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PRIVACY IN THE PROVISION OF MEDICAL CARE

Evgenia Vasilievna Savoshchikova (a)*, Dinara Argynovna Duysembaeva (b)
*Corresponding author

(a) Orenburg State University, 13, b. 20, Victory Ave., Orenburg, Russia, jene30@mail.ru,
(b) Kazan (Volga Region) Federal University, 18, Kremlin st., Kazan, Russia, diko_0805@mail.ru

Abstract

The article discusses the problems associated with the violation of the legal regime for the preservation of information constituting medical confidentiality and personal data of the patient. The primary attention is paid to the analysis of judicial practice in cases of compensation for moral damage for the disclosure of medical confidentiality. The subject of analysis is the statutory exceptions, which allow the disclosure of medical confidentiality and personal data without the consent of the patient. The most important task of the state is the protection of individual rights, including the right to health, which is guaranteed by the Constitution of the Russian Federation (Article 41). In the successful implementation of this task, an important role belongs to constitutional and criminal-legal means. In this regard, legal means should be aimed at preventing attacks on the health of an individual, improving constitutional and criminal legislation and the practice of its implementation. Constant attention must be paid so that they are entirely consistent with the new realities of the development of medicine, society, and morality. For a long time, medical activity existed separately from the law, had contact with the legal norms only in some cases, as an exception. The rules of professional ethics and moral standards did not give any reliable guarantees against the consequences of the work of a medical worker. In this regard, a need arose for a compulsory appeal to medical standards, the observance of which would be guaranteed by the force of state coercion.

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Keywords: Law enforcement practice, medical confidentiality, personal data of the patient.

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1. Introduction

The main task of the doctor is to ensure the safety of the people's lives and improve their quality. The level of professional competence of a specialist, which is achieved through long-term training in medical higher education institutions, as well as regular advanced training, is especially important. At the same time, it is necessary to obtain not only the most relevant and up-to-date scientific knowledge but also to increase the level of knowledge of information on medical ethics.

Each medical worker must possess certain qualities that enable him to establish trusting relationships with the patient, contributing to the development of their maximum effectiveness. Such qualities include the following: kindness, compassion, understanding, empathy, participation in the problems of the patient, and attention to the patient (Pashinyan, 2015).

At the same time, inflicting both physical and moral harm to the patient is considered utterly unacceptable for the doctor. The doctor should, in a positive manner, tell the patient the facts about his illness at a level understandable to the patient. The doctor should explain all the possible consequences of treating pathology and inaction concerning it. The patient should be aware of the positive and negative aspects of the prescribed treatment, its cost. In assisting the patient, the interests of the patient should be in first place for the doctor, he should be diagnosed, and further treatment should be prescribed based on his own experience.

Doctors have to keep medical confidential. It is unacceptable to disclose the results of examinations without special reasons, to disclose the fact of a patient's visit to a medical institution. A fatal outcome is not a basis for the withdrawal of a medical confidentiality obligation from a medical professional (Rospravosudie, 2017).

The most important feature that characterizes the professional ethics of a doctor, in comparison with the ethical standards of people of other professions, is the severity of such human qualities as morality and justice. When following scientifically sound principles of medical ethics and possessing the qualities mentioned above, a medical professional is most faithfully oriented in his professional activity.

The doctor's expressiveness of such human qualities as morality and justice is the most important feature that characterizes the doctor's professional ethics in comparison with the ethical standards of people of other professions. It is based on the principles of humanism and regulates the characteristics of the moral and ethical choice and behavior of a physician in specific situations. Of course, the fundamental criteria for the readiness of future medical workers for professional activity are medical competencies and self-critical behavior. However, it is worth noting the high importance of moral and ethical attitudes in the formation of the personality of a highly qualified specialist (Garant, 2017).

2. Problem Statement

Research participants' privacy and confidentiality should be, above all. Confidentiality refers to working with information that a person discloses in a trusting relationship. Information is not expected to be shared with other people without permission. Private life is defined as control over the degree, terms, and conditions of the exchange of information about oneself (physical, intellectual, and behavioral) with others. Biomedical and behavioral research can interfere with a person's privacy and result in a breach of

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confidentiality. As an example from law enforcement practice, one can cite the claims against the Nizhnelomovskaya MRB GBUZ on the recognition of the actions of a specialist doctor who conducted a medical examination of citizens who were subject to appeal as unlawful and sought compensation for non-pecuniary damage (Garant, 2017).

The circumstances of the case. The basis for the claims was the fact that when examining the draftee, the defendants did not ensure the confidentiality of the health issues discussed. The examination process took place in a room without a door; the doorway was covered with a sheet. Besides, the doctor admitted the presence of trainees at the recruiting station.

The court's decision. According to the order of the chief doctor, a 3rd-year student at the Penza Regional Medical College was admitted to the specified medical institution for practical training as an assistant to a nurse. Therefore, her participation in the preparation of documents during the examination of draftees cannot be regarded as the disclosure of information constituting a medical secret.

Also, in the case file, there is no evidence that the room where the medical examination of the recruits was carried out did not meet the sanitary and epidemiological requirements, and this discrepancy led to a violation of the plaintiff's rights, including the disclosure of information constituting medical confidentiality. In such circumstances, the court reasonably rejected the claim against the medical institution by a new decision.

From the previous, it follows that students of medical universities and colleges in medical institutions have the same responsibility for disclosing medical confidentiality as the regular medical staff.

One of the legislative novels is the fixed fact that the death of a citizen does not entail the termination of the confidentiality regime of information about his state of health, facts of seeking medical help, treatment (RF Goevrnment, 2011).

In such situations, the court, in preparing the civil case for trial, may decide on the need to familiarize the interested person with information related to the medical history of the deceased patient. However, the court can do this if necessary to adequately protect the applicant's rights and the rights of the deceased.

The court decision is made on the basis of the principles of proportionality and justice. This right applies to law enforcement agencies when deciding whether to institute criminal proceedings. Also, the prosecutor can exercise this right when conducting an audit to supervise the observance of human and civil rights and freedoms.

Thus, the conclusion on the cause of death and the diagnosis of the disease is issued to the spouse, a close relative (children, parents, adopted, adoptive parents, siblings, grandchildren, grandfathers, grandmothers). In the absence of spouses and close relatives, this conclusion may be issued to other relatives, or to the legal representative of the deceased, to law enforcement agencies, to the body that exercises state control of the quality and safety of medical activity, and to the body that exercises control over the quality and conditions of medical care upon request.

Other medical documentation may be issued only in cases specified in Law No. 323-FL, i.e., not in all cases the non-disclosure of medical confidentiality may be justified by the need to protect medical confidentiality (Article 13, part 4).

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Following the Law, medical confidentiality can be disclosed with the written consent of a citizen or his legal representative in the following situations:

- for medical examination and treatment of the patient;
- conducting scientific research, publishing them in scientific journals;
- use in the educational process and for other purposes.

Particular attention should be paid to exceptions in which the provision of information constituting medical confidentiality is allowed without the consent of a citizen or his legal representative (RF Goevrnment, 2011):

1) to conduct a medical examination and treatment of a citizen who, as a result of his condition, is not able to express his will;

2) with the threat of the spread of infectious diseases, mass poisoning and damage;

3) at the request of the bodies of inquiry and investigation, the court in connection with the investigation or trial, at the request of the prosecution authorities in connection with their prosecutorial oversight, at the request of the penal system in connection with the execution of criminal punishment and control over behavior Conditionally convicted, convicted, in respect of whom serving a sentence is delayed, and a person released on parole;

3.1) in order to exercise control over the execution by persons authorized by the federal executive authorities of persons recognized as drug addicts or who consume narcotic drugs or psychotropic substances without a doctor's prescription, or new potentially dangerous psychoactive substances, which are assigned to them by the court for administrative punishment, the obligation to undergo drug treatment, diagnostics, preventive measures and (or) medical rehabilitation;

4) in the case of providing medical assistance to a minor (up to 15 years old, and a patient with drug addiction – up to 16 years old) to inform one of his parents or another legal representative;

5) to inform the internal affairs bodies about the patient's admission, concerning which there are sufficient grounds to believe that damage to his health was caused as a result of illegal actions;

6) to conduct the military-medical examination at the request of military commissariats, personnel services and military medical (medical flight) commissions of federal executive bodies and federal state bodies in which the federal Law provides for military and equivalent service;

7) in order to investigate an industrial accident and an occupational disease, as well as an accident with a student while staying in an organization engaged in educational activities, and in accordance with part 6 of article 34.1 of Federal Law of December 4, 2007 No. 329-FL "O Physical Culture and Sports in the Russian Federation" accident with a person undergoing sports training and not in labor relations with a sports and fitness organization that does not provide sports training and is customer services for sports training during the passage of such a person in the sports training organization engaged in sports training, including during his participation in sports competitions, provided implemented programs of sports training

8) in the exchange of information by medical organizations, including those located in medical information systems, to provide medical care, taking into account the requirements of the legislation of the Russian Federation on personal data.

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9) for accounting and control in the system of compulsory social insurance.

10) to implement quality control and safety of therapeutic activities.

Relations for the provision of medical services are subject to legal regulation of both private Law and Public Law. In private Law, they act as contractual obligations. Public Law has as its object of influence public interests, that is, the interests of the whole society and the state. Protecting public health is a public interest, hence government intervention in regulating the market for medical services. Therefore, the relationship in the provision of medical services has special features, such as:

- the constitutional nature of relations, since the right to medical care, is enshrined in the Constitution of the Russian Federation;
- high social significance;
- publicity (a medical organization or a medical worker does not have the right to refuse medical care) (Garant, 2017).

And although in the literature (CJ RF, 2013), the opinion is expressed that administrative and legal means of regulation are increasingly fading into the background, it should be recognized that public principles have a significant impact on civil relations for the provision of medical services. In particular, the recognition of a contract for the provision of medical services as a public contract (Civil Code, Article 426) entails the impossibility of the contractor refusing to conclude a contract, thereby limiting the effect of the principle of freedom of contract. The Federal Law “On the Basics of Protecting the Health of Citizens” contains rules on the rights of patients (Article 19), medical confidentiality (Article 13), and establishes, in addition to the judicial procedure for the protection of violated rights, administrative and public ones, which also affects the content of the rights and obligations of the contractor.

The civil law insurance institute is a public legal means of providing the population with medical care. With the help of compulsory health insurance funds and insurance companies, funds transferred to pay for medical services are transferred from the public sphere to the public (Rospravosudie, 2017).

In public Law, a medical service (medical assistance) is a means of protecting the health of a person and the population as a whole, an object of control (over the quality of services provided), a means of protecting the interests of society (in cases of compulsory medical care). In private Law, medical services are aimed at meeting the needs of individual entities. That is, the medical service provided in a particular case is both the subject of a civil law obligation and the subject of public Law.

Therefore, the question arises of the sectoral nature of relations for the provision of medical services – public law or private law.

The literature suggests several approaches to solving this problem – civil, administrative, complex, and social and legal (Rospravosudie, 2012). Without dwelling on their consideration, we note the following.

All legal relations between an individual and the state can be divided into four categories: the right to participate in state power; individual obligations in relation to the state; citizen's rights to services from the state; the citizen's right to non-interference of state power in the sphere of freedom granted to him. Regarding the third group of relations, there is an opinion that "very often the activity of the state in this

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area takes private law firms. Sometimes the legal nature of an institution appears to be controversial, and it refers either to the public or to private law" (Savoshchikova, 2017, p. 64).

Ioffe (1983) distinguished two groups of theories of dividing the right into public and private. The first one tries to deduce the specifics of the relevant legal norms from the nature of the protected and regulated subject. The second group, on the contrary, proceeds from the specifics of various legal norms, regardless of the subject of their regulation, and divides the norms of public and private law (Savoshchikova, 2017).

At the same time, Ioffe (1983) identified four external signs that distinguish civil law from other types of legal relations. The first such sign is a method of protecting civil rights (through a civil lawsuit). The second sign is the grounds for the emergence of civil relations (free will of their participants). The third sign is found in the specifics of civil law norms (dispositive nature). The fourth symptom is particular ways to terminate legal relations (novation, offset, the addition of debt, unilateral expression of will) (Savoshchikova, 2017).

In determining the nature of legal relations and the distinction between private and public law, Pashinyan (2015) distinguishes two characteristics: the subject of relations and the method of regulation. At the same time, the private law attitude is based on the principles of coordination of subjects, private law is a system of decentralized regulation of life relations, and public law norms are strictly coercive (Pashinyan, 2015).

Based on these characteristics, it should be noted that concerning the provision of medical services, the object services as objects of civil rights that have economic value. The provision of medical services contributes to the realization of the right to health, which is a personal non-property right, protected not only by civil law but also by constitutional, administrative, criminal law. On this basis, relations in the provision of medical services should be recognized as private.

As for the method of legal regulation, both the imperative (public law) method is used here (for example, when regulating the provision of involuntary and compulsory medical services), and the civil law (dispositive) method (contracts for the provision of medical services, medical insurance). It should be noted that the rules governing the provision of medical services are also both dispositive and imperative. The legislation on health can distinguish the norms of administrative, budgetary, procedural, civil, and social security law.

Therefore, these signs are not enough to identify the legal nature of the relationship in question.

Here, in our opinion, attention should be paid to the nature of the legal relationship of the participants in the relationship. In the legal relationship for the provision of medical services, the legal relationship between the patient and the contractor is based on legal equality, property independence, the autonomy of the will of the parties. This principle is also confirmed by the grounds for the emergence, change, and termination of these relations – contracts, single transactions.

The attitude to the provision of medical services is formed between the same subjects: the patient and the medical organization, and is built according to the method of decentralization (Garant, 2017). The state, as a government organization does not directly participate in the provision of medical services. There is no sign of submission between the contractor and the patient; rights and obligations arise and are

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realized based on new consensus, free will, parties to relations are property independent, separate from each other.

The possibility of civil relations based on such legal facts is provided for by the Civil Code (Article 8). Moreover, it should be noted that there is a group of relations for the provision of medical services, the basis of which is an administrative, judicial act (compulsory, involuntary medical services).

In such relations, there is no sign of the free will of the citizen – the patient. The rights and obligations of the parties are retained only with a slight change. It should be noted that limiting the legal capacity of citizens (including freedom of expression) is allowed by law (Civil Code, Article 22, paragraph 1; Article 1 paragraph 2). Restriction of legal capacity is possible to protect the foundations of the constitutional system of morality, health, rights, and legitimate interests of others, to ensure national defense and state security. In this case, we are talking about protecting the rights and legitimate interests of persons who may be violated by a person who has a mental disorder (involuntary medical services) or committing a socially dangerous act (compulsory medical measures). Also, these restrictions can be applied to protect the health of the patient.

Such a restriction of freedom of expression is connected with the public interests of the state. It should be noted here that in the provision of medical services, private interests (citizens – an interest in maintaining, maintaining, restoring their health) and public interests (the social function of the state, the health of the nation, population, society) are organically combined. Therefore, a logical conclusion follows that the presence of a public element is inevitable, and the state is especially interested in these relations.

You should also pay attention to ways to protect the rights of participants in legal relations. The rights of the consumer and the customer of medical services can be protected both through judicial and administrative procedures. The right to life and health (as the primary good that may be violated as a result of nonperformance or improper performance by the performer of his duties) is protected and protected by both public and civil law.

Medical services are provided to citizens to protect their right to health; they are one of the ways to exercise the right to health. On this basis, the conclusion follows the private-law nature of the relations under consideration.

However, it is necessary to focus on some features of the disclosure of medical confidentiality based on the analysis of law enforcement practice.

In particular, an insurance organization often requires the provision of an extract from the deceased's medical card in the manner prescribed by the Law of the Russian Federation of November 27, 1992 No. 4015-1 "On the organization of insurance business in the Russian Federation" (Article 10, part 8). This requirement is possible if the citizen agrees to this, expressed during his life in writing after the insurance contract.

Thus, the closed joint-stock company Insurance Company filed a lawsuit with the arbitration court against the state budgetary healthcare institution of the Novosibirsk Region (after this – the defendant, GBUZ NSO Chanovskaya Central District Hospital) for an obligation to provide an extract from the outpatient card T.

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As follows from the materials of the case established by the court of the first instance, CJSC IC RSHB-Insurance (insurer) and T. entered into a Combined Mortgage Insurance Agreement. Under the Insurance Contract, the beneficiary received an application for payment of insurance compensation upon the death of the insured person.

Policyholder T. sent a request to the GBUZ NO "Chanovskaya CRH" for an extract from an outpatient card. In response to a request from GBUZ NO "Chanovskaya Central District Hospital," it is indicated that the requested information cannot be provided, since this information is a medical secret, according to Article 13 of the Federal Law "On the Basics of Protecting Citizens' Health in the Russian Federation".

At the same time, policyholder T. gave her consent to any medical institution and/or doctor to provide the insurer with any information related to it and constituting medical confidentiality (consent is registered in the Health Questionnaire). This consent is per Federal Law dated 21.11.2011 No. 323-FL "On the Basics of Protecting the Health of Citizens in the Russian Federation." The plaintiff sent a request to the defendant, to which the defendant refused (Article 13, paragraph 3).

Court's findings: guided by the norms of the Federal Law "On the Basics of Protecting Citizens' Health in the Russian Federation," the trial court came to a reasonable conclusion about the lawfulness of the actions of the medical institution and the lack of grounds to satisfy the stated requirement.

It is justified the court's conclusion that an attorney's power is terminated due to the death of the citizen. This decision is based on paragraph 5 of Article 188 of the Civil Code of the Russian Federation's consent, which is reflected in the Questionnaire on the state of health. Under the circumstances, the trial court came to the reasonable conclusion that there are no grounds for satisfying the claims (Rospravosudie, 2012).

The next problem concerns the legality of the use of photo and video in a medical organization. Here is an example from judicial practice: Determination of the Constitutional Court of the Russian Federation, September 24, 2013, No. 1333-O (CJ RF, 2013).

Circumstances of the case: I.S. appealed to the court with a medical organization to cancel the order to establish an audio and video recording system in the medical office of a dentist. The applicant is a doctor of this medical organization, and at the same time, it is patient. According to the applicant, the right to privacy has been violated. He requests that the actions of the polyclinics' employees are recognized as contrary to the Constitution of the Russian Federation (Articles 23 and 24).

From the response provided by the prosecutor's office to the appeal of I.S., It follows that the applicant has consented to the processing of his data by signing an additional agreement to the employment contract. The prosecutor's office also established that in the case of a patient's disagreement with a medical organization regarding the collection and processing of personal data through audio and video recordings, the surveillance system is disconnected.

Court submissions: The provision of this information without the consent of a citizen is allowed for quality control and safety of therapeutic activities (clause 10 of part 4 of article 13 of the Federal Law "On the Basics of Protecting the Health of Citizens"). The forms in which the specified control activity is carried out, along with the state and departmental, include internal control.

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The applicant refers to the provisions of the Federal Law "On the Basics of Protecting the Health of Citizens in the Russian Federation." This law aimed at ensuring the rights of citizens to receive medical care of the required volume and appropriate quality based on the established standards for its provision. Consequently, these provisions alone cannot be considered as violating the constitutional rights of citizens in the aspect indicated by the applicant.

Thus, according to the Appeal ruling of the Moscow Regional Court dated 02.10.2012 No. 33-19415 / 2012, the implementation of video and audio recordings when providing medical care (Garant, 2017):

- it does not contrary to the provisions of Article 23 and 24 of the Constitution of the Russian Federation;
- it does not violate the patient's right to privacy;
- it does not a collection of information about the patient's life without his consent.

In this regard, it is necessary to pay attention to the Explanation of Roskomnadzor "On the issues of assigning photo and video images, fingerprint data, and other information to personal biometric data and the peculiarities of their processing." According to these explanations, visitors to public places should be notified in advance by their administration of a possible photo and video shooting with appropriate text and (or) graphic warnings.

Subject to the specified conditions, the consent of the subjects to carry out these activities is not required. In practice, the patients of medical institutions, including private medical centers and dental offices, are not informed in advance about video filming. Such a contradiction creates the prerequisites for high-profile court cases and is associated with the imperfection of this area legislation.

An analysis of the legal aspects of medical confidentiality and judicial practice has revealed urgent problems. On the one hand, these problems are associated with non-observance of medical confidentiality by medical organizations. On the other hand, these problems are related to the inaccessibility of information about the state of health of a person to his close relatives, legal representative, when necessary.

Courts, as a rule, allow relatives of deceased patients to get acquainted only with the conclusion on the cause of death and the diagnosis of the disease. These actions are motivated by the fact that the data constitute a medical secret and are recorded in medical documentation. Therefore, data cannot be disclosed even after the death of the patient. Together with the legal illiteracy of both medical workers and patients, this circumstance creates difficulties in resolving property disputes and in providing an extract from a medical card in the event of an insured event of an insurance organization.

The analysis of law enforcement practice has demonstrated that the issue of medical confidentiality and its disclosure remains very acute in modern healthcare. The legal framework needs legislative revision. The level of development of modern medicine determines the requirements for the training of doctors, including legal.

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3. Research Questions

The subject of this study is public relations arising from problems associated with a violation of the legal regime for the preservation of information constituting a medical secret and personal data of a patient during the implementation and provision of medical care.

4. Purpose of the Study

The purpose of the work is expressed in a comprehensive study, analysis, generalization and evaluation of the diverse opinions and positions of scientists, as well as judicial practice regarding problems associated with violation of the legal regime for the preservation of information constituting a medical secret and personal data of a patient during the implementation and provision of medical care.

5. Research Methods

In preparing the article, such methods as systematic, historical-legal, comparative-legal, structural-logical, and formal-legal methods were used.

6. Findings

Research participants' privacy and confidentiality should be, above all. Confidentiality refers to the work with information that a person discloses in a trusting relationship; it is not expected to be divulged to other people without the permission of the person. Private life is defined as control over the degree, terms, and conditions of the exchange of information about oneself (physical, intellectual, and behavioral) with others. Biomedical and behavioral research can interfere with a person's privacy and result in a breach of confidentiality. In certain circumstances, a breach of confidentiality could pose a risk of serious harm to the study participant. For example, a risk arises when a researcher receives information that, if disclosed by the researcher, could jeopardize the work or lead to the prosecution of a research participant for criminal behavior. In other circumstances, interference with privacy cannot cause any damage or cause minimal damage if such circumstances are the observation or recording of public behavior. However, the need to maintain confidentiality exists in virtually all studies that collect data on its participants. In most studies, the guarantee of confidentiality is provided by replacement codes to identify the participant's identity, the correct destruction of printed information and other documents, restriction of access to identified data, and/or storage of research records in closed cabinets. Most researchers are familiar with these standard precautions taken to maintain data confidentiality. Ethics committees should at least ensure that appropriate safeguards are applied to the protocol in question in order to preserve the confidentiality of research information. The type and severity of the measures depends on the type of information that will be collected in the study. In any case, guarantees of "absolute" confidentiality should be avoided. The boundaries of confidentiality should be clarified. For example, employees of federal departments have the right to inspect study records, including informed consent documents and individual medical records, to ensure compliance with the rules and standards of their programs (for example, FDA inspection of clinical trial records). More sophisticated procedures may be needed for research that

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collects data on sensitive issues such as sexual behavior, criminal activity, and a genetic predisposition to the disease.

Confidentiality and information handling may be controlled by other federal, state, or local laws. For example, the Law on Liability and Accessibility of Citizens Health Insurance Data of 1996 (HIPAA – Health Insurance Portability and Accountability Act), which entered into force in 2003, gives patients the right to information about their health and establishes rules and restrictions on who can view and receive this information. HIPAA, also known as the Privacy Rule Act, was a federal legislative response to the public concerned about possible breaches of the confidentiality of medical information. The Personal Information Privacy Act sets out a category of health information known as private health information. This type of information can be used or disclosed to others only in certain circumstances or under certain conditions. Private health information includes what physicians and other healthcare professionals typically view as personal information about the patient's health, such as information on the patient's medical record or the results of his or her research. The rule applies to identifiable information about the health of clinical trial subjects collected by researchers who qualify as "insured health care providers." Therefore, it is essential for researchers who are protected and abide by HIPAA to maintain confidentiality concerning study participants.

Controversial are the problems associated with compliance with the legal regime for the protection of information constituting medical confidentiality and personal data of the patient. These problems are the subject of lively discussion not only in the professional community of the medical community but also in the media. The number of lawsuits against medical workers is increasing every year. The reasons are related to both an increase in the level of patients' legal literacy and medical personnel legal nihilism.

The Russian healthcare system is going through a difficult period of optimization. It is undergoing significant transformations: medical documents are being transferred from paper to electronic, in particular, to the Unified State Health Information System (EGIAS), as well as to information systems of compulsory medical insurance.

These trends create prerequisites for strengthening control over the preservation of information, constituting personal data, and medical confidentiality. In this connection, the heads of medical organizations are faced with new tasks, in particular, to increase the level of legal literacy in this area of all personnel who have access to such information.

Currently, the current legislation regulates in detail the procedure for maintaining medical confidentiality. According to Article 13 of the Federal Law, November 21, 2011 No. 323-FL "On the Basics of Protecting the Health of Citizens in the Russian Federation," medical confidentiality – information about the fact of a citizen applying for medical care, his state of health and diagnosis, other information obtained during his medical examination and treatment. Thus, the legislator considers absolutely all information that became known when a citizen applied for medical assistance to medical confidentiality. In particular, medical confidentiality includes information not directly related to the therapeutic process. For example, a patient can share information with his doctor about his personal life, and this information also cannot be disclosed without the consent of the patient.

It should also be noted that other articles of the Federal Law No. 323 are aimed at protecting medical confidentiality. This fact indicates the special protection of this right. So, following Article 4 of

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the Federal Law No. 323, medical confidentiality is the main principle of health protection. Article 19 enshrines the patient's right to the protection of information constituting medical confidentiality. Separately, the obligations of medical workers and medical organizations to observe medical confidentiality are determined by Articles 73, 79 of the Law. Public relations related to the provision of medical services to the current stage of the development of Law seem unthinkable. Moreover, they are mainly impossible without medical information. Such information can be implemented in various models – from consent to the processing of personal data to informed consent to medical intervention. A significant part of such models provides not so much the informational openness of medical institutions as the safety and, in many ways, the effectiveness of the medical care provided.

It is speaking about the modern filling of patients' rights to information in the context of Russian reality. First of all, it should be noted that the general principles of legal regulation of the corresponding complex of social relations are presented within the framework of constitutional regulation. Thus, the Constitution of the Russian Federation provides that one of the necessary competence elements of state authorities and relevant officials is the obligation to ensure that citizens can familiarize themselves with and provide information that directly affects their rights and freedoms (Constitution of the Russian Federation, Article 24, part 2). The right to health, of course, is one of the fundamental elements of not so much a citizenship model as a personality model. The Constitution of the Russian Federation provides for many rights, the implementation of which is aimed at ensuring the proper level of personality development. Including these are the rights associated with the need to maintain a certain level of health.

Correlating to the norm considered above is Article 29 of the Constitution of the Russian Federation. This Article provides for the possibility of free search and receipt of information by any means not prohibited by Law. Such a regulatory establishment, of course, is directly linked to the field of medical information. It is in pursuance of the Constitution of the Russian Federation in the relevant federal laws that the possibility is provided for the patient or intermediary to receive medical information about the state of health (Article 29). The Constitution of the Russian Federation provides another aspect related to the provision of information rights at the constitutional level but having indirect value in terms of medical information – the rights associated with the provision of environmental information (Article 42). In certain refractions, such a complex of rights can also be considered as an element of medical information. For example, when it comes to the case of citizens living in hostile territory.

A significant breakthrough in terms of informational medical support is the development and subsequent adoption of a specific federal law aimed at regulating the procedural aspects of the collection, storage, and transit of personal medical information. Article 8 of the Federal Law "On Information, Information Technologies and the Protection of Information" provides for the possibility of free access for a person to information that affects the rights, freedoms, and obligations of such a person. Certain aspects of medical information are also related to the issue of free access to relevant medical information. Often, the procedures used in the implementation of the competence of the federal executive bodies of state power provide for restrictions on such access.

The risks of disclosing medical information are often located in the plane of internal organizational interaction in a medical organization. The Federal Law "On Personal Data" has been adopted and applied to ensure the confidentiality of medical information in the conditions of Russian reality. The normative

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regulation of this law provides for special requirements for organizations collecting and storing personal information, which, of course, can include medical information.

Legal acts regulate public relations in the framework of providing medical information; it is worth noting that a significant part of the legal regulation of medical information is implemented through the application of the Federal Law "Based on protecting the health of citizens in the Russian Federation." The Federal Law (Article 19) under consideration provides for the concrete practical filling of the right to medical care with an indication of the system of powers that are available for each patient to exercise in relations with medical organizations (CJ RF, 2015). One of the elements of the system of such powers is the patient's right to receive information about their rights and obligations, their state of health, the choice of persons to whom information about the state of health can be provided in the interests of the patient. Besides, the article under consideration also provides for the right to protect information constituting medical confidentiality.

A specific extension of Article 19 of the Federal Law "On the Basics of Protecting the Health of Citizens in the Russian Federation" regarding the information rights of patients is contained in Article 22, which provides for the right of patients to information. This regulatory provision provides for many substantive and procedural aspects related to the transit of information from representatives of medical organizations to patients or intermediaries. Based on the actual circumstances during the comparative analysis, it seems possible to find out possible violations of the established order. It is worth noting that based on the regulatory content of the Federal Law "On the Basics of Protecting the Health of Citizens in the Russian Federation" (Article 22), it is possible to distinguish the following groups of information provided as part of medical information:

- The proposed types of medical intervention, the consequences, and risks of their implementation; results of medical research;
- Forms of possible assistance; the presence of disease;
- Established diagnoses and subsequent possible vectors of its development;
- General results of medical care.

The legal regulation of medical information at the present stage of development makes it possible to distinguish the following primary forms of providing medical information from an institution to a patient or an intermediary:

- Directly familiarize yourself with medical records reflecting the state of health;
- To obtain advice from other specialists based on the documentation;
- Based on a written application, receive medical documents reflecting the state of health, their copies, and extracts from medical documents.

Thus, when analyzing the normative legal regulation of medical information processes, it seems necessary to note that such processes are regulated at various levels of legislation – from the norms of the Constitution of the Russian Federation to the norms of federal laws adopted in their implementation. At the same time, the legal regulation of public relations related to the information support of the rights of

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patients of medical organizations affects the whole range of aspects of the relations considered necessary to maintain the effectiveness of regulation.

7. Conclusion

The main task of the doctor is to ensure the safety of the life of other people and improve its quality. The level of professional competence of a specialist, which is achieved through long-term training in medical higher education institutions, as well as regular advanced training, is especially important. At the same time, it is necessary to obtain not only the most relevant and up-to-date scientific knowledge but also to increase the level of knowledge of information on medical ethics.

Each medical worker must possess certain qualities that enable him to establish trusting relationships with the patient, contributing to the development of their maximum effectiveness. Such qualities include the following: kindness, compassion, understanding, empathy, participation in the patient's problems, and attention to the patient (Savoshchikova, 2017).

At the same time, inflicting both physical and moral harm to the patient is considered utterly unacceptable for the doctor. The doctor should tell the patient the facts about his illness at a level understandable to the patient and in a positive way, explain all the possible consequences of treating the pathology and inaction concerning it. The patient should be aware of the positive and negative aspects of the prescribed treatment, its cost. In assisting the patient, the interests of the patient should be in the first place for the doctor. The doctor should be diagnosed, and further treatment should be prescribed based on his own experience.

Doctors have to keep medical confidential. It is unacceptable to disclose the results of examinations without special reasons, to disclose the fact of a patient's visit to a medical institution. A fatal outcome is not a basis for withdrawing the obligation to keep medical secrets from a medical professional.

The most important feature that characterizes the professional ethics of a doctor, in comparison with the ethical standards of people of other professions, is the severity of such human qualities as morality and justice. When following scientifically sound principles of medical ethics and possessing the qualities mentioned above, a medical professional is most faithfully oriented in his professional activity.

Of particular importance in the process of training future medical workers is the practical professional ethics, which regulates the requirements for the professional activities of doctors. It is based on the principles of humanism and regulates the characteristics of the moral and ethical choice and behavior of a physician in specific situations. Of course, the fundamental criteria for the readiness of future medical workers for professional activity are medical competencies and self-critical behavior. It is worth noting the high importance of moral and ethical attitudes in the formation of the personality of a highly qualified specialist.

Based on the analysis of the above norms, we can state the fact that medical confidentiality must be observed by all persons to whom the information is constituting medical confidentiality if they became known during training, the performance of labor, official, official, and other duties. In particular, medical students undergoing practical training in medical institutions can be admitted to the patient's data.

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