

MODERN ASPECTS LEGAL LIABILITY OF HEALTH PROFESSIONALS

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Introduction. The development of medical science, improvement of living standards and the establishment of democratic institutions contributes to the requirements of health workers and increasing cases of disciplinary measures for improper performance of professional duties.

Errors in medical practice is quite common even in developed countries. But the sad statistics of medical errors is observed in Ukraine too. It almost hidden, only a few cases are known to the public. Domestic jurisprudence of this category of cases are not made public, while in the US system of informing the public about the problems in the medical field is open. However, health workers can potentially be held accountable for crimes under twelve articles of the Criminal Code of Ukraine, the Code of Ukraine on Administrative Offences and Civil Code of Ukraine.

In the public mind, and formed a long time maintained naturally thought of the enormous responsibility of doctors for life and health. However, the reality of the last decade in Ukraine indicate that the urgency of the consideration of legal liability in medicine confirmed by the increasing number of claims with regard to various disorders during treatment.

The aim of the study is to clarify aspects of the modern application of legal liability for health workers in Ukraine and abroad.

Methods: a comparative and systematic.

Results and discussion. It should be noted that the Basic Laws of Ukraine on Health of 19 November 1992. Art. 6 among the rights that make up the structure of the human right to health, recognizing the right to compensation for damages to health. In Art. 8 Basics guaranteed state protection of the right to health, and it provides that in case of violation of legitimate rights and interests of health relevant State or other bodies, enterprises, institutions and organizations, their officials and citizens shall take measures to restore the violated rights, protection of legitimate interests and compensation for damages.

In the modern Australian law there are two models of responsibility - objective and relative. The first is that medical officer responsible for injury victim, if the terms of an objective assessment of the average observer behavior is influenced by the doctor on the natural course of events. Instead, the relative responsibility model is

used when there is material damage caused as a result of treatment. The criterion for such damage is the general rules on goods, services, securities, profits and such others. In the US, compared to other countries, significantly simplified procedure for proving guilt of doctors. It can be assumed that a significant number of medical claims in this country, a large number of legal conflicts in the area of medical practice in conjunction with the world's largest number of "classical" lawyers and lawyers specializing in medical law and with increased measures to respect patients' rights - is the direct consequences of this approach.

In Ukraine, a long time it was mainly about the criminal methods of influence on offenders in medicine. The adoption of the new Civil Code of Ukraine, development of legislation on health care, the formation of judicial practice in cases of prosecution of health professionals indicates the presence of four fundamentally different types of doctors liable for offenses committed: criminal; civil (property); administration; disciplinary.

Today, according to various sociological studies, doctors are more competent in matters of criminal liability, but increase in the prosecution of doctors to other types of liability causes to focus on their education. The key to quality of legislative work directed towards the improvement of legislation on health care, is a qualitative theoretical framework which should be formed as a result of comprehensive research involving lawyers, health care, doctors, practitioners and representatives of other interested parties.

Conclusions. Therefore, we should focus on the need to provide effective remedies in domestic science and practice to address issues of accountability for health workers or that the damage caused to the health of the patient. Thus, physicians should clearly understand the responsibility that comes in the case of offenses and patients to be sure that the protection of rights and legitimate interests guaranteed by the state and society in law.