already; and in Zhytomir Oblast quite a number of them were functioning successfully. These systems worked by establishing a membership base of clients, each of whom paid a small amount—anywhere from five to 15 UAH a month—into a common fund. When a member of the *kasa* became ill and required hospitalization or medication, the *kasa* used the money it had collected to pay a part of the medical costs. The idea was quite simple—if everyone paid a small amount regularly when they were healthy, when they got sick, they wouldn't have to come up with a large sum of money all at once to pay for treatment. Mykola had been considering starting such a system in his district for a while now, but he was unsure where to start.

According to Ukrainian legislation, government agencies cannot establish *likarnyana kasa*s, but it is their duty to provide comprehensive assistance to the community.¹ Mykola had just been elected a People's Deputy to the District Council, so he was in the perfect position to mobilize the district government to get behind the idea of a *likarnyana kasa* and inform the public about the potential benefits of such a program. He started jotting down notes. He would have to make a report at a District Council meeting, publish a number of articles in the local newspaper, develop booklets and leaflets to address the concerns of the population, discuss the possibility of membership with directors of different enterprises, and then set up the relevant initiative group.

Mykola knew that the biggest obstacle he would face would be convincing people, especially the more affluent, to accept the concept of a *likarnyana kasa*. When these individuals could pay for their own treatment, it would be difficult to convince them to contribute to a fund for the good of everyone. Would he be able to get enough people involved in the prospective *likarnyana kasa* to be protected against the possible losses? How high should the *likarnyana kasa* membership fees be? He needed to strike a good balance, since membership would not be important to those who could pay for their own health care. So they might not want to join. However, Mykola needed to make sure that the membership fees were not too high for the more underprivileged. These were the people who could really benefit from the support of a *kasa*. Mykola would have to find a way and attract some sponsors and charity donations.

In order to strike this balance, Mykola thought, he would need to break the process into a few steps. Initially, he would have to focus primarily on the needs of the middle class in order to collect a stable insurance pool. He would need to make the services offered appealing to their needs. The cost of meeting these needs should not exceed 100 USD in annual fees, so that membership would remain affordable for the target audience. After the initial stage of attracting funding, it would be possible to use aggregated funding to help those who could not afford to pay much for health care. It is common in medical insurance systems to cover the health care needs of the sick or poor using money paid by healthy members.

It's almost dark outside and it's time for Mykola to go home. He was eager to get started. He thought it would be good to form a working group for the *kasa* and start working on an action plan. Mykola picked up the phone and started to make some phone calls.

¹ For more information about the laws that regulate *likarnyana kasa*s, see Appendices 1 and 2.

QUESTIONS FOR DISCUSSION:

1. How can Mykola begin to put his plan for a *likarnyana kasa* into action?
2. Which government entities does he need to appeal to and how should he do so?
3. Which parts of the legislation “On Citizens Associations” and “On Charities and Charitable Organizations” support the activities of *likarnyana kasa*? How would a *likarnyana kasa* operate differently under each of these laws?
4. How can Mykola advertise his idea of a *likarnyana kasa* so it appeals to the public? What concrete actions should he take?
5. Who are the stakeholders in this plan?
 - a. Will they support or oppose the plan? Why or why not?
 - b. What can Mykola do to get these stakeholders on board?
6. What operational issues need to be addressed?
7. How should Mykola monitor the success of his *likarnyana kasa*? What should he measure? What are possible sources for shaping the budget of the *likarnyana kasa*?

TEACHING NOTES:

Teaching Objectives:

1. Participants should understand how to attract additional sources of health care funding for their facilities.
2. Participants should understand how to provide social security for underprivileged populations by setting up public health insurance organizations (namely, a “*likarnyana kasa*”) under current legislation.

Based on the discussion, participants should come to the following conclusions:

1. The *likarnyana kasa* can be seen as a type of social security for the population and as an additional way to fund health care facilities;
2. *Likarnyana kasa*s use health insurance technologies: both employ similar schemes to bring in and disburse funds, identical principles of maintaining high quality standards in health care, and the goal of establishing and maintaining relations with health care facilities;
3. In a country like Ukraine, with chronic shortages of health care funding, *likarnyana kasa*s can set a precedent for mandatory health care and social insurance as well as provide a way for administrators to master the skills required to put such a scheme into practice;
4. Ukraine is in a good place economically, politically and socially for *likarnyana kasa*s to succeed;
5. *Likarnyana kasa*s can succeed, with broad involvement of the community and local governments (local councils, administrations.)

Action Plan

1. Set up a working group composed of public figures, representatives of local administrations, and health providers to establish the *likarnyana kasa*;

2. Establish the *likarnyana kasa* either as a public organization or as a charity operating according to one or both of the following laws, “On Citizens Associations” and “On Charity and Charitable Organizations;”
3. Draft bye-laws for the *likarnyana kasa*;
4. Prepare and hold a constitutive assembly aimed at setting up the *likarnyana kasa*. At the meeting, consider the following issues:
 - Alerting participants to the goal, objectives and perspectives of the *likarnyana kasa*’s activities;
 - Making the decision to set up a *likarnyana kasa*;
 - Approving its bye-laws;
 - Electing the *likarnyana kasa*’s Board, Assessment Committee and Supervision Council;
 - Considering and approving the internal structure of the *likarnyana kasa*;
 - Defining key activities;
 - Recommending that the *likarnyana kasa*’s Board set up a working group to develop a legal basis for its activities in accordance with its bye-laws;
5. Register the *likarnyana kasa* with the local District Council and its agencies.

Expected Results

1. Providing medication for inpatient and outpatient treatment of *likarnyana kasa* members;
2. Improving linkages between health care facilities and disease prevention facilities serving *likarnyana kasa* members ;
3. Achieving better health for *likarnyana kasa* members by distributing informational materials on disease prevention and healthy lifestyles;
4. Contributing to improved health care technology by purchasing up-to-date equipment and providing staff training.

ORGANIZATION AND OPERATION OF A *LIKARNYANA KASA*

By Viktor Paschenko

1. THE LEGISLATIVE BASIS FOR *LIKARNYANA KASAS*

Legal entities can be divided into two groups, for-profit and nonprofit organizations. This is based upon how they raise money and the extent to which they are independent of the property they own.

According to item 7.II.1 of the Law of Ukraine, “On Taxation of Enterprises’ Income,” non-profit organizations include:

- Ukrainian government entities at the central and local levels as well as their facilities and organizations operating with official budget funds;
- Charitable funds and organizations, including civil organizations set up to carry out environmental, health, cultural, educational and scientific activities; scientific associations; and political parties;
- Pension funds and credit associations;
- Legal entities other than those mentioned in paragraph “b,” whose activities are not aimed at producing a profit;
- Unions and housing cooperatives operating with members’ fees;
- Religious organizations.

The structure of a nonprofit organization can be seen in Table 1.

Charity and public organizations are the most relevant structures for the health care sector, as they can serve as additional sources of funding when budget funds are limited.

A citizens association is a voluntary civil organization established on the basis of shared interests in exercising rights and freedoms. Citizens associations can be public or political organizations.

A public organization is a citizens association established to protect social, economic, creative, age, national, cultural and other common interests. Public organizations in the health care sector include *likarnyana kasas* and target funds to provide support for health care facilities, general health and the health of veterans. Citizens associations and public organizations are regulated by the Law of Ukraine, “On Citizens Associations.”

Charitable activity is regulated by the Law of Ukraine, “On Charitable Activities and Organizations.” Charitable activities are voluntary and are not related to the provision of material, financial and organizational assistance. Charitable activity does not imply gaining profits and is carried out by non-governmental organizations (NGOs). Charitable activities promote the rule of law, humanitarian aid, the common interest, equal rights, the principle of glasnost, voluntary involvement and self-government.

Individuals, including the President of Ukraine, deputies, officials and clerks from various state authorities and self-governing bodies, as well as their family members, can be involved in

registered charitable organizations as long as their donations are within the limits of their declared income.

Likarnyana kasas can carry out their activities both according to the Law of Ukraine, “On Citizens Associations” and “On Charitable Activities and Organizations.” Most *likarnyana kasas* were established in compliance with the Law of Ukraine “On Citizens Associations” (59%), 28% were established in compliance with the law “On Charitable Activities and Organizations,” and about 13% were founded on the basis of both laws. *Likarnyana kasas* differ based on which law was followed in their founding (Table 16.1).

TABLE 1. DIFFERENCES IN THE STRUCTURE OF HEALTH CARE SERVICES PROVIDED BY A DISTRICT DOCTOR AND A FAMILY DOCTOR

Legislative Requirements	The Law “On Citizens Associations”	The Law “On Charitable Activities and Organizations”
1. Determination of Activities	Membership	Fund, membership, institution, mission
2. Object of Activities	Making provision for overall health improvement, disease prevention and health care services for members	Making provision for medical and social aid to persons in need; contributing to the development of the health care system
3. Funding Sources	Founders’ contributions, membership fees, charitable donations and other	Charitable donations, individual contributions, proceeds from fundraisers
4. Amount of Self-Financing Expenses	Not established by legislation	Must not exceed the estimated cost by 20%

The Law “On Citizens Associations” best reflects the *likarnyana kasa’s* activities as a membership organization. If the *likarnyana kasa’s* bye-laws contain references to both laws, then it can use the rights determined by both laws. However, it is subject to the limitations contained in at least one law in full.

A *likarnyana kasa* is a nongovernmental public membership organization that contributes to patients’ health care and protection of their rights. It is based on voluntary, personal contributions that fund additional health care services within the limits of the approved health care program.

Likarnyana kasas also use the following documents to regulate and determine their activities:

- **Basic Ukrainian legislation on health care** which stipulates, in Article 18, the possibility of obtaining health care financing from insurance and charity funds as well as other sources not prohibited by legislation;
- **The Law of Ukraine “On State Social Standards and State Social Guarantees”** which provides the possibility of controlling the scope and quality of health care services by public organizations;
- **The Law of Ukraine “On Protecting Consumers’ Rights”** which states that the patients’ rights must be protected to ensure that adequate information and safe services are provided;

- **Decree № 063/2000 of the President of Ukraine “On Additional Measures Aimed at Improving Health Care Services for the Ukrainian Population” dated 09.08.2000** which recommends increasing the presence of *likarnyana kasas*;
- **Decree № 1313/2000 of the President of Ukraine “On the Concept of the Development of Health Care Services for the Ukrainian Population” dated 12.07.2000** which addresses the development of the social collective sector of health care.

Likarnyana kasas use a health care insurance model for raising and disbursing funds, maintaining quality health care standards and maintaining health care facilities.

The activities of a *likarnyana kasas* are not limited to working with its members. In many cases, *likarnyana kasas* cooperate with other health care facilities on an ongoing basis to improve logistics, such as purchasing equipment, renovating facilities, etc.

The number of *likarnyana kasas* has increased considerably in recent years. In 1999, they existed in five oblasts. In 2002, 127 *likarnyana kasas* operated in district centers in 21 oblasts. Particularly notable are those in the City of Vosnesensk in Mykolayiv Oblast, in Kirovograd district and in Zhytomir Oblast.

Where health care financing is limited, *likarnyana kasas* can serve as a prototype for mandatory health insurance as well as a tool for mastering the skills required in implementing social insurance.

2. SETTING UP AND REGISTERING LIKARNYANA KASAS

Likarnyana kasas can be established as charitable membership organizations or public associations by citizens of Ukraine, foreign citizens or persons without citizenship who are at least 18 years of age (or at least 15 years of age in the case of youth and children’s organizations.) Government entities at the central or local level, state-operated and communal enterprises, and Ukrainian institutions and organizations financed with official budget funds cannot act as founders of charitable organizations.

All citizens over the age of 18 can become members of a *likarnyana kasa*. Families and groups can become members if stipulated in the *likarnyana kasa’s* bye-laws. In the case of family membership, parents pay for children under the age of 18 and for youth who are students. Enterprises, institutions and organizations can be collective members, regardless of the property they own. Organizations that are collective members can either completely or partially pay membership fees for their employees.

Official recognition of a citizens association is required and takes place when the organization registers with the Ministry of Justice, local executive authorities or the executive committees of rural and urban Councils of People’s Deputies in accordance with the Law of Ukraine entitled “Regulation on the order of legalization of citizens associations” approved by Decree № 140 of the Cabinet of Ministers dated 02.26.93. International public organizations must register with Ukraine’s Ministry of Justice. Any activity by an association that is not registered or that has been officially dissolved is against the law. Once it is registered, a citizens association becomes a legal entity. The entity that legalizes the citizens’ association alerts mass media to its registration.

State registration of charitable organizations follows the Law of Ukraine, “Regulations on the Order of State Registration of Charitable Organizations.” National and international organizations should be registered with the Ministry of Justice, while local and subsidiary organizations should be registered with the Ministry’s local bodies.

State registration of a charitable organization takes place in the Oblast State Administration, in the State Administrations of Kyiv or Sevastopol cities or with the government authorities of the Autonomous Republic of Crimea. Charitable organizations must pay a fee for state registration, which is set by the Cabinet of Ministers. This fee cannot exceed the minimum pre-tax income of 10 citizens. The following documents must be submitted to register a charitable organization with the State:

- An application from the founder or the founder's representative;
- The bye-laws (regulations);
- The Constituent Assembly's Protocol;
- Information on the founder(s) and administrative bodies of the organization;
- Information on the local branches of the organization;
- Documentation of receipt of the registration fees.

The bye-laws are the primary regulating document of a *likarnyana kasa*. The bye-laws dictate the following:

- The organization's legal name, status, form and location;
- The organization's objectives and key activities;
- The sources of financing, budget, means of accountability and control;
- The rights and duties of members and the membership process;
- Establishment of statutory bodies and local branches and their activities and authority;
- Mechanisms for amending the bye-laws;
- Mechanism for closing down the organization's activities, for dissolution and restructuring.

The bye-laws can also stipulate other regulations related to the establishment and functioning of a *likarnyana kasa*. The bye-laws are developed by the founders, adopted by the members at a general meeting and approved by the local Administration. The bye-laws cannot contradict Ukrainian legislation.

A charitable organization's application for State registration must be considered within two months after the required documents are submitted. The applicant is informed of the results within ten days after the decision is made.

The body that performs State registration can verify the information contained in the papers submitted. The decision of the State in granting or refusing registration is made based on the organization's application. Possible reasons for denial of registration may be a violation in the way the organization was established or a duplication of the organization's name. Denial of registration can be appealed in court.

Associations of legal entities are registered depending on their structure, in compliance with the Law of Ukraine "On Enterprises in Ukraine." Accordingly, only legal entities can be founders of associations.

After successfully completing State registration, nonprofit organizations must be registered with the statistical authorities, the Pension Fund, trade unions and Placement Services for the Population.

After becoming a legal entity, all nonprofit organizations must be recorded in the register of nonprofit organizations and institutions kept by the State Tax Administration of Ukraine. If the organization is not recorded as being nonprofit, the tax authorities will consider its activities profitable and will require the organization to submit reports for accountability.

3. MANAGEMENT OF *LIKARNYANA KASAS* AND SOURCES OF FUNDRAISING

The management body of a *likarnyana kasa* is a group convened at least once a year, at a time established by the board and publicized to all members. Delegates are elected according to *kasa* regulations. The management body works according to the bye-laws and can make decisions on any matters related to the *likarnyana kasa's* activities with a quorum of no less than two thirds of its members. This includes:

- Approving and amending the bye-laws;
- Electing members of the executive board or management body;
- Determining activities;
- Approving the program of activities;
- Approving regulations for the executive and control bodies and the elected delegates;
- Approving employee salaries;
- Establishing facilities, organizations and enterprises;
- Restructuring and dissolving the *kasa*;
- Other issues as stipulated in the *likarnyana kasa's* bye-laws.

The group's resolutions are recorded in the form of a protocol signed by the head and the secretary of the group.

The *likarnyana kasa's* executive body is the board, consisting of *kasa* members elected at the general meeting. One board member is elected by the group to be its head. The board's authority is defined in the bye-laws. Board meetings occur regularly, once or several times a month, depending on the scope of *kasa* activities. The board has the following responsibilities:

- Implementing the board's resolutions;
- Making arrangements for and convening board meetings;
- Preparing and presenting projects, programs and proposals for *kasa* activities;
- Approving annual workplans;
- Deciding membership matters, including membership fees;
- Approving the staffing schedule and salary decisions;
- Making effective use of the *likarnyana kasa's* property;
- Performing other functions as stipulated in the *likarnyana kasa's* bye-laws and its executive body.

Members of a *likarnyana kasa's* executive body are not paid for their work, except for the board's director. However, expenses incurred while performing duties as a member of the executive body can be reimbursed from *likarnyana kasa* funds, pursuant to a board resolution.

The administrative executive body of the *likarnyana kasa*, or the Board of Directors, is established to implement the *likarnyana kasa's* activities, in particular:

- Implementing programs to provide health care services for members (in ambulatories, inpatient facilities, at home, etc);
- Ensuring supplies of medication for members;
- Submitting economic and financial reports to the board for approval;
- Monitoring diagnoses and treatment of *kasa* members.

The employees of a *likarnyana kasa's* executive body are citizens who engage in its activities under a labor agreement. Employees of a *likarnyana kasa* fall under the jurisdiction of Ukrainian labor laws, social security and insurance.

A *likaryana kasa* is managed by a director who acts on its behalf and represents it in relations with State authorities, enterprises, institutions, organizations and citizens.

The director is responsible for financial activities, he/she opens bank accounts, employs and dismisses employees and issues orders, instructions and other directives within the scope of authority entrusted to him/her.

Depending on its scope of activities, a *likaryana kasa* can have the following work-groups:

1. An administrative group consisting of the director and his/her deputy (these positions are established if the *likaryana kasa* has more than 10,000 members);
2. A technical group, including a quality control and patients' right department and a group to make social and economic provisions to help members receive better health care;
3. A group responsible for financial and economic issues, including an accountant, a cashier and a pharmacist.

The *likaryana kasa's* audit committee arranges for checks and audits of the *kasa's* financial activities and submits its findings for consideration at a general meeting of members. If necessary, the audit committee can convene special meetings of the *likaryana kasa* board. The audit committee (consisting of at least three individuals) is elected by the *likaryana kasa's* members at general meetings.

The executive and control functions of a *likaryana kasa* are performed by a supervisory board, the structure of which is determined by the group. Members cannot belong to both the board of directors and the supervisory board. The supervisory board represents the interests of the *likaryana kasa* members between general meetings and within limits established by certain regulations. The supervisory board regulates the activities of the board of directors and the administrative executive board, including:

- Fulfilling resolutions made in general meetings;
- Implementing annual plans;
- Introducing proposals for improving activities;
- Ensuring efficient and targeted use of property and costs;
- Convening members when necessary;
- Exercising other forms of authority as granted by members in general meetings.

The structure of a *likaryana kasa's* management is shown in Fig. 1.

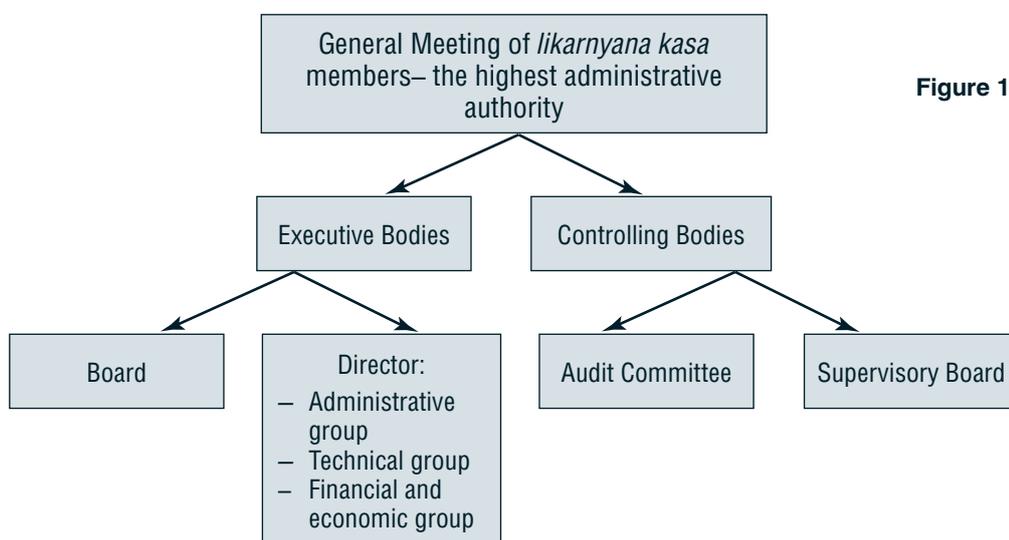


Figure 1. Management Structure of a *Likaryana Kasa*

4. TYPES OF *LIKARNYANA KASAS*

The activities of a *likarnyana kasa* can vary, while still supporting the goal and objectives of the statute and protecting patients' health and rights. Functions of *likarnyana kasas* include:

- Providing assistance to members in the form of medications and diagnostic procedures in inpatient and outpatient health facilities and emergency departments;
- Providing medications, equipment and instruments to health care facilities
- Financing disease prevention programs and introducing new treatment approaches based on domestic and foreign experience;
- Arranging training for health care providers, holding scientific seminars, publishing medical literature and forming partnerships with international organizations;
- Providing assistance to needy patients;
- Providing services or individual charitable activities;
- Making agreements to assist with charitable activities;
- Donating the use of property;
- Granting permission to use the *kasa's* name, emblem and symbols;
- Funding charitable activities;
- Protecting patients' rights and interests in order to provide them with quality health care services.

A *likarnyana kasa* agrees to cooperate with a health care facility in order to provide its members with quality health care services.

According to the agreement, the health care facility provides planned and emergency ambulatory, inpatient and outpatient health care services for the *likarnyana kasa's* members, while the *likarnyana kasa* provides financial assistance to cover expenses not covered by the facility's budget.

The *likarnyana kasa* and the health care facility jointly seek to improve health care services for *kasa* members by providing funds to cover costs not covered by the State or facility budget.

In most cases, this means that the *kasa* covers the cost of medications, dressings, medical instruments and other health care products as well as laboratory and other diagnostic procedures.

The Center for Medical Escort was established to provide organizational, legal and informational support for the services provided to members of a *likarnyana kasa*. The Center for Medical Escort aims to make arrangements for the members to interact with health care facilities, to assess the quality of services provided and to reimburse expenses incurred by the health care facility for providing services to members.

To fulfill its objectives, the Center for Medical Escort interacts with authorized representatives—expert doctors—from the *likarnyana kasas*. The doctors seek to ensure that members receive health care services in line with the latest standards. The *likarnyana kasa's* Escort doctor is assigned by the health care facility in question to engage in a contractual relationship with the *likarnyana kasa* or is appointed by the *likarnyana kasa's* management as an employee.

Likarnyana kasas develop and implement membership medical programs. Each of the approved health care programs involves all the elements of providing adequate medical aid. The *likarnyana kasa* provides financing to cover costs that are either not completely financed from the budget or are not financed at all.

In most cases, such programs include emergency services as well as ambulatory outpatient, inpatient and disease prevention services.

1. The “Emergency Aid Program” includes the following:
 - Providing rapid emergency health care services in patients’ homes;
 - Performing rapid diagnostics;
 - Hospitalization in specialized inpatient departments, including intensive care units;
 - Performing emergency surgery;
 - Providing the full scope of emergency care by qualified specialists on days off, holidays and after hours.
2. The “Outpatient Clinic Program” includes the following:
 - Providing primary health care services and identifying risk factors;
 - Conducting laboratory and other tests as needed;
 - Providing medications (in compliance with the approved list) for outpatient treatment;
 - Providing counseling from different specialties and, if needed, in other health care facilities.
3. The “Inpatient Clinic Program” includes the following:
 - Conducting laboratory and other diagnostics in compliance with the latest standards, providing counseling sessions by specialists;
 - Providing medications, dressings, health care products, food for special diets, etc;
 - Providing surgical treatment, anesthetics and making arrangements for postoperative care;
 - Providing treatment in intensive therapy and resuscitation wards.
4. The “Disease Prevention Program” includes the following:
 - Carrying out annual checkups for early identification of dangerous conditions, such as cardiovascular disease, respiratory disease, cancers, etc;
 - Taking preventive measures against chronic disease, colds and other seasonal viruses by means of medication, vitamins and immune modulators;
 - Supporting resuscitation and health promotion (in sanatoriums and health resorts) after treatment of acute and chronic diseases.
5. The “Family Doctor Program,” or ambulatory outpatient health care service, is the most complicated in terms of the Medical Escort service. Ideally, the function of a family doctor is combined with that of the *likaryana kasa’s* authorized doctor, since the family doctor is actively involved in treatment and seeks to provide health care services for the patient as needed.

In addition to these programs, the *likaryana kasa* can implement additional programs such as “Daytime Inpatient Care,” “Home Inpatient Care,” and “Treatment and Prevention of Serious and Incurable Diseases.”

To achieve the purposes in its bye-laws, the *likaryana kasa* has the right to do the following:

- To act according to civil law, to acquire ownership rights;
- To represent and protect its legal interests as well those of its members;
- To set up institutions, organizations, departments, branches and representative offices;

- To use its assets and property to establish commercial enterprises;
- To disseminate information to promote its ideas and goals;
- To work with mass media, to be engaged in publishing;
- To have emblems, which are subject to state registration.

A *likarnyana kasa* can derive income from the following sources:

- Membership fees;
- Charitable donations and grants;
- Proceeds from collecting donations, fundraising events and lotteries;
- Income from deposits and securities;
- Income from its enterprises.

Credit cannot be a funding source.

As a charitable organization, a *likarnyana kasa* must fulfill its statutory objectives and provide open access to accounts and documents about its economic and financial activities. Neither the founders nor the staff of a charitable organization have the right to material gain from their position in the organization, other than those stipulated by law. The proceeds received from a *likarnyana kasa's* enterprises and organizations must be devoted to financing charitable activities other than administrative expenses, which must not exceed 20% of the proceeds.

Likarnyana kasas are allowed to carry out activities that require a special license or certificate only after they have received the necessary license or certification.

5. PROVISION OF MEDICATIONS TO *LIKARNYANA KASA* MEMBERS

The *likarnyana kasa* pharmacy provides medications to members. The stock of medicines should reflect the needs of *likarnyana kasa* members. Medications are purchased in line with a special Oblast Health Department form which lists the most effective and cost-effective medications.

This form seeks to rationalize the medications used for treatment and disease prevention so as to improve the quality of treatment, standardize care and reduce costs. The form seeks to present the most effective medications, reflect the structure of disease and maximize the use of resources by highlighting the most effective and cost-effective medications.

Patients treated on an inpatient basis are provided with medication as follows:

1. Following the prescription in the patient record, the nurse prepares a request for medication for each patient and has it signed by the attending specialist;
2. If several *likarnyana kasa* members are in the same inpatient department, the request for medication is made on behalf of the department, including the needs of all the members, and is signed by the head doctor of the department;
3. All orders for medications and disposable supplies submitted by various departments of a health facility go to the *likarnyana kasa* doctor who prepares an order for the whole facility.
4. The consolidated orders from different facilities go to the *likarnyana kasa* where the in-house doctor and pharmacist review them to ensure that the orders comply with the official medication form;
5. The *likarnyana kasa* purchases medications from pharmaceutical companies according to the orders;

6. When the medications arrive at the *likaryana kasa*, they are delivered to health care facilities according to their orders. The medications and medical products are distributed to facilities as free medical aid according to a commission paper signed by the head of the facility and its accountant;
7. The medications and medical products are distributed to the departments according to the orders. Each department’s senior nurse keeps records of the medications received;
8. The medications are dispensed daily by the nurses on duty who are responsible for carrying out the doctors’ orders for medications; the medications dispensed are noted by the senior nurse.

It takes several days to process orders for medications. In the meantime, every facility has a small supply of medications available for emergency use. In an emergency, a request for medication is submitted to the *likaryana kasa* storeroom. Once the order is reviewed by the doctor on duty, the needed medications are obtained by the facility and registered.(Fig.2)

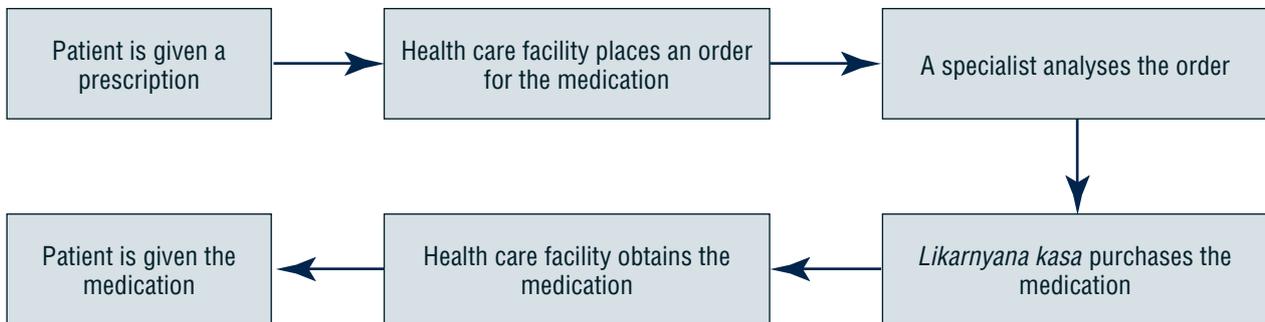


Figure 2. The process for providing *likaryana kasa* members with medications

Members of the *likaryana kasa* can receive their medications from the health facility’s pharmacist, after showing the medication request authorized by their doctor, the head of the department and the department specialist. After the patient receives his/her medication, the pharmacist makes a note of the cost on his/her card.

6. SETTING MEMBERSHIP FEES

Membership fees are the major and most reliable source of funding for *likaryana kasa*s. The fees must cover both the cost of treating members and the administrative expenses for operation of the *kasa*. Membership fees are set using the same actuarial calculations used in the insurance business. Membership fees are actually an insurance rate and are structured as follows (Fig. 3):

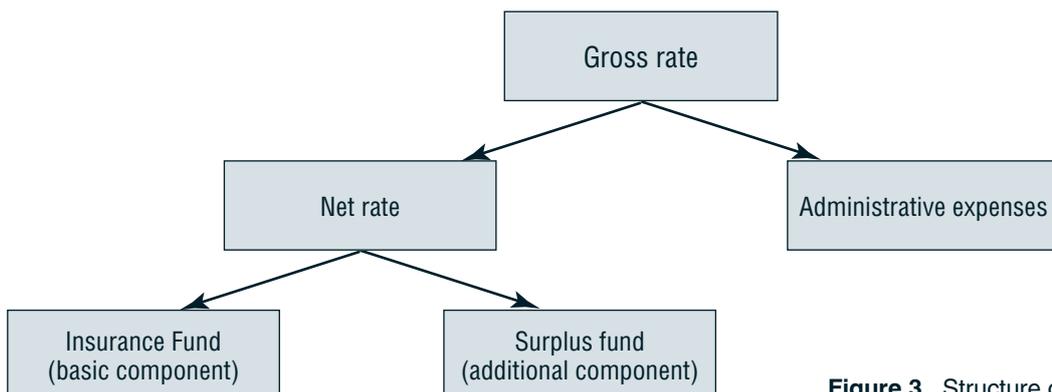


Figure 3. Structure of the insurance rate

The amount paid in membership fees depends on the program chosen by *likarnya kasa* members.

Calculating membership fees for treatment programs in inpatient facilities

Data included in the calculations are 1) statistics on hospital patients' disease profiles and 2) the cost of treatment. There are two steps in the calculations:

The first step involves setting the basic component of the gross rate

Let's assume that the general hospitalization rate is N per 1,000 thousand people in the general population, while the hospitalizations for specific conditions are m_1, m_2, \dots, m_n .

$$N = m_1 + m_2 + \dots + m_n$$

The cost of treatment for each condition is a_1, a_2, \dots, a_n .

The average cost of treatment is:

$$A_{CT} = \frac{a_1 \cdot m_1 + a_2 \cdot m_2 + \dots + a_n m_n}{N}$$

The annual expenses for one insured patient are calculated using the formula:

$$A_3 = \frac{A_{CT} N}{1000}$$

The sum of expenses for one insured patient must cover the cost of treatment in case the morbidity rate is the same as the mean morbidity rate, which is the basic component of the gross rate.

Example 1:

The general hospitalization rate is 200 per 1,000 persons in the general population and for three groups of conditions – gastroenterology, cardiology and pulmonology – it is 90, 70 and 40 per 1,000, respectively. The cost of medications for treating one case of each of these diseases is 300, 400 and 600 UAH, respectively. Let's determine the expenses for inpatient treatment of one insured patient.

The average cost of inpatient treatment for one insured patient is as follows:

$$A_3 = \frac{395 \cdot 200}{1000} = 79 \text{ UAH}$$

261 UAH is the annual basic component of the gross rate, ensuring that the cost of treatment will be compensated if the morbidity rate is 200 diseases per 1,000 persons in the general population. The annual sum should be divided by 12 to determine the monthly sum.

The second step involves determining the additional component of the gross rate

The additional component of the gross rate covers the cost of treatment if the hospitalization rate exceeds the mean hospitalization rate. It is set on the basis of the indicator for the mean-square morbidity deviation from the mean one (σ):

$$\sigma = \sqrt{\frac{\sum_{i=1}^n (N_i - \bar{N})^2}{n - 1}}$$

where σ is the mean-square deviation,

N_i is current morbidity values,

N is the mean morbidity rate.

The mean-square deviation indicates that the probability of the hospitalization rate staying within the limits of one sigma is 68%, within two sigmas – 95%; the probability of the hospitalization rate staying within the limits of three sigmas is 97.9%.

For insurance purposes, an interval of 3σ is sufficient. In this case, the probability of the morbidity rate staying within the limits of $N \pm 3\sigma$ is 0.979.

The expenses for one insured patient subject to morbidity fluctuations within the range of 3σ come to:

$$A_{max} = \frac{(N + 3\sigma) \times A_{CT}}{1000}$$

The additional component (the risk addition) A_p :

$$A_p = A_{max} - A_3$$

Example 2:

The hospitalization rate for seven periods, according to the table, is as follows:

Periods	Hospitalization rate	$N - \bar{N}$	$(N - \bar{N})^2$
1	192	8	64
2	215	15	225
3	193	7	49
4	185	15	225
5	208	8	64
6	200	0	0
7	207	7	49
Sum/mean	1,400/7 = 200	–	676

The mean-square deviation according to the formula 12.4 based on the data in the table is as follows:

$$\sigma = \sqrt{\frac{676}{7-1}} = 10,6$$

If, for insurance purposes, we take the 3σ interval, then, assuming a probability of 0.979, the morbidity rate will stay within the limits of $N \pm 3\sigma$ - i.e. $200 \pm 3 \times 10.6$. The maximum morbidity rate will be $200 + 31.8 = 231.8$.

With a maximum morbidity rate of 231.8 per 1,000 persons in the general population, the expenses for one insured patient for a one-year period will average:

$$A = \frac{395 \times 231.8}{1,000} = 91.6 \text{ UAH}$$

The risk addition:

$$A_p = 91.6 - 79.0 = 17.9 \text{ UAH}$$

The sum of the basic component – 79.0 UAH - and the risk addition - 17.9 UAH – yields a gross rate of 91.6 UAH.

The third step involves determining the administrative expenses

Determining administrative expenses requires estimating the expenses of operating the *likarnyana kasa* and calculating this as part of total revenue.

$$d = \frac{B}{S + B}$$

Where d is the share of the administrative expenses relative to total revenue

B is the sum of estimated administrative expenses.

S is the total of the membership fees to ensure the gross rate.

The administrative expenses arising from the sum of the insurance rate are as follows:

$$D = \frac{A_{max} \times d}{1 - d}$$

Example 3:

A *likarnyana kasa* has 5,100 members. The annual sum needed to cover the cost of treating its members, without the associated administrative expenses, comes to 467,160 UAH or 91.6 UAH per member. Operating the *likarnyana kasa* requires 60,000 UAH annually. Let's determine the sum of administrative expenses generated by the sum of the insurance rate.

The share of administrative expenses relative to total revenue is:

$$d = \frac{60,000}{467,160 + 60,000} = 0.114$$

The administrative expenses arising from the sum of the insurance rate come to:

$$D = \frac{91.6 \times 0.114}{1 - 0.114} = 11.8 \text{ UAN}$$

The full sum of the insurance rate for one *likarnyana kasa* member comes to:

$$C_r = A_{max} + D$$

In the example above:

$$C_r = 91.6 + 11.8 = 103.4 \text{ UAH}$$

According to the law on charity and charitable organizations, total administrative expenses for operating a *likarnyana kasa* cannot exceed 20% of total income. In reality, this share is generally no more than 10%. For example, the Kirovograd *likarnyana kasa* spends 89.6% of revenue on medications, with operating expenses constituting 10.4%. In the Komsomolsk *likarnyana kasa* in Poltava Oblast, operating expenses are just 8%.

The monthly membership fee for a *likarnyana kasa* member participating in the program mentioned above is:

$$103.4 : 12 = 8.6 \text{ UAH}$$

7. QUALITY CONTROL OF DIAGNOSIS AND TREATMENT OF *LIKARNYANA KASA* MEMBERS

Monitoring the diagnosis and treatment of *likarnyana kasa* members is an essential function of *likarnyana kasa*s. It has to be implemented in several areas:

- 1) Monitoring the diagnosis and treatment of patients' diseases;
- 2) Ensuring rational use of medications;
- 3) Controlling the cost of treatment.

The *Likarnyana Kasa*'s monitoring of patients' diagnosis and treatment is implemented on three levels:

Level I – The facility's authorized doctor (a specialist). He/she assesses a patient's diagnosis and treatment using an expert assessment card. The analysis is based on the patient's medical history in an inpatient facility (F. № 003-4/0) and on the prescriptions (F. № 003-2/0). Health care services are assessed in terms of their appropriateness for the patient's condition and conformity to accepted standards of care. The prescriptions and expert assessment cards from a facility are given to the *likarnyana kasa* on a monthly basis for review.

Level II – The *likarnyana kasa* specialist. Starting from the information provided by the health care facility specialist, the *likarnyana kasa* specialist analyses resource use relative to the facility's classification of diseases forms. This enables him/her to reach the following goals:

1. To compare the mean expenses for treating *likarnyana kasa* members in an inpatient facility, daycare facility and outpatient facility;
2. To compare average expenses for treatment in different health care facilities;
3. To determine the effectiveness of resource-use during a particular period of time;
4. To identify health care facilities whose indicators deviate significantly from the mean values and perform a more detailed analysis of these facilities;
5. To obtain information to guide future needs for medication;
6. To identify the most popular medications and make a list of them.

Level III – Head specialists of the local health administration conduct monitoring activities. A special Experts' Committee controls the process. It cooperates with the *likarnyana kasa* on a contractual basis and reviews studies undertaken at Level II of any significant deviations from the norm in medical care. The analysis is based on the facility's inpatient and outpatient case histories and the specialist's assessment card used for the diagnosis and treatment of a particular member of the *likarnyana kasa*.

8. CHARITABLE FUNDS IN HEALTH CARE

Charitable funds have begun to be widely used in health care, along with *likarnyana kasa*s. Like *likarnyana kasa*s, they are governed by the Law of Ukraine "On Charity and Charitable Organizations." However, unlike *likarnyana kasa*s, charitable funds are not membership organizations. This implies the following:

- 1) Without membership fees, funding comes from charitable donations from legal and physical entities, from supporters and sponsors;
- 2) The main goal of a charitable fund is to protect health by contributing to the development of a system of health care services and providing medical assistance to those who need it. (This contrasts with the main goal of *likarnyana kasa*s, which is to provide health care services for members.)

Founders of a charitable fund can be legal entities owning any type of property, citizens of Ukraine or other countries or persons without citizenship who are 18 years of age or older. Government entities, state-operated and communal enterprises, as well as organizations that receive budget funds may not participate in the establishment of a charitable fund.

Benefactors who have donated property, funds and other assets to a charitable organization are entitled to receive a report on the use of these assets, on request. If the assets were donated for a particular purpose, a summary of how they have been used must be given to the benefactor. The beneficiaries of charitable assistance must report on their use to the appropriate benefactors and charitable organizations.

Governmental oversight of charitable organizations comes under the purview of certain government bodies, in accordance with Ukrainian legislation. The entities responsible for the legalization of citizens associations ensure that the associations follow statutory requirements. Representatives of these bodies are entitled to attend events held by citizens associations and to demand certain documents or explanations. The public prosecutor's office oversees the implementation and enforcement of laws concerning citizens associations. Financial entities and the State Tax Inspectorate are responsible for monitoring citizens associations' sources of funds and the size of donations and proper tax payment, respectively.

The State protects the rights and interests of physical and legal entities involved in charitable activities covered by law.

There is a prohibition on interference by government bodies and their officials in a charity's activities, as well as on the interference of a charity in the activities of government bodies, except in cases specified under Ukrainian law.

9. TAXATION AND ACCOUNTABILITY OF NONPROFIT ORGANIZATIONS

Organizations can be engaged in both profit-making and nonprofit activities, except when the latter are prohibited by law. For example, political parties and credit associations cannot engage in commercial activities, except the sale of promotional materials and other products they produce, nor can they found enterprises other than mass media structures.

Pursuant to the regulations on accounting and accountability in Ukraine, enterprises or organizations engaged in several types of activities must establish separate accounting processes for different types of activities. Accounting and taxation of an enterprise's profit-making activities follow current law. The document that regulates nonprofit organizations is the Law of Ukraine "On Taxation of Enterprises' Income."

The income of a nonprofit organization generally consists of membership fees and donations – of both property and money - as well as passive income. The organization only has to ensure that proceeds are received and handled in accordance with existing legislation. If a nonprofit organization receives funds for goods, works or services unrelated to the organization's core agenda, those funds must either be returned or they are taxed as if they had been derived from entrepreneurial activity.

In contrast to a for-profit organization, whose expenses are considered gross or losses, or are covered at the expense of net gain, the expenses of a nonprofit organization are not subject to such strict regulation. However, their expenses must meet certain requirements. For example, they cannot go against existing legislation, they should be aimed at achieving the statutes' objectives and they need to be approved by the organization's management.

Prior to the start of each year, a nonprofit organization must estimate its income and expenses for the year. At the end of the year, the nonprofit organization's management must report results for the year to its founders.

The charitable organization should separate expenses into those directly related to its core activities and those spent on operating the organization. This division of expenses is required by the Law of Ukraine "On Charity and Charitable Organizations," which states that expenses incurred in operating a charitable organization should not exceed 20% of estimated expenditures.

A nonprofit organization has the right to hire workers, whose salaries are set by the organization's management, within the limits of their authority, and by the founders or supreme body of the organization. The organization must pay taxes on its employees' salaries. The organization's workers can work full-time or part-time as employees or they can work on a contractual basis. This has implications for taxes. The taxes due on payment for labor can be seen in Table 2, where the tax rate is presented as a percentage of the calculated fee.

TABLE 2. DEDUCTIONS TO DIFFERENT FUNDS FOR DIFFERENT FORMS OF LABOR RELATIONS

Relations	Deduction Rates for Different Funds			
	Pension Fund	Social Insurance Fund	Employment Fund	Accident Insurance Fund
Labor	32%	2.9%	1.9%	0.2%
Civil and labor	32%	–	–	–

Unless a nonprofit organization makes a profit outside of its main area of work, it does not pay any communal taxes.

Clearly, a nonprofit organization benefits if it hires workers on a contractual basis, since in this situation, the payments due on salaries and wages come to 32%—as opposed to 37% if the workers are members of staff or temporary hires.

Nonprofit organizations also pay income tax, at a rate of 30%, if their revenue for the first quarter of the year exceeds by 25% that of the last year, considering expenses incurred in the same quarter of the year using funds from the previous year. Thus, a nonprofit organization does not pay income tax on income exceeding total expenses of the previous fiscal year. If, during the first quarter of the year following the last fiscal year, the income received during the previous year has not been spent for the purposes envisaged by the program, then the organization compares the excess income from the first quarter with the average quarterly income of the last fiscal year. Any excess income is taxed at a rate of 30%.

Let's assume that in 2001 a charitable organization received income from funds or property in the amount of 10,000 UAH, including 4,500 UAH in financial assistance and voluntary donations, 4,000 UAH from its core activities (seminars and training courses) and 1,500 UAH in passive funds. According to the estimate for 2001, expenses totalled 6,500 UAH.

Five hundred UAH were spent in the first quarter of 2002 using 2001 income. Thus, 7,000 UAH were spent for targeted purposes by April 1, 2002, out of the 10,000 UAH—the gross income for 2001.

The average gross income for one quarter in 2001 was 2,500 UAH (10,000 · 0.25). Concurrently, 3,000 UAH was left from unused funds. Thus the surplus subject to taxation is:

$$3,000 - 2,500 = 500 \text{ UAH}$$

The income tax is calculated in the following manner:

$$500 \cdot 0.3 = 150 \text{ UAH}$$

Not all nonprofit organizations calculate taxed profit. Thus, according to the “Law on Profit” (i/i7.II.8) “the income of nonprofit organizations defined in paragraph ‘a’ of sub item 7.11.1, including the incomes of educational, scientific, cultural, and health care institutions as well as those of budget-financed archive institutions, are included in the estimates for operation of these nonprofit organizations and are used exclusively in compliance with these estimates.”

10. THE SYSTEM OF GRANTING AND ACCOUNTING FOR CHARITABLE DONATIONS TO HEALTH CARE FACILITIES

Health care facilities that operate with funds from city and district budgets, that are not profit-making and that are registered as nonprofit organizations are entitled to receive charitable donations from legal and physical entities for costs related to operation. These donations are regulated by the Ukrainian Constitution and the laws of Ukraine, decrees of the Cabinet of Ministers of Ukraine and other legislative acts:

1. The Ukrainian Constitution (Art. 49).
2. № 531/97 – VR Law of Ukraine “On Charity and Charitable Organizations” dated 09.16.1997.
3. № 283/97 – VR Law of Ukraine “On Taxation of Enterprises’ Income” dated 22.05.1997 with amendments and addenda .
4. № 168/97 – VR, (i.5.1.21) Law of Ukraine “On Value Added Tax” dated 04.03.1997
5. № 21 Instruction “The System of Cash Transactions in Ukrainian National Currency” approved by the Board of the National Bank of Ukraine on 2.02.1995 with amendments and supplements.
6. № 63 Instruction “On the Procedure for the Use and Accountability of Extra-budgetary Costs of Budgetary Organizations and their Accountability” approved by the Order of the Central Administration of the State Treasury of Ukraine (i.4) dated 08.11.1998 after considering № 114 Order of the Central Administration of the State Treasury of Ukraine “On Putting into Operation a New Plan for Calculations related to Budgeting, Accounting, and the Procedure of their Implementation” dated 12.10.1999.
7. № 7 Instruction “On Cashless Calculations in Ukraine’s Economic Accounting” approved by № 204. Decree by the Board of the National Bank of Ukraine, dated 02.08.1996.
8. № 84/2000 Decree of the President of Ukraine “On Advancement of Charitable Activities in Ukraine” dated 02.12.2000.

Charitable donations include costs, services, works or property donated free of charge or as non-repayable financial assistance or charitable donations from physical or legal persons. Freely donated goods, works, services mean the following:

- Tangible or intangible assets provided without agreements or in compliance with agreements on donations, or in accordance with other agreements concerning non-reimbursement of the cost of donated goods or return of the goods;
- Work or services provided without a requirement for payment.

It is extremely important to properly register benefactors' donations. To avoid problems with taxes and the authorities, pay-in slips should include the definition of "voluntary donations" or "non-repayable financial aid." This wording ensures that such income is tax-exempt.

The purpose of charitable donations is to advance the development of health care, to provide health care service to meet the needs of the population, as well as to provide for the sick, the lonely, the elderly and other people who, due to their physical or material condition, require social support and care.

A health care facility that receives charitable donations in the form of non-cash transfers or non-repayable financial assistance from legal and physical entities should include these in the estimate of the special fund (in the account for "commissioned sums") and use it exclusively for financing estimated costs (those including financing economic activities). A current account for "commissioned sums" is opened in an authorized bank to provide services for the health care facility on the basis of the legal normative acts defined by the National Bank of Ukraine and with permission of the State Treasury

Non-cash funds are transferred to a settlement account with a written application that serves as an expression of a physical or legal entity's wish to make a donation. Together with the receipt that confirms the transfer of funds, the health care facility can also issue a certificate to the benefactor, indicating the receipt and targeted use of the donation.

Donations in the form of services, work, and property must be documented by an act on the provision of charitable donations signed by the person making the donation and also by the chief accountant of the facility that receives the donation. The value of the services and work is estimated from national price lists. The property received or services rendered are put on the health care facility's balance sheet in general terms. Income received in this manner is tax-exempt.

Commercial entities that provide charitable donations receive benefits in line with the Law of Ukraine on profit (i. 5.2.2): funds spent on charity are included in gross expenditures and are tax-exempt; however, they can constitute no more than 4% of the amount of taxed profit.

GLOSSARY OF TERMS

Audit – a systematic, independent and documented process of obtaining audit evidence and their objective evaluation to determine the extent to which audit criteria are met.

Economic entities – participants of economic relations which are independently performing economic activities, have a separate property and are responsible for their obligations within that property, except as provided by law.

Enterprise - an independent economic entity established and registered in accordance with the law on economic activity to meet social needs in goods (products and services) and to obtain profit.

Private enterprise - a legal form of enterprise created on the basis of individual property. Often property and property management are not separated in a private enterprise - the owner of the enterprise is often simultaneously an entrepreneur who is directly involved in business administration.

Collective enterprise - a legal form of enterprise based on collective ownership.

Commercial company - a venture established by combining funds and assets of individuals and/or legal entities to conduct business for profit.

Public enterprise - an enterprise, based on the property of a given territorial community, particularly the property of a rayon, city or oblast.

State enterprise - an enterprise that operates on the basis of a state property.

Joint venture - organizational form of enterprise, established under the laws of Ukraine on the basis of combining different forms of property ownership (the so-called mixed form of ownership).

Joint stock company - is based on a memorandum of incorporation and the statute of a commercial company, which has a charter capital divided into a fixed number of shares with an equal nominal value, and is liable for its obligations only with the property of the company and each member within the value of his shares. The definition shows the particular features of a joint stock company as a legal entity.

Legal entity - an economic entity with a separate property on its balance, a bank account, a stamp with the entity's name and is liable for its obligations by all assets of its balance sheet.

The right of economic competence - the right of an economic entity to use, own and dispose of property assigned to it by its owner (authorized body) is empowered with restrictions to manage certain types of property with the owner's consent, according to the Commercial Code and other laws.

The right of operational management – the ownership right of an economic entity that owns, uses and disposes property assigned to it by the owner (authorized body) for for-profit business, within the limits set by the Commercial Code and other laws, and the owner of the property (authorized body).

Civil societies - voluntary public formation, created on the basis of unity of common interests of citizens with the aim to exercise their rights and freedoms. Civil societies, regardless of their name (movement, congress, foundation, association) can be a public or political organization.

Likarnyana kasa - is a nongovernmental public membership organization that contributes to patients' health care and protection of their rights. It is based on voluntary, personal contributions that fund additional health care services within the limits of the approved health care program.

The property right - the main material right in economic activity. An economic entity that carries out economic activities on the basis of property rights, on its discretion, solely or jointly with other entities own, uses and disposes of its (their) property, including their right to pass their property to other entities to use it based on the property right, the right of economic competence or the right of operational management, or through other forms of legal property regime under the Commercial Code.

Non-profit entity - independent systematic economic activity undertaken by business entities to achieve economic, social and other outcomes without the purpose of obtaining profit.

Health care facilities - companies, facilities and organizations, tasked with covering the various health care needs of a population by providing health care services.

State (public) health care facility, organization – non-profit entity, economic entity financed from the state (local) budget, whose mission is to provide health care services to the population.

Charity – voluntary self-denying donations of individuals and legal entities by providing the recipients with material, financial or other charitable aid.

Statute - the main document regulating the economic activities of an entity. Contains information about the purpose and subject of activity, amount and order of formation of the statutory and other funds, the order of distribution of gains and losses, the management and control bodies, their competence, as well as other information associated with the features of the organizational form of an entity, provided by the legislation.

AUTHORS INFORMATION

- Bossert T.** Ph.D., Director of International Health Systems Program, Harvard School of Public Health (USA)
- Voronenko Y.V.** Doctor of Medical Science, Professor, Corresponding Member of the Academy of Medical Sciences of Ukraine, Honored Scientist of Ukraine, Head of the Department of Health Care Management, the Rector of the P.L. Shupyk NMAPE.
- Goyda N.G.** Doctor of Medical Sciences, Professor of the Department of Health Care Management, Vice-rector on clinical work of the P. L. Shupyk NMAPE.
- Krasnov V.V.** Candidate of Educational Science, Associate Professor of the Department of Medical Informatics, P. L. Shupyk NMAPE.
- Criswell R.** 2007-2008 Fulbright Academic Exchange Program Graduate Student (USA), “Together for Health” Project Consultant
- Minzer, O.P.** Doctor of Medical Sciences, Professor, Professor, Honored Scientist of Ukraine, Head of the Department of Medical Informatics P. L. Shupyk NMAPE.
- Mitchell, M.** MD, Professor of the Department of Global Health and Population, School of Public Health Harvard University (USA).
- Moiseenko R.O.** Candidate of Medical Science, Director of the Department of Mother and Child Health and Sanatoria Provision Ministry of Health of Ukraine
- Onyshko Y.V.** Candidate of Medical Science, Associate Professor of the Department of Health Care Management, P. L. Shupyk NMAPE.
- Oshovskiy V.I.** Programs for Applied Technology in Health (PATH) Consultant
- Paschenko V.M.** Candidate of Medical Science, Associate Professor of the Department of Health Care Management, P. L. Shupyk NMAPE.
- Ryan L.** Academy of Educational Development (AED) Expert (USA).
- Stan L.** MD, MPH, “Together for Health” Project Director (since 2009).
- Chaliy K.O.** Doctor of Physical and Mathematical Science, Ph.D. in engineering, Professor of the Department of Medical Informatics, P. L. Shupyk NMAPE.