

Constitutional and ethical medical points of view on the importance of hospitalization of a patient with emergency cardiovascular pathology

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The article discusses the constitutional, ethical and medical aspects of hospitalization of patients with a life-threatening cardiovascular event. In itself, a medical condition is a complex biological event with many unpredictable aspects of its own course and adverse events and reactions in case of medical intervention. A doctor, as the central subject of medical care, faces four categories of difficulties: law, organizational, biomedical and ethical. Medical care is regulated by both article 41 of the Constitution of the Russian Federation and departmental acts of the health care system. Actually, doctor as a part of the healthcare system implement this right. The article provides an example of delivered judgment regarding complicated course of acute coronary syndrome. It shows the complexity of the medical situation, that regards the issues of doctor's legal liability.

Key words: medical ethics, patient orientation, emergency care, legal aspects of healthcare, legal liability'

psychosocial risk factors, judicial practice, Constitution of the Russian Federation, Constitutional Court of the Russian Federation.

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Cardiovascular diseases, being the main cause of death in the world, usually develop without a pronounced clinical picture, slowly. Often its debut is an acute cerebral accident, acute myocardial infarction or pulmonary thromboembolism, not to mention a sudden cardiac death. The health care system is required to be able to influence this type of pathologies (so-called non-communicable diseases) or at least its severe complications. However, primary prevention, treatment and secondary prevention may not be effective enough.

In order to prevent adverse scenario on the part of the legislator, a number of health regulations have been adopted and are subject to immediate implementation. This state of affairs is mainly due to the fact that the Constitution of the Russian Federation (RF), namely Article 41, directly fixes the protection of human life, health and improvement of the quality of its existence as one of its priorities [1]. At the same time, there are still a lot of questions in terms of legal regulation that arise from specific legal facts in this field.

Answers to such questions are often formed in court practice during the consideration of specific cases. One of the peculiarities of cases' consideration involving cardiovascular disease is the lack of medical knowledge in the judicial community (which also leads to a lack of experience in consideration of such cases). Such a state of affairs often leads to the fact that interested parties are forced to appeal to higher judicial instances, up to the Supreme Court of the Russian Federation, and if there is a doubt as to whether provision of the law is in compliance with Article 41 of the Constitution of the Russian Federation (or other constitutional and legal prescriptions), the party concerned has the right to appeal to the Constitutional Court of the Russian Federation (having passed all the stages of the national judicial protection: the court of first instance, appeal, cassation, review, and, if there is new or newly discovered circumstances). It is important to understand that courts of different instances may come to the opposite conclusions on the same problem, and then the Supreme Court of the Russian Federation will have to resolve the arising legal conflict [2].

Court practice

The Supreme Court of the Russian Federation, in its decision № 69-KG18-22 of 25 February 2019, focused on the fact that the victim in this case was misdiagnosed, and as a result the courts of different instances made conflicting decisions (the data were taken from open sources).

In 2017, the victim went to Megion Regional Hospital № 1 of the Khanty-Mansiysk Autonomous

Okrug — Ugra, where he was diagnosed with acute bronchitis with moderate bronchial obstruction. A few hours later, he died the same day. The cause of death on the medical death certificate was a pulmonary embolism with a reference to an acute pulmonary heart. According to the case report of the hospital's specialist department, the patient died as a result of a massive thromboembolism, and defects in medical care to the patient (unintentional examination, inadequate treatment) were also identified, concluding that the lack of examination was due to the young doctor's insufficiency of clinical experience. In the course of the expert committee's work on the case, it was established that the patient had not undergone a chest X-ray examination, the history was poorly collected; signs of thrombophlebitis were not detected, chest X-ray, echocardiography were not performed [3].

As a result of the work of the expert commission on the profiles of "cardiology", "cardiovascular surgery", "therapy", "anesthesiology-resuscitation", it was concluded that the patient's death was conditionally preventable.

In the course of examination of the materials of the forensic medical examination, the Court of First Instance e concluded that the patient had been provided with medical assistance in an untimely and low-quality manner. It also concluded that there were shortcomings in the maintenance of medical records, and there was no information in the medical record about the medical preparations he had been given. The cause of death was deep vein thrombophlebitis of the left lower limb with a separation of the thrombus from the vein wall and the development of pulmonary embolism, the development of respiratory and cardiovascular failure. In addition, the Court of First Instance found that the victim was lying on the floor at the time of his clinical death, which caused his wife moral suffering. As a result, the Court of First Instance ruled in favour of the patient's spouse and ordered the medical institution to pay a fine.

This decision was appealed. The Court of Appeal overturned the decision of the Court of First Instance on the grounds that there was no causal link between the actions of the medical staff of the medical institution and the consequences of the patient's death caused by pulmonary edema, massive thromboembolism. The Court of Appeal also considered that the Court of First Instance had exceeded its jurisdiction, i.e. it had allowed a claim that had not been made by the plaintiff (the patient's wife). The case was then transferred to the Judicial Collegium for Civil Cases of the Supreme Court of the Russian Federation. The Supreme Court considered that the Court of Appeal's findings were based on misinterpretation and application of the

law, and were made with a significant breach of procedural norms. In its ruling, the Supreme Court directly referred to a violation of Article 41 of the Constitution of the Russian Federation by a medical institution, and the decision to refuse plaintiff's relief for compensation for moral damage was made without taking into account the normative provisions of Federal Law № 323-FL "On Fundamental Healthcare Principles in the Russian Federation" of 21 November 2011.

Since the representatives of the medical institution did not appear before the Supreme Court, the conclusions of the Court of First Instance and the forensic medical examination were not refuted, and it was also noted that these conclusions were not refuted by the Court of Appeal.

The Supreme Court upheld the decision of the Court of First Instance and overturned the decision of the Court of Appeal in this case*. Thus, when combining medical and legal aspects, including procedural aspects, the courts of different instances made opposite decisions.

It is important to bear in mind that in its definitions, rulings and decisions, the court has the right to specify certain issues (concepts) arising from the proceedings (it should be noted that the only body empowered to take a position on cases of interpretation is the Constitutional Court). Thus, in particular, the case considered by the Supreme Court of the Russian Federation on March 21, 2017 in case № 18-KG17-27 is curious**. During the consideration of this case it was established that the plaintiff and the insurance company concluded an accident insurance contract in 2015. Three months later, the plaintiff had an ischemic stroke and was eventually diagnosed with Group I disability. The insurance company refused to pay the payments on the grounds that the disability was established as a result of a general illness and that such an event was not an insured one. As a result of the review of the case file, the Supreme Court concluded that a stroke was a disease caused by external factors, occurring suddenly, unexpectedly and against the will of the patient, and therefore constituted an insurance case. In addition, the court noted that, by virtue of paragraph 44 of the Resolution of the Plenum of the Supreme Court of the Russian Federation of June 28, 2012, № 17 "On the consideration by the courts of civil cases on disputes over consumer protection",

* Official website of the Supreme Court of the Russian Federation. URL: [http:// www.vsrfl.ru/stor_pdf.php?id=1748488](http://www.vsrfl.ru/stor_pdf.php?id=1748488)

** Determination of the Supreme Court of the Russian Federation of 21 March 2017 in case No. 18-KG17-27. Computer-assisted legal research system "ConsultantPlus", local version (date of request

the court proceeds from the assumption that the consumer (patient) has no special knowledge of the properties and characteristics of the service provided (otherwise, "improper medical manipulations" may occur).

It is necessary to take into account that certain variants of cerebrovascular disorders can have serious consequences not only for a person's physical condition, but also influence his legal status. For example, in 2017, the plaintiff N. applied to the Zavodskoy District Court of Orel to invalidate the civil transactions of her sister M. and to declare M. incapacitated.

The stated requirements were motivated by the fact that between 24.06.2014 and 04.08.2014 M. was seriously ill and underwent treatment for hemorrhagic stroke, intracerebral hemorrhage in the left brain hemisphere, with a blood rupture into the ventricles. Immediately after the medical procedures and discharge from the medical institution, M. concluded several civil law transactions. As a result of the examination, M.'s diaphragm was established: "hemorrhagic stroke; recurrent cerebral hemorrhage in the left brain hemisphere with a burst to ventricles; subdural hemorrhage in the left brain hemisphere; coronary artery disease; atherosclerotic cardiosclerosis". Medical experts found that the disease had caused M. to develop an organic personality disorder, a decline in intelligence, behavioural disorders, and untidiness in clothing and everyday life. All these factors together led to the conclusion that at the time of the civil law transactions M. had such a significant mental disorder that she was unable to understand the meaning of her actions and to direct them. In addition, representatives of the forensic medical expertise noted that M. had made a civil law deal as early as 2 weeks after discharge from hospital, while the psychological consequences of such a disease persisted during the acute period of stroke for at least six months, with full rehabilitation. Thus, the court satisfied the stated requirements.***

This situation illustrates the crucial medical position reflected in the World Health Organization's definition of health, the biopsychosocial model. Biological events — body diseases have consequences for the social individual. The development of this fact is also expressed in the legal field: changes in the legal status of a person due to the emergence of a particular pathology. And it is important to understand that the key factor for making legal decisions is the formulation of physicians — experts

*** The decision of the The decision of the Zavodskoy District Court of Orel, 8 June 2017, in Case No. 2-321/2017. Computer-assisted legal research system "ConsultantPlus", local version (date of request 21.07.2019)

in the medical (medical and biological) part of the situation. Interdisciplinarity of work with the patient already well understood in the light of patient-centeredness and psychosocial risk factors, and also extends into the legal field [4]. The first example, at the beginning of the article, also points to this ratio: the "moral suffering" of patients' relatives, which was caused by the process of care in the medical and biological field (resuscitation), becomes an element of the court decision.

Conclusion

As a result, we can conclude that the issue of regulating the quality of life and health of citizens is one of the most important not only for the legislator, but also for the judiciary. This is particularly true for cardiovascular diseases, which

is confirmed by the number of cases examined on this issue as well as by regular situations in each court.

The significant workload of the courts in this category of cases indicates disagreements between the parties (usually the patient and the medical institution), which are not regulated by the general rule, and also the ambiguity in the interpretation of the care provided in a particular field of medicine. The ambiguity of medical and biological processes, clinical situations, on the one hand, and the fundamental unambiguity necessary in the legal system, enter into complex relations that require the attention of both doctors and lawyers.

Conflicts of Interest: nothing to declare.

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