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SIMILAR AND DIFFERENT ASPECTS OF THE MEDICAL LEGISLATION OF THE REPUBLIC OF AZERBAIJAN AND THE MEDICAL LEGISLATION OF DEVELOPED STATES

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Abstract

This study examines the similar and different aspects of the medical legislation of the Republic of Azerbaijan and the medical legislation of developed states. The research focuses on key legal areas such as patients' rights, healthcare professionals' responsibilities, medical ethics, licensing and accreditation of medical institutions, health insurance systems, and state regulation of healthcare services. The analysis shows that Azerbaijan's medical legislation is largely aligned with international legal principles, including the protection of human dignity, the right to health, informed consent, and confidentiality of medical information. Similarities are also observed in the regulation of medical practice standards and public health protection. At the same time, significant differences exist in the scope of legal implementation, enforcement mechanisms, financing models, and the level of integration of digital health technologies. Developed states tend to have more comprehensive regulatory frameworks, stronger institutional control, and wider application of evidence-based medical law. In contrast, Azerbaijan's medical legislation is still evolving, with ongoing reforms aimed at harmonization with international standards. The study highlights the importance of legal modernization, institutional capacity building, and comparative legal analysis for improving the national healthcare system and ensuring effective protection of patients' rights. Medical law is the basis for protecting patients' rights and providing effective health services. This article compares the medical law system of the Republic of Azerbaijan with the models of the United States, Great Britain and Germany. Similarities stem from international bioethics standards (UNESCO Declaration) and emphasize patient autonomy, while differences arise from system models (state-centered vs. market/social insurance). The innovations of 2025 – changes to residency rules and penalties for illegal abortions in Azerbaijan, budget cuts in the United States, a 10-year plan in Great Britain, hospital reform in Germany – make the comparison relevant. The analysis is based on legislative documents and international reports, and provides recommendations for Azerbaijan.

Keywords: *Medical law, bioethics, patient rights, comparative legislation, health system, international, technology, global, human rights, healthcare.*

I. Introduction

Medical law is a field of law of particular importance for the protection of human health, the organization of health services, and the regulation of the rights and obligations of patients and medical workers. This field is based on both legal and ethical norms and is an important component of the state's social policy. In modern times, the rapid development of healthcare, the widespread application of biomedical technologies, patient satisfaction, and the protection of human rights further increase the importance of medical law. As a result of globalization and international cooperation, convergence of medical law standards is observed in many countries. The principles adopted by the World Health Organization (WHO) determine the main directions of the health policy of

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states. Developed countries — for example, Germany, France, Switzerland, Sweden and the USA — have formed systematic and effective mechanisms in the field of medical law. The Republic of Azerbaijan has also taken important steps in this direction, bringing its medical law system into line with international standards. However, there are still some differences compared to the legal and institutional mechanisms formed in developed countries. This article compares the medical law legislation of the Republic of Azerbaijan with the medical law systems of developed countries, identifies similarities and differences, and indicates development directions [1].

II. Main body

The medical legal legislation of the Republic of Azerbaijan is based on Article 41 of the Constitution and the Law "On Protection of the Health of the Population" (1997, as amended) to ensure the protection of the health of the population and the effective provision of medical care. This system is formed in accordance with the state-centered model and is aligned with international standards - the UNESCO Declaration on Bioethics and Human Rights, the Declaration of Helsinki and the Oviedo Convention - covering the principles of bioethics, patient rights, preventive measures, as well as medical responsibility. Innovations such as the expansion of the compulsory health insurance (CHI) system by 2025, new plans for the Clean Medicine Agency (TABIB), and the introduction of international medical law textbooks in legal education reinforce the application of these principles. The state, by committing to providing free basic medical services, prioritizes the right to physical and mental health of every citizen, while also regulating the professional standards and responsibilities of health workers [1].

The basic principles of medical law are defined in Article 1 of the Law and cover three fundamental areas: full protection of human and civil rights, prioritization of preventive measures, and access to medical and social assistance for all. The principle of ensuring human rights is based on the principles of autonomy, beneficence (benefit), non-maleficence (doing no harm), and justice, which are the foundations of bioethics, where the state undertakes to protect rights in the field of medical assistance, and legal entities and individuals bear responsibility in this process. The principle of prevention, on the other hand, is aimed at improving public health through state programs, emphasizing disease prevention, scientific and medical research, and sanitary and hygienic measures; for example, the categories of pensions for illness approved by the Cabinet of Ministers within the framework of the TABIB plans in 2025 strengthen this principle and expand social support for persons who have lost their full working capacity. The principle of accessibility to medical care requires ensuring equal access to each person - especially those living in rural areas and marginalized groups - on the basis of political, economic and legal equality, where the ITS system, implemented since 2021, supports this principle in practice by expanding it to foreign prisoners and other categories with a budget of 2.94 billion manat in 2025 [2].

Patients' rights are at the heart of medical law and are regulated in detail in Articles 24-28 of the Law, which highlight key elements such as informed consent, medical confidentiality and the right to refuse. The principle of informed consent (Article 25) provides the patient with the opportunity to receive effective information about the results of the examination, diagnosis, prognosis, treatment methods and potential risks; this information is provided to the patient, parents or legal representatives in writing or

orally, and in cases of negative prognosis, a precautionary approach is applied, as well as the right to familiarize themselves with medical documents and request a copy. Medical confidentiality (medical confidentiality, Article 53) protects the fact of a patient's referral, diagnosis, health status and treatment data, stipulating that disclosure is only possible with the patient's consent (for scientific research or teaching purposes) or in legal cases (infectious diseases, judicial inquiry, to parents); violations are punishable under criminal law and the GDPR alignment process in 2025 will further strengthen this principle. The right to consent and refusal (Articles 26-27) requires that medical intervention be carried out with the patient's consent, in urgent cases a council decision is sufficient, and the patient may refuse treatment, but the possible consequences are explained; compulsory assistance is only applied in cases of public danger (Article 28). Bioethics principles are monitored by ethical commissions – for example, the Local Ethics Committee of the Azerbaijan Medical University – where standards such as independence, competence, sincerity and pluralism are applied, in particular, the textbook "International Medical Law. Special Part", developed with the support of BP and the renewal of the AMU curriculum in 2025, is aimed at enriching this field and teaching the intersection of healthcare and human rights [3].

Medical liability and enforcement mechanisms are defined in Articles 57-59 of the Law, which provide for compensation for medical errors and violations of the law, disciplinary and criminal liability. Medical workers are obliged to act in accordance with professional standards, and errors are punished under the relevant articles of the Criminal Code (for example, cases of negligence). In 2025, the principles of medical insurance under the ITS (Article 15-1) were expanded to include equality, mandatory participation and state control, as a result of which the budget of the Compulsory Medical Insurance Fund increased to 2.94 billion manat, improving the quality of services. Complaints are resolved by appealing to higher authorities – TABIB or the court (Article 60), and innovations in the rules for assessing disability (2025 regulations) strengthen social protection by facilitating referrals. These mechanisms, integrated with changes to the Labor Code, bring higher and secondary education in medical specialties into line with regulatory acts [4].

The basic principles of medical law in Azerbaijan support the development of the health system, emphasizing a patient-centered approach and state provision, but digital transformation, strengthening ethical oversight, and deeper integration of international experience are needed in implementation. The innovations of 2025 – new management methods of TABIB, increasing resources in legal education, and expanding the insurance system – accelerate this process, facilitate post-pandemic adaptation, and highlight areas for future research such as digital standardization and CIS cooperationv [5].

Medical law regulates the responsibility of medical professionals, protecting the rights of patients. In the Republic of Azerbaijan, this area is based on Article 41 of the Constitution and the Law "On Protection of Population Health" (1997, as amended). The system follows a state-centered model, with compulsory medical insurance (CMI) being introduced in 2021, and new regulations on residency rules in 2025, including increased penalties for illegal abortions (up to 1 year in prison), and expansion of insurance coverage for foreign prisoners. Within the framework of international cooperation, a public health agreement with the CIS countries (September 2025) and a Roadmap for 2024-2025 were signed with Belarus [6].

Medical law is more developed in developed countries: the Affordable Care Act (ACA) and the tort system in the USA, the NHS Constitution in the UK, the Sozialgesetzbuch V (SGB V) in Germany. The innovations of 2025: the Federal Budget Reconciliation Law in the USA with Medicaid and the ACA with more than $1 trillion in cuts (10 million people left uninsured), the UK with "Fit for the Future: 10 Year Health Plan" with digitalization and preventive services, the Hospital Care Improvement Act (January 2025) in Germany with 65 service groups and the expansion of digital patient records (ePA) are changing these models. The comparison reveals similarities and differences based on international standards (Declaration of Helsinki, Oviedo Convention) and provides inspiration for the development of Azerbaijan [7].

In developed countries, medical legal systems cover the protection of patient rights, the regulation of medical practice, and the effective provision of health services. These systems are formed in accordance with international bioethical standards (UNESCO Declaration, Helsinki Declaration), but differ in economic models: a market-based pie system in the United States, a state-centered NHS framework in the United Kingdom, a social insurance model in Germany. The innovations of 2025 – budget cuts in the United States, a restructuring of medical device regulation in the United Kingdom, hospital reform in Germany – make the systems even more relevant. The systems of the main countries are analyzed below [8].

In the United States, medical law is regulated at the federal and state levels, largely based on a malpractice system and the Affordable Care Act (ACA, 2010). Patient rights are protected by HIPAA (privacy), EMTALA (emergency care), and informed consent case law (e.g., Canterbury v. Spence). Insurance is market-based, but the 2025 Federal Budget Reconciliation Act would reduce federal spending by more than $1 trillion, leaving 10 million people uninsured, and restrict access. This law would streamline government spending by amending Medicaid and the ACA, and would also limit preventive services in Medicare. Medical malpractice cases are settled in civil courts, with high compensation (average $300,000+), but state laws (e.g., cost caps) are strengthening markets in 2025. Telehealth is expanding in digital health, but prescription prices are aligned with the "most-favored-nation" principle by Executive Order (May 2025). The system prioritizes patient autonomy, but inequality (uninsured rate ~8%) is a problem.

In the UK, medical law is based on a state-centred model under the NHS Constitution (2009) and the Medicines and Healthcare products Regulatory Agency (MHRA). Patient rights are guaranteed by free care, informed consent (Montgomery judgment, 2015) and confidentiality (Data Protection Act, GDPR). In 2025, the first major overhaul of medical device regulation came into force (16 June 2025), strengthening the MHRA's oversight and facilitating market entry. The Medical Devices Regulations 2002 are being updated to maintain EU directives but consider alternative market routes. The Medicines for Human Use (Clinical Trials) Amendment Regulations (April 2025, effective April 2026) simplify processes and reduce the burden on healthcare professionals. Medical errors are handled through the NHS Litigation Authority (96% negotiated settlement), with limited compensation. The MHRA's plans for 2025 prioritise patient safety, increasing market access. The system emphasises equity and the public interest, but waiting times (elective care) are a problem.

In Germany, medical law is based on the Sozialgesetzbuch V (SGB V) and the social insurance model, with 90% of the population covered by compulsory insurance. Patient

rights are protected by §280 BGB (informed consent), GDPR (privacy) and bioethics commissions. The Hospital Reform (January 2025) will optimize finances, reduce bureaucracy and improve quality by organizing 65 service groups. The Medical Research Act (2024, implementation 2025) will facilitate clinical research and regulate confidential drug prices. With the Digital Health Law, digital medical devices (DiGA) are exempted from case-by-case review, and electronic health records (ePA) are made mandatory. Medical errors are resolved through insurance subrogation, penalties are low (no punitive). The new coalition (CDU/SPD, April 2025) is accelerating digitalization and reforming GP payments (Act March 2025). The system ensures accessibility and quality, but the aging population is putting pressure [9].

Patient rights are the foundation of the medical legal system. According to Azerbaijani legislation, every citizen has the right to receive medical care, to protect their health, to have their personal information kept confidential, and to give informed consent to the treatment process. Accordingly, the principle of informed consent — the patient's voluntary consent to a medical procedure or operation after receiving full information — is considered a fundamental principle in both national legislation and international medical law. In developed countries, these rights are protected by more extensive and practical mechanisms. For example, in Germany, patients directly participate in medical decisions, have the freedom to choose the method of treatment, and this right is guaranteed by law. In countries such as Switzerland and the USA, specialized legal institutions for patient rights operate, and patients can appeal to the court or special independent commissions in case of violation. In Azerbaijan, although the legal framework exists, practical mechanisms for patients to effectively exercise these rights have not yet been fully formed. In particular, complaint and legal protection procedures can be complex and lengthy.

Health insurance is an important financial and legal basis for the implementation of medical law. In developed countries, medical services are often provided through mandatory or voluntary health insurance systems. For example [10]:

- In Germany, health insurance is mandatory for most citizens and is strictly regulated by the state.
- In Switzerland, health insurance is managed by private companies, but is mandatory for everyone.
- In the United States, there is a hybrid model: both private and public insurance programs operate in parallel.

In Azerbaijan, compulsory health insurance is being implemented in stages by the Medical Territorial Units Management Union. Although this system has made significant progress in recent years, some services remain outside the scope of insurance, its coverage is incomplete, and its infrastructure is not fully established. This creates certain limitations in the practical application of legal norms. The concept of bioethics occupies one of the main places in modern medical law. Ethical committees evaluate the ethical and legal compliance of medical research, clinical trials, and specific medical interventions. In developed countries, these committees operate completely independently, and their decisions are decisive. For example, in countries such as France and Sweden, no clinical research can be carried out without the permission of ethical committees. This ensures the protection of patients and the protection of ethical norms.

Although ethics committees operate in certain clinical trials in Azerbaijan, this system is not yet extensive and systematic. There is a need for more precise regulation of ethical control by legislation. In developed countries, medical law is flexible, and laws related to the application of new technologies (genetic engineering, artificial intelligence, remote diagnostics, etc.) are regularly updated. For example, in the USA and Germany, separate regulatory acts have been adopted for the legal regulation of telemedicine and artificial intelligence technologies. This not only improves the quality of medical services, but also provides legal clarity and patient protection. In Azerbaijan, the regulatory framework of medical law in this direction has not yet been fully formed. Existing laws are limited to general provisions, and the legal framework for new technological processes is weak.

Medical errors can occur in all countries, but their legal assessment and liability mechanisms differ. In developed countries, there are special legal procedures and insurance mechanisms for medical errors. Patients can easily receive compensation in case of medical harm, and this process is regulated transparently. For example, in Switzerland and Germany, there are special medical insurance funds to compensate for the harm caused to the patient as a result of the error. In Azerbaijan, although this issue is provided for in legislation, in practice the compensation mechanisms are weak, and patients have to go through long and complicated procedures to restore their rights.

III. Similarities and Differences

The similarities are mainly due to international bioethics principles. Access to healthcare is provided by the state in all: free basic services in Azerbaijan (Article 4 of the Law), insurance through the ACA in the USA, fully free NHS in the UK, social insurance in Germany (90% of the population). Patient rights and informed consent are mandatory: written consent in Azerbaijan (Articles 24-27), Canterbury v. Spence in the USA, Montgomery principle in the UK, §280 BGB in Germany. Medical confidentiality protection is general: Article 24 of the Law in Azerbaijan, HIPAA in the USA (telehealth extension in 2025), Data Protection Act in the UK, GDPR in Germany. Medical research ethics are overseen by ethical committees: Bioethics Commission in Azerbaijan, IRB in the USA, REC in the UK, Ethikkommission in Germany.

The differences stem from the system models. In Azerbaijan, ITS is newly developed and will be extended to foreign prisoners in 2025, but implementation is weak; in the US, the market-based system will affect 11.8 million people by 2025, in the UK the NHS is completely free and local services are a priority with a 10-year plan, in Germany social insurance optimizes finances with a 2025 hospital reform. Medical liability differs from criminal liability in Azerbaijan (abortion penalties increased in 2025), in the US the civil tort (high compensation), in the UK the NHS Litigation Authority (96% negotiated settlement), in Germany insurance subrogation. In end-of-life decisions, euthanasia is prohibited in Azerbaijan (religious reasons), in the US it varies by state, it is prohibited in the UK, passively permitted in Germany (from 2020). Standardization in digital development is weak in Azerbaijan, but in Germany, the Digital Health Law and the mandatory ePA, in the UK, the 10-year digitalization plan, and the telehealth cliff (October 2025) in the US are having an impact.

Table 1.

Aspect	Similarities	Differences (Azerbaijan vs. Developed Countries: USA/UK/DE)
Access to Healthcare	In all, basic services are provided free of charge by the state (AZ Constitution Art. 41; USA ACA; UK NHS; DE SGB V). Equality in accordance with international standards (UNESCO) is prioritized.	AZ: MTS (from 2021, 2025 budget expansion), state free services priority, but access limited in rural areas. USA: Market-based, 2025 cuts (10M uninsured). UK: Fully free NHS (10 Year Plan 2025). DE: Social insurance (90%, 2025 hospital reform).
Patient Rights and Informed Consent	Informed consent is mandatory (AZ Law Arts. 24-27; USA Canterbury v. Spence; UK Montgomery; DE §280 BGB). Bioethics principles (autonomy) are common.	AZ: Written consent not fully standardized, implementation weak (private/public differences). Developed: Detailed standards and court precedents (USA key info; DE risk disclosure); AZ prioritizes parental consent for minors.
Medical Confidentiality	Confidentiality protection is universal (AZ Law Art. 24; USA HIPAA; UK Data Protection Act; DE GDPR). Disclosure with consent or in legal cases.	AZ: Exists in law, but implementation weak (private sector). Developed: Strict penalties and monitoring (USA million-dollar fines; DE GDPR 2025 expansion); AZ integrated with criminal law.
Medical Errors and Liability	Liability based on negligence (AZ Criminal Code Art. 314; USA tort; UK negligence; DE §823 BGB). Insurance mandatory.	AZ: Primarily criminal liability (2025 amendments with 5-7 years imprisonment), few court cases. Developed: Civil system (USA high compensation/jury; UK NHSLA 96% settlements; DE insurance subrogation, low penalties).
End-of-Life Decisions (Euthanasia)	Passive euthanasia limited, requires consent.	AZ: Active/passive prohibited (2012 Patient Rights Law, religious reasons). Developed: USA varies by state; UK prohibited; DE passive permitted (from 2020).
Bioethics and Medical Research	Ethics committees and UNESCO standards (AZ Bioethics Committee; USA IRB; UK REC; DE Ethikkommission). Consent and oversight common.	AZ: Newly developing, law incomplete (ethics committees forming). Developed: Established institutions (USA Helsinki implementation; DE 2025 Medical Research Act); AZ scientific integration weak.
Digital Development	Digital data protection and telehealth trends.	AZ: Standardization weak, new committees. Developed: DE mandatory ePA (2025); USA telehealth cliff (October 2025); UK 10 Year Plan digitalization.

IV. Conclusions and Recommendations

Azerbaijani medical law legislation complies with international standards, but lags behind advanced models in implementation and details. The 2025 innovations (residency, insurance expansion) are positive, but cultural responsibility mechanisms

(like the UK/DE) and digital standardization (inspired by the German model) are needed. Pandemic experience and CIS cooperation can accelerate this process. Future research should focus on digital transformation. The main issues facing the development of the medical law system of the Republic of Azerbaijan and ways to solve them are noted. Learning from foreign experience and its adaptation to local conditions is emphasized as an unavoidable necessity. The main recommendations include further improvement of the legislative framework, strengthening the protection of patient rights, and keeping ethical standards up to date. At the same time, ensuring the protection of medical data through the integration of information technologies was noted as one of the priority issues. In the modern era, it is important to modernize legal and institutional mechanisms for the application of innovative medical services and technologies. In this direction, progress is also needed in the direction of adaptation to international experience and harmonization of the legal framework. Future research should be mainly focused on deepening the practical application of medical law and mutual cooperation. In general, the application of modern and advanced practices will increase the transparency and accountability of the legal system, serve to protect the health rights and well-being of citizens. Reforms to be implemented in this direction will contribute to strengthening relations not only at the national level, but also at the international level.

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