
Research on Ethical Issues and Legal Safeguards in Home Care Services for the Elderly

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Abstract: With the acceleration of population aging in China, home care services, as an important component of the elderly care service system, play a significant role in meeting the care needs of the elderly. However, home care services are confronted with numerous ethical dilemmas and insufficient legal protection in practice. This article systematically analyzes the ethical issues existing in home care services for the elderly, such as the conflict between privacy rights and autonomous decision-making rights, the unfair distribution of care resources, and the balance between professional ethics and family ethics. This paper analyzes the current legal and regulatory system's imperfection, the absence of quality supervision mechanisms, and the unsmooth channels for rights protection. It also puts forward countermeasures and suggestions from the aspects of improving the legal norm system, establishing ethical supervision mechanisms, and perfecting the channels for rights protection, with the aim of providing references for promoting the healthy development of home care services.

Keywords: The elderly; Home care; Ethical issues; Legal guarantee; Protection of rights and interests

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1. Introduction

Population aging has become a major social challenge facing China. According to statistics, the number of people aged 60 and above in China has exceeded 200 million. Home-based elderly care is the preferred way for the vast majority of the elderly. As an important guarantee for home-based elderly care, home care services are of great significance for improving the quality of life of the elderly and reducing the burden of family care. However, due to the late start of home care services in our country, there are widespread problems such as the lack of ethical norms and insufficient legal protection during the service provision process, which seriously restrict the improvement of service quality and the protection of the legitimate rights and interests of the elderly. When the elderly receive home care services, their basic rights such as the right to privacy, the right to informed consent, and the right to autonomous decision-making are often violated. Nursing disputes occur frequently but lack an effective resolution mechanism. Meanwhile, nursing staff also face conflicts

between professional ethics and family ethics during the service process, making it difficult to guarantee the quality of service. Therefore, in-depth research on ethical issues in home care services and improvement of relevant legal guarantee mechanisms are of great theoretical and practical significance for promoting the standardized development of home care services and safeguarding the legitimate rights and interests of the elderly.

2. Analysis of ethical issues in home care services for the elderly

2.1. Conflict between privacy rights and autonomous decision-making rights during the nursing process

When the elderly receive home care services, they often encounter a dual predicament of privacy rights and autonomous decision-making rights. As home care services involve the daily living care, body cleaning and disease care of the elderly, which are highly private, caregivers need to enter the private Spaces of the elderly and touch their private body parts, which objectively poses a potential threat to the privacy rights of the elderly. Some caregivers lack privacy protection awareness and fail to fully respect the privacy needs of the elderly when providing services. For instance, they may browse through the elderly's belongings without consent or expose their bodies in front of others, seriously infringing upon the elderly's right to privacy. At the same time, the autonomous decision-making rights of the elderly are often overlooked. During the decision-making process of nursing services, family members often make decisions on behalf of the elderly, and nursing staff habitually follow the arrangements of family members, while ignoring the will and choices of the elderly themselves. Especially for the disabled and demented elderly, although their autonomous decision-making ability has declined, it is not completely lost ^[1].

2.2. The issue of fairness and accessibility in the allocation of nursing resources

The uneven distribution of home care resources is the most prominent ethical issue currently faced. High-quality nursing resources are mainly concentrated in economically developed areas and urban communities. Elderly people in rural and remote areas find it difficult to obtain professional home care services. There are obvious regional differences and urban-rural gaps. The unfairness of resource distribution makes the nursing needs of some elderly people unmet, which violates the ethical principles of fairness and justice. The cost of home care services is relatively high, and elderly people with poor economic conditions are unable to afford it, which limits the accessibility of care services. Although the government has subsidy policies, their coverage is small and the subsidy standards are low, which cannot fundamentally solve the problem. In the context of insufficient nursing resources, how to rationally allocate nursing services is also an ethical issue, that is, should priority be given to elderly people with higher degrees of disability or should more elderly people with mild disabilities be taken into account? Should the distribution be based on economic capacity or should the principle of demand priority be adhered to? All these issues involve complex ethical considerations and require a balance to be struck between fairness and efficiency, as well as between individual needs and collective interests ^[2].

2.3. The balance between professional ethics and family ethics of nursing staff

The particularity of home care services lies in the fact that caregivers must not only follow professional ethical norms but also adapt to the special requirements of the family environment, which often leads to conflicts between professional ethics and family ethics. From a professional ethics perspective, caregivers should provide services in accordance with nursing norms and operational procedures to ensure the quality of care and the safety of the elderly. However, in a family setting, the elderly and their families often have their own living habits and care preferences, and may put forward demands that do not conform to professional norms. If caregivers insist on professional standards, it may cause dissatisfaction among family members. If one merely caters to the demands of the family members, it may violate professional ethics and even pose health risks to the elderly. At the same time, during the service process, caregivers may find that family members neglect or even abuse the elderly. At this point, caregivers are faced with the ethical dilemma of whether to intervene and

how to intervene. Excessive intervention may be regarded as an invasion of family privacy, while non-intervention violates the professional responsibility of protecting the rights and interests of the elderly. This dual positioning of professional roles and family relationships often puts caregivers in a dilemma, making it difficult for them to strike an appropriate balance between professional ethics and family ethics ^[3].

3. The current legal protection situation for home care services for the elderly

3.1. Deficiencies and absence of the current legal and regulatory system

At present, although China has issued some laws and regulations concerning the protection of the rights and interests of the elderly and elderly care services, there is still a lack of specialized legislation for home care services, and the legal norm system is not yet complete. The current “Law on the Protection of the Rights and Interests of the Elderly” mainly stipulates the basic rights and social security enjoyed by the elderly from a macro perspective. However, the specific regulations on home care services are rather general and lack operability. There are significant differences in content among local regulations and normative documents issued by various regions, and there is a lack of a unified national standard. This has led to varying degrees of legal regulation for home care services in different regions. What is more prominent is that the current laws lack clear regulations on key issues in home care services, such as the qualifications of service providers, service content standards, service contract norms, and responsibility determination standards, which often leaves no basis for reference when disputes arise in practice. Furthermore, the legal provisions for the protection of the specific rights of the elderly in home care services, such as the right to privacy, the right to informed consent, and the right to autonomous decision-making, are not detailed enough. The professional conduct norms and legal responsibilities of caregivers are also not clearly defined. As a result, when the rights and interests of the elderly are infringed upon, it is difficult for them to protect their rights through legal channels, and the legitimate rights and interests of caregivers also lack effective protection. The lag and absence of legal norms seriously restrict the standardized development of home care services ^[4].

3.2. The supervision mechanism for the quality of nursing services is not perfect

The imperfect supervision mechanism for the quality of home care services is a prominent shortcoming in the current legal guarantee system. The regulatory subjects are unclear and their responsibilities are not well-defined. Home care services involve departments such as health and wellness, civil affairs, and market supervision. However, there is a lack of effective coordination mechanisms among these departments, making it difficult to implement regulatory responsibilities and prone to regulatory vacuums or repetitive supervision. The regulatory measures are monotonous, mainly focusing on post-event penalties, lacking pre-event access review and in-process dynamic supervision. In many places, the entry threshold for home care service institutions and personnel is set too low, and the qualification review is not strict, resulting in some institutions and personnel without professional capabilities entering the market, making it difficult to guarantee the quality of services. At the same time, there is a lack of regular supervision and inspection for the institutions and personnel that have already provided services. The evaluation mechanism for service quality has not been established. The complaint channels for the elderly and their families regarding service quality are not smooth, and problems cannot be dealt with in a timely manner. In addition, no industry self-discipline mechanism has been established, and there is a lack of unified industry norms and professional ethics standards. The professional conduct of nursing staff lacks effective constraints. The absence of a supervision mechanism has led to chaos in the home care service market, uneven service quality, and the legitimate rights and interests of the elderly cannot be effectively protected ^[5].

3.3. The mechanism for protecting the rights and interests of the elderly and resolving disputes was insufficient

During the process of home care services, situations where the rights and interests of the elderly are infringed upon occur from time to time, but the corresponding rights protection and dispute resolution mechanisms are seriously lacking. Firstly,

the preventive mechanism for protecting the rights and interests of the elderly is not sound. There is a lack of a dedicated risk assessment system, which makes it impossible to identify and prevent potential rights infringement risks before the service commences. The service contract norms are not complete. Many home care services only have oral agreements or simple agreements, lacking clear stipulations on the rights and obligations of both parties, service standards, and responsibility assumption. Once a dispute occurs, it is difficult to define responsibility. Secondly, the channels for rights relief are not smooth. When the rights of the elderly are infringed upon, they often do not know which department to file a complaint with. Even if they do file a complaint, they often face problems such as mutual shirking and untimely handling. The current dispute resolution mechanism mainly relies on litigation, but the litigation process is complex, time-consuming and costly, which poses numerous obstacles for the elderly who have difficulty moving around and are economically disadvantaged. Alternative dispute resolution mechanisms such as mediation and arbitration have not been fully established, and there is a lack of professional third-party mediation organizations and unified mediation rules. Secondly, the accountability mechanism is not perfect. The standards for determining legal responsibilities for acts that infringe upon the rights and interests of the elderly are not clear, and the penalties are insufficient, making it difficult to form an effective deterrent. The existence of these problems often leaves the elderly with no place to complain and difficulties in safeguarding their rights and interests after their rights and interests are infringed upon, seriously affecting the healthy development of home care services.

4. Countermeasures for improving the ethical and legal safeguards of home care services for the elderly

4.1. Establish and improve the legal and regulatory system for home care services

Improving the legal norm system for home care services is the foundation for safeguarding the rights and interests of the elderly. First of all, the process of specialized legislation should be accelerated, and a specialized law and regulation, the “Regulations on the Administration of Home Care Services”, should be formulated to make comprehensive and systematic provisions on the basic principles, service subjects, service contents, quality standards, supervision and management, and legal responsibilities of home care services, providing a clear legal basis for home care services. Secondly, it is necessary to refine the provisions for protecting the rights of the elderly, clearly stipulating in legislation the specific rights that the elderly enjoy in home care services, such as the right to privacy, the right to informed consent, and the right to autonomous decision-making, as well as the legal responsibilities that should be borne for infringing upon these rights, so that the protection of the rights and interests of the elderly is based on law. Secondly, it is necessary to establish a unified service standard system, formulate national and industry standards for home care services, clarify the operation norms, quality requirements and evaluation indicators for different types of care services, and promote the standardization and normalization of services. In addition, it is necessary to improve the service contract system, formulate a model text for home care service contracts, standardize the essential terms of the contract, clarify the service content, service standards, rights and obligations of both parties, and liability for breach of contract, to avoid disputes caused by unclear contract agreements. At the same time, it is necessary to enhance legal publicity and education to raise the legal awareness and rights protection capabilities of the elderly and their families, enabling them to protect their own legitimate rights and interests in accordance with the law. By improving the legal norm system, a solid legal guarantee can be provided for the standardized development of home care services, and the legitimate rights and interests of the elderly can be effectively safeguarded.

4.2. Build a diversified supervision mechanism for nursing ethics

Establishing a diversified ethical supervision mechanism is an important guarantee for regulating the behavior of home care services. First of all, an ethical review system should be established. A home care service ethics committee composed of experts from the fields of medicine, nursing, ethics and law should be set up to review and guide major ethical issues

involved in home care services, formulate ethical norms and operation guidelines, and provide ethical decision support for nursing staff. Secondly, it is necessary to enhance industry self-discipline, promote the establishment of a home care service industry association, formulate industry professional ethics norms and self-discipline conventions, establish a practice integrity file, impose industry penalties on institutions and individuals who violate professional ethics and ethical norms, and form an industry self-restraint mechanism. Secondly, it is necessary to improve the social supervision mechanism, encourage the elderly, their families and community residents to supervise home care services, establish a complaint and reporting platform, smooth the channels for social supervision, and promptly discover and correct behaviors that violate ethical norms. In addition, it is necessary to strengthen professional education and incorporate nursing ethics education into the compulsory content of nursing staff's vocational training. Through case teaching and scenario simulation methods, the ethical awareness and ethical decision-making ability of nursing staff should be enhanced, enabling them to make correct judgments when facing ethical dilemmas. At the same time, an ethical consultation service mechanism should be established to provide ethical consultation and support for caregivers, helping them solve ethical problems encountered in practice. Through diversified ethical supervision mechanisms, a favorable atmosphere of respecting the rights of the elderly and adhering to professional ethics should be created to promote the ethical development of home care services.

4.3. Improve the protection of the rights and interests of the elderly and the channels for resolving disputes

Establishing and improving the mechanism for protecting the rights and interests of the elderly and resolving disputes is the key to safeguarding their legitimate rights and interests. First of all, a risk prevention mechanism should be established, and a risk assessment system for home care services should be formulated. Before the service begins, a comprehensive assessment of the health status, care needs, and home environment of the elderly should be conducted to identify potential risks and formulate targeted preventive measures. A full-process service record system should be implemented, requiring care staff to keep detailed records of the service process. This includes service content, changes in the condition of the elderly, and handling of emergencies, providing a basis for responsibility determination. Secondly, it is necessary to smooth the channels for rights and interests relief, establish a unified complaint acceptance platform, clarify the responsibilities and work processes of each relevant department, ensure that the complaints of the elderly can be accepted and handled in a timely manner, establish a rapid response mechanism, give priority to handling complaints involving the rights and interests of the elderly, and shorten the handling time limit. Secondly, it is necessary to improve the diversified dispute resolution mechanism, establish a dispute mediation center for home care services, equip it with professional mediators, provide free mediation services for the parties involved, promote the establishment of an arbitration system for home care services, and provide more convenient and efficient channels for dispute resolution. For disputes that truly need to be resolved through litigation, it is possible to explore the establishment of specialized courts or circuit courts for the protection of the rights and interests of the elderly, simplify litigation procedures and reduce litigation costs. In addition, a legal aid system should be established to provide free legal consultation and agency services for economically disadvantaged elderly people, helping them protect their rights in accordance with the law. At the same time, the liability insurance system should be improved, and home care service liability insurance should be promoted to disperse service risks and safeguard the legitimate rights and interests of the elderly and caregivers. Through the improvement of rights protection and dispute resolution mechanisms, we must effectively safeguard the legitimate rights and interests of the elderly and promote the healthy and orderly development of the home care service industry.

5. Conclusion

With the rapid development of modern information technology, the information wave characterized by digitalization, networking and intelligence is profoundly influencing and changing people's lifestyles. Home care services are an important measure to address the challenges of population aging and improve the elderly care service system. The ethical

issues and incomplete legal guarantees that arise in home care services can only be resolved through the joint efforts of the government, society, the industry and individuals. Accelerate the improvement of the legal and regulatory system, perfect the ethical supervision mechanism, improve the channels for rights protection and dispute resolution, and promote the standardized and professional development of home care services. Only under the dual guarantee of law and ethics can home care truly become an effective support for ensuring the quality of life of the elderly in their later years and safeguarding their dignity and rights.

Disclosure statement

The author declares no conflict of interest.

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