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Article



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**ISSUES OF IDENTIFICATION WHO IS ACTUALLY MEDICAL WORKER**

*Abstract: To date, one of the most relevant scientific areas of modern jurisprudence is medical and legal relations, studying the issues of legal regulation of the activities of medical workers. Considering medical and legal relations in the civil direction, first of all it is necessary to characterize the legal component of the objects of these*

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legal relations, which can be divided into the party receiving medical services and the party providing them. Under the concept of a party receiving medical services, it is customary to understand patients who are also consumers of medical services.

**Key words:** persecution, victim, personal space, psychological barrier, personal boundaries, moral suffering, non-property asset.

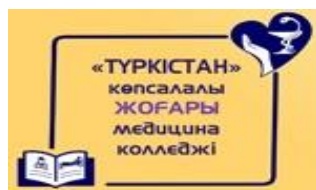
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## Introduction



По результатам технического задания грантового проекта КН МОН РК утвержденного приказом Председателя КН МОН РК от «2» марта 2022 года № 27-нж

The party providing medical services has a much wider range of classification. These include doctors who provide a medical service, specialists who provide a diagnostic service, employees of a rehabilitation institution, narcologists, psychologists, dentists, nurses, nurses, chiropractors, representatives of traditional medicine and others. They are considered to be medical workers due to their medical education, activities in the organization of healthcare and direct contact with the patient when providing medical services. However, in a healthcare organization there is also a staff of non-medical staff who also carry out their work in a medical organization that provides medical services. These include registry employees who receive patients, accountants, economists and cashiers who are competent for the financial side. Managers can also be

attributed to the staff of a healthcare organization, since their activities are related to organizational issues of the functioning of a healthcare organization, as well as lawyers, programmers, business specialists and others. All the above-mentioned specialists are united by their work in a healthcare organization that provides medical services, which implies their designation as medical workers. However, the extent to which the term "medical worker" is universal for a circle of specialists, both with medical and non-medical education, working in a healthcare organization, is still insufficiently clearly defined. A huge number of scientific works of researchers of both legal and medical specialties have been devoted to this. These issues were covered in the text of the state program "People's Health".

№	ИРН	Наименование	Заявитель	Научный руководитель	Период реализации	Группа объектов ГНТЭ	Статус	Готовность	Создать
1	AP14972885	Медицинское право: актуальные проблемы модернизации качества человеческих ресурсов посредством совершенствования системы правоотношений между медицинским работником и пациентом	Шалхаров Ернар Сайлаубекович	Шалхаров Ернар Сайлаубекович	2022 - 2024	Конкурс на грантовое финансирование исследований молодых ученых по проекту «Жас галым» на 2022-2024 годы	Подано	100%	Действие

Fig.1

## II. RESEARCH METHODOLOGY AND ETHICAL QUESTIONS.

**Description of scientific methods used in the project as a justification of how to achieve the goals**

Methodologically, this study assumes the use of three types of methodological tools: externally descriptive, internal-detailed and statistically correlative.

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Externally, the descriptive tool involves the use of four types of registration of research results. Cluster systematization of the information array. The present methodological tool assumes grouping of semantic blocks in the text by an order of transition from a greater variable to smaller. It is necessary in the study, since it helps to fix the transition from the general sense to the result being studied. Also, deduction, induction, abstraction and detailing can be included in this group, which find useful use in the analysis of the literature data systematized according to the 2-2-1 system, which assumes two sources of foreign countries, two sources of near abroad and one source of Kazakh writings. Working with the writings in this study is important because it allows us to navigate in the direction of statistical research. Two-dimensional projection of task reflection. This methodological tool assumes a visual analysis of the tasks results. So each section answers one specific task. In accordance with this analysis, we can observe the summation of the results of tasks to achieve a common goal, and we can see a phased achievement of the goal from one task to another.

The catalyzing of literary data by a legal element. This methodological tool makes it possible to note the adaptation of the writings used to the studied territorial space or population.

F.I.N.E.R criterion. In accordance with the F.I.N.E.R criterion, the research question is analyzed from five positions: F-feasible, I-interesting, N-novel, E-ethical, R-relevant.

The internal-detailed methodological tool assumes a number of specific scientific and legal methods, the purpose of which is a detailed analysis of elements with vector accentuation of key nuances. There are the following methods:

Multivariate subjective analysis. This scientific and legal tool allows you to conduct a subjective analysis of each of the species, enterprise and activity for the sake of strengths, consisting of mobility, elasticity, flexibility and maneuverability, weaknesses expressed in dependence, rigidity, bureaucracy and fluidity, opportunities expressed in innovation, PR Abilities, spreadability, projectivity and risks, reflected in the loss of time, slow growth, dependence on reputation and disloyalty.

Pyramid of "Lawrence and Wilson" for identification of obligations. This scientific and legal methodological tool involves an analysis of the recognition of the parties' legal personality through a simple formula where the will is summed up with consciousness, divided into focus and multiplied by motivation. Similarly, the system involves analyzing the legal capacity of the parties, expressed in a simple formula, according to which the patient's awareness is divided into risk, which in turn is greater or equal to the status of the doctor. The third stage of the present pyramid is the consideration of the interests of the parties, expressed in the formula where, the physical

state is summed up with the moral state and is divided by the risk multiplied by the intention.

The scale "Mason Awns" on the analysis of rights and obligations. The scientific and legal tools that identify the relationship between the primary and secondary obligations; and public interest in the primary rights, secondary rights and in the personal interest.

System of comparative claims distribution. It presupposes an analysis of court cases for resistance to maneuvers of civil-consumer legal relations between a doctor and a patient in medical law.

A statistically correlated study involves an assessment of the interrelationships between several factors, called variables, not controlled by the researcher, and which in turn is aimed at establishing changes in one variable when the other changes or influences it. Data processing is expected using the SPSS program, which will give greater validity to the results of the study. Since this research is related to such matters as honor, dignity, business reputation and other non-property characteristics of individuals, the application and circulation of a specially developed questionnaire is highly relevant, since it will only be possible to fix a constant based on quantitative data.

**Critical points, alternative ways to implement the project.** The present study will be conducted on the basis of the Turkestan Multidisciplinary Medical College, Akhmet Yassawi International Kazakh-Turkish University, the Academy of Public Administration under the first president of the Republic of Kazakhstan. This allows expanding the scope of research to similar territorial units of other countries in accordance with the memorandums of educational institutions. These countries include Turkey, the Czech Republic, Poland, France, the United States and Turkmenistan. If it is not possible to determine which indicators, it is possible to cooperate with marketing and other firms that can provide personal data for residents of other countries.

**The methods used in the project to ensure compliance with the principles and norms of scientific ethics.** Project participants will strictly adhere to the principles of scientific ethics, will not allow the scientific data fabrication, falsification, plagiarism, false co-authorship, the use of collective research by individual participants, data and findings obtained in studies without agreement with other participants. All participants in the project have equal rights to the results of the conducted studies. Intellectual property rights of participants will be protected accordingly by the law of the Republic of Kazakhstan on intellectual property rights.

**Detailed Procedure and Mechanism for Conducting the Research:**

This project will be carried out in 3 stages: At the first stage, protocols and manuals, equipment and supplies will be prepared. A primary analysis of

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the literature data will be carried out, a questionnaire is constructed and the circulation is calculated. At the second stage, there will be work with government agencies, including courts and prosecutorial authorities. Also, the second stage involves working with the subjects of medical activity and collecting information on survey results. The third stage will summarize the results of the studies, which will be reflected in the relevant publications, author certificates, implementation certificates and training materials on medical law: "Basics of Medical Law in the RK", "Advanced Course of Medical Law in the RK", "Progressive Course of Medical Law in RK. All three textbooks will be translated into the state, English and Turkish languages.

### Conditions for registration and separation of intellectual property rights for research results:

For the protection of the results of intellectual property of scientific research, it is planned to publish scientific papers in foreign editions in SCOPUS database; Author certificates, training materials, conferences thesis. The results of the research will be implemented in the form of practical recommendations for preventive measures and prevention of medical legal conflicts, as well as methods for their forecasting through alternative algorithms for the functioning of civil law elements in medical legal conflicts in cases involving legal relations and the activities of medical workers.

### III. RESULTS.

Explaining such a definition, it is possible to put emphasis on a single denominator of each position, according to which the only object is the patient's health (1). Normatively, health was characterized as the condition of a citizen who, in addition to the absence of diseases and other physical problems, has both physical, spiritual or mental, and social well-being (2). Taking into account the fact that medical consultation, psychological support, orientation of the patient in the necessary direction and other related types of specific actions are factors that improve the mental (mental) state of the patient, it can be noted that all of the above can also be attributed to medical activity (3). At the same time, this can be carried out, in addition to the doctors themselves, directly by the personnel of the medical organization, including registry employees, programmers who write newsletters, technical staff and others (4). Pharmacists and pharmacologists also provide consulting services on the choice of medicines for the patient, which can also be attributed to consultations in order to improve the health of a citizen. In addition to this provision, the legislation of the Republic of Kazakhstan "On the health of the people and the healthcare system" also comments on the definition of "medical care" (5). In accordance with this, medical care is recognized as a set of medical measures, including medical care, in order to save and stabilize the physical, mental, and

social indicators of the population (6), as well as to stabilize the serious consequences of chronic diseases (7). So, it can be assumed that medical care can also be provided not only by the doctor himself directly (8), but also by a paramedic, pharmacist, pharmacologist and even cosmetologists, which also increases the range of persons suitable for the category of medical workers providing medical care (9). In addition to the previously mentioned concept of medical care and, given the trend in the development of the commercial sector of providing medical services (10), it is also necessary to focus on medical services, since this is the basis of the professional activity of a medical worker (11). Thus, a medical service is classified normatively as a certain kind of actions of a subject in the field of healthcare, the vector of which is aimed at preventive, diagnostic, therapeutic, rehabilitative or palliative activities (12). Thus, it can be indicated that preventive, diagnostic, rehabilitation, palliative and even therapeutic activities can be provided not only by doctors (13). It can be assumed that in some cases, with the help of advanced diagnostic devices, it is not necessary to have a medical education in order to carry out diagnostic activities, since diagnostic activity consists in establishing the fact of the absence or presence of a disease (14).

### IV. DISCUSSION.

In addition to all the above, it is also important to note the role of medical staff with secondary medical education, who were not allocated enough at the legislative level of the Code of the Republic of Kazakhstan (15) "On the Health of the People and the Healthcare system" (16). Nevertheless, a significant share of the activities of a healthcare organization in the field of medical care is provided by medical personnel with secondary medical education. Analyzing this in practice, it can be indicated that in addition to issues of diagnosis, treatment and rehabilitation, patient care plays an important role in the provision of medical care, which is carried out exclusively by nurses. Speaking about the problem of classification of such, it is important to note that in the Code of the Republic of Kazakhstan "On the Health of the People and the healthcare system", in terms of identifying a medical worker, a large prerogative is given to medical workers with higher medical education, whose activities are related to specialized, qualified, high-tech and social medical care (17).

Employees of a medical profile with secondary medical education were not directly listed in the specified legislation. Some norms of the labor legislation of the Republic of Kazakhstan have references to the industry framework indicating nurses as medical workers with secondary medical education. Even if the nurse is not engaged in the diagnosis, treatment and rehabilitation of the patient directly, she carries out her work obligations in an

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equally important direction. Based on the instructions of the attending physician, she stays near the patient all the time, conducts observations, records health indicators, calms the patient, deals with personal hygiene of the patient, often assists the attending physician, gives injections, intravenous infusions and fulfills other obligations for the management of the patient (18). In fact, caring for a patient, a nurse also has a certain level of knowledge in the field of medicine, prevention, rehabilitation, which makes her role very significant in any medical institution (19). The attending physician has his own functional responsibilities: diagnosis, treatment and rehabilitation of the patient, which takes only a certain time. The rest of the time, the patient needs competent care, which is carried out only by a nurse. In accordance with the list of professions and specialties by terms of training and levels of education for technical and vocational, post-secondary education in accordance with the classifier of January 22, 2016 No. 65 of the Ministry of Education and Science of the Republic of Kazakhstan, nurses themselves can be classified into three types: junior nurse, general practice nurse and specialized nurse (20).

Junior nurse. As a junior nurse, you can designate a person who has a secondary medical education, as well as a certain certificate of nursing training, whose main functional duties are to carry out simple manipulations of a medical nature, monitor cleanliness in the ward, provide assistance in patient care under the guidance of a nurse, transport seriously ill, change of bed and body linen, etc. In medical institutions, there is an alternative to the position of a nurse (21).

A general practitioner nurse is a person with a secondary medical education who carries out his work obligations in the office of a district doctor or on the territory of a polyclinic, while fulfilling the obligations of assisting the attending physician, including outpatient, diagnostic, accounting, sanitary, dispensary and disciplinary activities in relation to junior nurses. In medical institutions, he is engaged in organizational activities (22).

A specialized nurse assists a doctor in a more specific field of medical services, which include anesthesiology, surgery, perinatal medicine, neonatology, reproduction, physiotherapy, surgery, cardiological and endocrinological care and loads, and others (23).

Summarizing the position of considering nurses as medical workers based on their education and performance of work duties in a healthcare organization, it can be noted that they need to be classified relative to their place in a medical institution, which can be divided as the main composition and auxiliary composition of the organization. Since nurses have direct contact with the patient and spend all their main workplace with

patients, they can be attributed to the main staff of a functioning medical institution (24).

In addition to people with medical education, preventive activities today are also carried out by the administrative staff of the health organization, since it is they who plan the budget, organize preventive measures and determine the sequence of actions. The economic staff of the medical organization also takes an active part in providing preventive measures for the population through direct interaction with patients during screening and mass medical examinations. The technical staff of a medical organization can also be identified as subjects actively involved in providing preventive measures, since they are the ones who develop and invite the population to conduct screening and medical examination.

Palliative care today is heterogeneous from the point of view of the composition providing it. To date, palliative care is provided through manual therapy, physical therapy, yoga, gymnastics, qigong and other socially popular activities aimed at improving health without taking medications, therapeutic measures and invasive intervention. In practice, it is also carried out by massage therapists, specialists in the field of sports and physical education and certified specialists of oriental medicine (25).

Rehabilitation medical care is also a sector of medical services, which is provided not only by doctors, but also by specialists in related fields of activity. Such, as a rule, is produced at resorts, sanatoriums and dispensaries, where a diverse professional staff works, ranging from economic entities to technical personnel. In medical organizations, rehabilitation assistance is provided by the nursing staff of the medical organization.

Today, in addition to doctors, some people without higher medical education who do not work in healthcare organizations, as it was indicated earlier, are engaged in medical activities. While the legislation "On the Health of the People and the healthcare system" distinguishes medical workers as persons with professional medical education and engaged in professional medical activities, the provisions of this legislation also do not exclude traditional medicine. A part of practiced medicine is recognized as traditional medicine, in which treatment is carried out in accordance with the methods and means of preventing and treating diseases accumulated by society, which have been confirmed by centuries-old traditional experience of medical practice. Consequently, representatives of traditional medicine can also be legally recognized as medical workers by virtue of the measures they provide of a therapeutic nature.

## V. ACKNOWLEDGEMENTS.

This study was carried out on the basis of a private institution "Higher Multidisciplinary Medical College "Turkestan"", which has a certain room and

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equipment for conducting research. It is also necessary to note the high level of involvement of the staff of the college, who have made a significant contribution to the development of this topic. As for the student potential, there were many activists who agreed to take part in the research in various positions listed below. These positions include data and positions from the table below. Thus, as a legal experiment, the research group planned a study with the participation of 16 full-time students in the specialty of nursing. So 8 students participated in an experiment where each of them was given the role of an active stalker and a passive stalker, as well as an active victim and a passive victim. Four students monitored and four students supervised each group of tests.

### VI. CONCLUSION.

Thus, as a conclusion of the studied provisions on the subjective composition of medical and legal relations, it can be concluded that medical and non-medical specialists who carry out their work in a healthcare organization can be recognized as healthcare workers, which is a common concept for all employees of a healthcare organization, regardless of education and occupation. They can be classified by the level of interaction with patients and by their constituent characteristics.

– According to the level of interaction with patients, healthcare workers can be divided into

specialists providing medical care and specialists supporting the functioning of a healthcare organization. The activities of specialists providing medical care include diagnostic, therapeutic and rehabilitative measures. The activities of specialists supporting the functioning of a healthcare organization include economic, legal, social, political, financial, technical and economic activities.

– According to the constituent characteristics of healthcare workers in a healthcare organization, they can be divided into two types: the main staff of a medical institution and the auxiliary staff of a medical institution. As the main composition of a medical institution, persons with higher and secondary medical education should be considered, who are directly engaged in diagnostic, therapeutic, rehabilitation activities, care and others. The auxiliary staff includes a circle of non-medical specialists whose activities, although not directly related to the patient, but without which the functioning of a healthcare organization is impossible and whose activities cannot be carried out by specialists with medical education only.

### VII. RECOMMENDATION.

In Kazakhstan Republic medical law system it is actual to identify general concept of medical worker in the system of healthcare services not only from the governmental side but, from the position of private healthcare services.

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