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Article



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IDENTIFICATION THE ORIGINS OF MEDICAL WORKER FROM THE POSITION OF RUSSIAN AND FAR FOREIGN RESEARCHES

Abstract: Summarizing Russian research on medical law in the field of identification of the legal nature of a medical worker, it is possible to designate a single denominator, according to which a group of persons performing their professional duties in a healthcare organization, in the field of public health, including general medicine, pharmacy, and others, is recognized as medical workers. Ukrainian studies of the identification of the legal nature of a medical worker have otherwise designated the legal nature of such a subject as a medical worker, including its characteristics, specifics and types.

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

In his lectures on medical law, O.E. Bobrov noted that medical workers are characterized by a level of interaction with patients, which can be carried out within the framework of providing medical services to a patient, including diagnosis, treatment, rehabilitation and organization. The focus on the organization was also made by the leading researcher in this field, Stetsenko, S. G., who believes that the success of the vital activity of any medical institution engaged in preserving and improving the health of citizens depends on the process of organization. This was also reflected in the work of Senyut I.Ya, who identified management in a healthcare organization as a factor that improves the quality of medical services. In these studies, the emphasis was placed on the development of professional qualities of administrative medical workers, in the organization of the activities of doctors, and workers in the field of healthcare. Voronenko Yu.V. in his work on the training of specialists in the field of public health, he paid attention to the level of trained personnel who carry out their activities in a medical institution

according to an administrative profile, according to which a high level of progressive maneuverability is assumed. In Ukraine, the administrative staff of a medical institution needs some time to adapt to the changeable policy of the healthcare system, which is primarily based on the specifics of the market and international agreements. Similar results were described by V.L. Kulinichenko, who in her work "Modern Medicine: Transformation of Paradigms of theory and practice" noted the dynamic development in the Republic of Ukraine of an interdisciplinary approach for effective interaction of a diverse composition of medical workers of medical, economic, administrative, technical and economic profiles. Based on the above studies, it can be noted that the number of medical workers includes, in addition to the doctors and nurses themselves, also administrative, economic and technical personnel of a medical organization who also interact with patients. Along with this, pharmacists and pharmacologists who carry out activities within a medical organization are also classified as medical workers.

№	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 медицинскими 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

Pic.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.

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

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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, AkhmetYassawi 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 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

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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.

Exploring the world experience of research in the field of medical law, it is impossible not to note the contribution of the founders of medical law themselves in terms of identifying the legal nature of such a subject as a medical worker in foreign countries. As such, the works of Thomas Naguchi, who became famous after the investigation of the death of Marilyn Monroe, Henry Lee, better known as the founder of this direction in the USA as "CSI", Emily Jackson, who is a pioneer in the field of medical law and the author of the world's first textbook on medical law, as well as modern scientists and practitioners of medical law, were taken as such. rights, heads of the World Association for Medical Law (World Association for Medical Law) (1).

When analyzing the world literature, the results of their research were analyzed by the method of abstraction, where definitions of identification and classification of medical workers were found in accordance with their types of activity and their specialization. Thus, investigating the issue of the legal justification of the activities of medical workers, researchers in the world literature first of all identified the subjects of such medical and legal relations (2). Therefore, in order to understand the nature of legal relations, it is necessary to understand the very legal nature, essence and types of parties to legal relations. Taking into account the fact that in the literature the term "medical worker" itself has not been considered in detail, giving preference to certain groups of medical specialists, such as oncologists, plastic surgeons, gynecologists, neonatologists, therapists and others, this issue can be considered quite relevant (3). The present is really of high importance, since the nature of legal relations depends on the type of subjects. And the nature of the legal relationship, in turn, depends on the type of medical and legal conflict and its solution (4). This is the ultimate goal of any medical and legal research that can find a useful beginning in the practical activities of medical

workers operating in the legal space of a state territorial unit. Accordingly, the issue of identifying the essence, legal nature, nature, classification and type of medical workers in the professional legal space of medical and legal relations is important (5). Defining the legal nature of a medical worker, Doctor of Law and Doctor of Medical Sciences, Professor Emily Jackson notes in her book that a medical worker is a subject of medical and legal legal relations who is engaged in the provision of medical services (6). At the same time, she also identified a certain list of actions related to the provision of medical services related to health policy, which includes, in addition to treatment, diagnosis and rehabilitation, also some activities of a political, social, legal and economic nature (7). This is due to the fact that in the era of a market economy, any specialist of a medical profile, or another profile, but carrying out his professional work activity within an organization providing medical services or any other healthcare organization, primarily pursues the goals of better performance of work duties for the purpose of self-promotion to clients, management, family or others specialists (8). Behavioralists who took part in Emily Jackson's research identified the present as a social factor of special legal significance, which implies a real consideration of the human factor in relation to the norms of behavioral stereotypes that are reflected in specific legal norms. At the same time, it can be noted that these same norms are fundamental in the classification of a particular type of medical and legal conflict that occurs within a medical organization between medical workers and patients, medical workers and management, as well as medical workers with each other (9). Therefore, denoting the legal nature of medical workers from the standpoint of research conducted by Emily Jackson, it can be assumed that in addition to the doctors themselves, the holistic staff of a medical organization or a healthcare organization can be recognized directly as medical workers (10). The research conducted by Professor Thomas Naguchi regarding the identification of medical subjects in the context of forensic relationships gave rise to a different concept of analyzing the essence of a medical worker, where healthcare subjects who have direct contact with patients in a particular case of particular importance at the time are recognized as medical workers (11). The present is due to too many participants in the relationship, according to which only the circle of medical specialists who have a direct relationship with a particular patient in the field of diagnosis, treatment or rehabilitation is considered as medical professionals, which, in turn, narrows the scope of analysis, focusing on specific subjects.

IV. DISCUSSION.

The famous literary sources of the USA, identifying subjects of medical and legal activity from

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the position of "CSI", which was created by the Doctor of Legal and Medical Sciences, Professor Henry Lee, consider as medical workers a certain circle of persons performing certain functions in professional relationships with a specific patient to correct a specific physical and psychological ailment, in which in as a measure of the result of such professional medical and legal relations, the patient's dissatisfaction is not, and the degree of recovery in the coefficient with the degree of harm to health, regardless of physical or psychological/mental (12). This is quite logical, since due to a certain contact between the patient and the medical worker, the patient can leave the healthcare organization either recovered or with a certain defect caused by the medical worker (13). At the same time, the severity of the harm also classifies the type of medical worker with whom the patient had direct contact, where, in addition to the attending physician, the diagnosed specialist, the consulting specialist, the referring specialist, and the specialist who provided medical assistance are taken into account (14).

A different position on such a conclusion was expressed by Israeli medical and legal scientist Oren Asman, who in his research clearly identified only specific medical specialists as medical workers, classifying the rest of the staff as auxiliary personnel, giving the prerogative of identification as medical workers only to medical specialists who are in professional medical and legal relations with patients they operate in the field of a specific medical case, which significantly narrows the scope of defining the essence of a medical worker (15).

A slightly contradictory position belongs to a researcher of a medical and legal profile from Bosnia and the Duchess - Professor Sanjin Dekovic. In his medical and legal studies, he also considered specialists in the field of sale and use of medical equipment. He motivated this by the fact that it is specialists with medical education who have a certain idea about the specific symptoms of patients in which medical equipment can be used, where they consult technical specialists or programmers when they contact patients in terms of diagnosis, rehabilitation and treatment (16). The present is also quite logical, since the use of medical equipment in treatment, rehabilitation and diagnostics involves the ability to handle information and digital technologies.

Thus, based on the literature data on the works of leading researchers on medical law from far abroad in the field of identification of the essence of medical workers, it can be noted that the results of determining the legal nature of medical workers are very ambiguous from the perspective and scenarios of consideration. So, in some sources, in addition to doctors, auxiliary personnel are recognized as medical workers, while other sources also consider administrative personnel of a medical organization as medical workers (17). Third studies classify medical

professionals according to the nature and degree of interaction with patients, and some even recognize medical professionals in some cases as specialists of a profile far from medicine (18). On the one hand, for the most part, this identification depends on the scale of the research conducted. Consequently, the higher the level and scope of these medical and legal studies, the higher the reliability of the results may be. Nevertheless, analyzing the level of such research, it can be assumed that all five authors from abroad, listed in this review, are specialists in both medical and legal profile with big names and a huge contribution to the development of medical law in the global space of scientific medical and legal research (19). Therefore, to assume that someone's results are more reliable than others is wrong from the standpoint of ethics and adequacy of analysis. On the other hand, all these studies have one common parameter, where, in addition to the doctors themselves, other specialists in economic, technical, social, political, legal and other areas are recognized as medical professionals, who, with effective interaction, have a beneficial effect on the overall level of health care development, which is an indicator of the effectiveness of healthcare in the country and in the world (20). The present is quite natural, since the effective implementation of state programs aimed at improving the physical and psychological well-being of the population, expressed in one term "health", requires the work of not only a treating specialist, but also a diagnostician and rehabilitator (21). Promotion of a healthy lifestyle and improving the quality of health is also an activity aimed at improving the health indicators of citizens, as well as consultation, in which medical information illustrated on bulletins is also compiled and drawn by specialists whose activities do not involve a purely medical profile. Work with the population and the organization of the health care process, taking into account the formation of the budget, the choice of policies, legal protection and consultations, the systematization of activities and other actions are also necessary for any medical organization for a full-fledged effective operation in the medical and legal space. That is why the term "Healthcare workers" (22) is now actively used, which in translation corresponds more to the concept of "healthcare worker", which is broader in scope than "medical worker". The concept of "healthcare worker" implies that a person occupies a certain position of a non-medical profile with organizational, technical, economic, legal and other activities in a healthcare organization that is not related to the process of diagnosis, treatment and rehabilitation, but without it the functioning of a healthcare organization is impossible (23).

The problem of identification of medical workers is considered by us in the article of the journal "International Journal of Biological Pharmaceutical and Toxicological Science" from the perspective of analyzing the problems of legal protection of medical

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workers in the legal space of providing medical services to patients. The legal protection of medical workers depends on a number of factors possessed by the medical organization in which they work (24). These include mobility, elasticity, flexibility, maneuverability, dependence, rigidity, bureaucracy, fluidity, innovation, PR abilities, prevalence, projectivity, loss of time, reputation, disloyalty and uplift. In the article, these properties were systematized according to four criteria: strengths, weaknesses, opportunities and risks. The methodological basis is the development of a mechanism that combines these factors into a single tool of legal analysis "Multidimensional subjective S.W.O.T analysis of elements of legal relations", for which an author's certificate was obtained (Appendix A, B, C) and with which the level of legal protection of a medical worker was studied depending on the types of medical organization (25).

Identification of the legal nature, essence, characteristics, classification and types of health care workers and medical workers, in particular, is a matter of elastic application of adequate systematization of positions whose job responsibilities include one or another degree of operation in the field of national or international health.

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 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.

In conclusion, it is possible to designate healthcare workers as persons who carry out their professional activities in a healthcare organization on the basis of professional medical education or without it, whose list of powers includes a certain level of regulation of the activities of doctors and nursing staff when interacting with patients in terms of treatment, diagnosis and rehabilitation; provision of medical and social services to patients, as well as organizational, administrative, legal, technical and other support for the activities of a healthcare organization. At the same time, the distribution of positions "doctor and employee of the organization" is not relevant, since for the most part they give general preference to the position "medical worker". Types of medical workers are analyzed according to the types of medical care. Another question can be called the question of the effectiveness of the implementation of their professional duties by medical workers.

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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