ции системы здравоохранения в Польше и Чехии диктует необходимость внесения изменений в конституционно-правовые акты Украины, которые следует направить на более четкую формулировку дефиниций основных понятий и терминов, определяющих право на здоровье человека, формирование децентрализованной системы здравоохранения, отвечающей основным принципам политики ЕС в сфере здравоохранения.

რეზიუმე

ადამიანის ჯანმრთელობის უფლების უზრუნველყოფის კონსტიტუციური საფუძვლები: შედარებით-სამართლებრივი ასპექტი

[1]ა.შევჩენკო, [1]ს.კუდინი, [2]ა.სვეტლიჩნი, [3]ე.კოროტუნი, [4]ი.ზაგუმენაია

[1]უკრაინის ფისკალური სამსახურის სახელმწიფო უნივერსიტეტი; [2]უკრაინის ბიორესურსებისა და ბუნების გამოყენების ეროვნული უნივერსიტეტი; [3]საჯარო სამართლის სამეცნიერო-კვლევითი ინსტიტუტი; [4]ხარკოვის შინაგან საქმეთა ეროვნული უნივერსიტეტი, უკრაინა

სტატიის მიზანს წარმოადგენდა შედარებით-სამართლებრივი კვლევის საფუძველზე ადამიანის ჯანმრთელობის უფლების კონსტიტუციური უზრუნველყოფის ზოგადი და განმასხვავებელი ნიშნების გამოვლენა უკრაინაში, ჩეხეთის რესპუბლიკასა და პოლონეთის რესპუბლიკაში. ძირითად ამოცანას შეადგენდა ჩეხეთის და პოლონეთის გამოცდილების განზოგადება და ამის გათვალისწინებით – უკრაინის საკონსტიტუციო კანონმდებლობის სრულყოფის მიმართულებების განსაზღვრა ამ სფეროში. დადგენილია, რომ უკრაინაში ადამიანის ჯანმრთელობის უფლების კონსტიტუციური უზრუნველყოფა ასახულია არამარტო ძირითად კანონში, არამედ რიგ კონსტიტუციურ-სამართლებრივ აქტებშიც; შესაბამისი ნორმების ანალიზი კი მიუთითებს დეფინიციებისა და ტერმინების არასრულყოფილების შესახებ, რომელთაც აღნიშნული სამართლებრივი დოკუმენტაცია უნდა მოიცავდეს. გამოვლენილია, რომ უკრაინაში ჯანმრთელობის დაცვის სფეროს პრობლემებს წარმოადგენს: ჯანმრთელობის დაცვის ახალი ეროვნული სისტემის აგების მუდმივი კონცეფციის არარსებობა, 2017 წელს დაწყებული სამედიცინო რეფორმის გატარების და მოსახლეობის ჯანმრთელობის დაცვის მართვის საბჭოთა ცენტრალიზებულ სისტემაზე უარის თქმის გაჭიანურება.

დადგენილია, რომ უკრაინის, ჩეხეთის და პოლონეთის რესპუბლიკების კონსტიტუციებს აქვთ საერთო ნიშნები ადამიანის ჯანმრთელობის უფლების დაცვის კონსტიტუციური პრინციპების ფორმულირების თვალსაზრისით. ამასთან, გამოვლინდა, რომ პოლონეთსა და ჩეხეთში ჯანმრთელობის დაცვის სისტემის ორგანიზების გამოცდილება მოითხოვს ცვლილებების შეტანას უკრაინის კონსტიტუციურ-სამართლებრივ აქტებში, რომელებიც მიმართული იქნება ადამიანის ჯანმრთელობის უფლების განმსაზღვრელი ძირითადი ცნებებისა და ტერმინების დეფინიციების უფრო მკაფიო ფორმულირებაზე, ჯანდაცვის სფეროში ევროკავშირის პოლიტიკის ძირითადი პრინციპების შესაბამისი დეცენტრალიზებული სისტემის ფორმირებაზე.

PROFESSIONAL ACTIVITY OF MEDICAL LAWYER

[1]Zaborovskyy V., [1]Buletsa S., [1] Bysaga Yu., [1]Manzyuk V., [2]Lenher Ya.

[1]State Higher Education Institution «Uzhhorod National University»; [2] Lutsk National Technical University, Ukraine

The activity of a lawyer is one of the basic elements of the mechanism of ensuring the rights, freedoms and legitimate interests of a person. This is due to the fact that the responsibility of the lawyer and the bar as a whole is to ensure each person's constitutional right to professional legal assistance. Such right, in turn, is being considered as a legal guarantee of the fulfillment of all other rights and freedoms of a person, on which his or her confidence in the existence of a reliable mechanism for their protection, in ensuring proper access to justice, depends. One of such constitutional rights of a person, to ensure the relevant implementation of which the legal activity of the bar is directed, is the right of everyone to health care, medical care and health insurance (Article 49 of the Constitution of Ukraine).

Therefore, the proper implementation of the mentioned above constitutional right of a person is first of all connected with the professional activity of a lawyer. This is due to the large number of litigation, including civil law in the medical field, which carries an increased risk of harming the life and health of the individual. Considering the significant differences in the professional practice of the lawyer and the doctor, but at the same time the intertwining in many cases of their fields of activity, as well as the fact that the procedure of establishing the guilt of doctors and other healthcare professionals is inherently complex, the role of the medical lawyer plays an important role which, in addition to legal, would also have a certain set of medical knowledge.

Problems of the professional activity of a lawyer in the medical field, as well as other aspects of the interaction of doctors and lawyers, were the subject of research of a number of scientists, among which, Afanasieva K., Barinov Ye., Veliezhev S., Halovits P., Demidova Ye., Elers A., Zabava B., Zvezdina O., Ivantsova A., Kozlov S., Martin J., Moisak S., Mokhov O., Rezepkin O., Stilman M., Sukhoverkhova Ye., Trubek L., Tykhomyrov O., Trunov I. and others. At the same time, the legal status and specificity of the medical lawyer's professional activity remained virtually out of the scientists' attention.

The aim of this article is a complex research of the theoretical and legal aspects in the context of defining ways of interaction between the professions of the lawyer and the doctor, in order to justify the need to assist a medical lawyer and to reveal the main features of his professional activity.

The methodological basis of the research consists of different methods of scientific knowledge. Thus, in conducting the study, a comparative legal method was used to compare the features of legal regulation of medical lawyer's activity in Ukraine and other countries. Using the system-complex method, both common and distinguishing features of the profession of the lawyer and the doctor were investigated. Based on the dialectical method, it is concluded that there are significant differences in the professional activity of the lawyer and the doctor, and in many cases the interweaving of their spheres of activity, which leads to the existence of certain ways of interaction between them. Other methods were used in the work, in particular: formal-logical, dogmatic, analysis and synthesis.

Disclosure of the peculiarities of the legal position of the medical lawyer determines, first of all, the need to find out the relation between the professions of the lawyer and the doctor. These professions have a number of similarities, the main one is that both lawyers and doctors provide care, not service). The problem of differentiating between the terms "legal aid" and "legal service" in the context of a lawyer's professional activity was the subject of our separate scientific research, where we came to the conclusion that it was necessary to differentiate them legal situation - object of assistance); the subject of the grant (assistance is provided by a person with special professional status, that is, a lawyer); the mechanism of implementation and the scope of legal regulation (securing and guaranteeing the constitutional right to professional legal assistance); result-oriented (a lawyer may only provide a specific outcome when providing legal aid, but in no way can it be guaranteed); and the nature of the activity in which they are pursued (advocacy is an independent professional activity, which by its nature is not entrepreneurial and devoid of commercial component) [1].

The specificity of the assistance provided by both the lawyer and the doctor is that it should provide every person in a difficult life situation, and as Ye.V. Oreshyn, the doctor and the lawyer have no right to refuse help, guided by any other moral ideas, since providing medical and, accordingly, legal aid is their duty [17]. The specifics of assistance, which in both cases must be accompanied by compliance with the regime of secrecy, is also performed by a lawyer and a doctor of a socially significant function in the course of his professional activity. As I.L. Trunov rightly notes, if the doctor is responsible for the patient's health, then the lawyer can influence the whole further life of the person - fate, profession, well-being etc [24].

At the same time, the specificity of each of these professions causes significant differences in the professional activity of the lawyer and the doctor. The fundamental differences in educational training, as noted by scientists, also form sharply contrasting differences in each profession [33]. J. Martin and M.D. Stillman show the examples of such differences, and point out that lawyer, in essence, learn to look at the black and white situation and see the gray, and doctors learn to find the black and white from the gray situation. This is due to the fact that lawyers quickly learn to apply competitive methods, using facts to expose the gray spheres of disputes that are consistent with their arguments, because in the legal world, lawyers learn to work with fuzzy standards such as "beyond reasonable doubt" and "more like than not." Whereas, by contrast, physicians use scientific methods to enter symptoms into a particular diagnosis and then define the remedies, they work in clear clinical ways - with predefined goals and objectivity [30]. This distinction is compounded by the complex professional terminology used primarily by doctors, which in some way impedes direct communication between them and lawyers. An obstacle to such communication between lawyers and doctors is the fundamental misunderstanding of each other's methods, values and roles, which may be manifested, for example, by the various goals they set out to achieve. Yes, lawyers usually work to protect the autonomy and freedom of their clients, while doctors seek to take care of their patients' health. And while these are often interrelated, they can have conflicting goals (for example, if you are being forced into a hospital by a lawyer for involuntary hospitalization, which is a patient of a particular doctor [31]).

On the one hand, the significant differences in the professional activity of the lawyer and the doctor, and on the other - the intertwining in many cases of their field of activity, cause the existence of certain ways of interaction between them. We agree with L. Trubek, B. Zabava, and P. Halovitz, who say that professionals are increasingly aware of the fact, that collaboration with other professions can better serve clients and improve outcomes, as limited resources can lead to improved patient / client service, when professions working together can more effectively solve problems than could be done by professions working alone. They rightly point out that such interaction between professions can create a "window", in which each profession can redefine its own professional roles and help another one to form (and change) its own view on its profession andtheir role in it [29].

The need for a medical lawyer is, in particular, as A. Elers points out, that there are now a very large number of lawsuits in court to compensate for the harm to human health by doctors [24]. The need for a medical lawyer, ie a lawyer who possesses medical knowledge, is also related to the specifics of the subject matter of such claims, namely the right to health care (health is perceived as an intangible benefit that is the subject of civil rights, the right to which is absolute and inalienable and difficult to assess, including for reduction [10]). According to Art. 6 of Fundamentals of the legislation of Ukraine on health care [18], every citizen of Ukraine has the right to health care, which includes, including the right to compensation for harm caused to health and the right of a patient undergoing hospital treatment in a health care institution on admission to him, including a lawyer.

The activity of a medical lawyer should also take into account that some subjects of law, as noted by K.G. Afanasieva, are characterized by increased vulnerability, since they are confronted with a much stronger party in legal relations, and therefore their rights can be violated especially easily, which indicates the need for special legal protection. She refers patients to such subjects as they usually do not have any professional knowledge of the medical field, trusting doctors with information about their private sphere, the unauthorized distribution of which can cause them significant harm, as well as such invaluable benefits such

as life and health and have limited ability to exercise their rights independently and protect them [6]. In this case, proving the guilt of a doctor, nursing staff or medical facility is too complicated, so an experienced specialist, such as a medical lawyer with specialized knowledge and qualifications, is required to solve complex medical cases [13].

At the same time, the field of medical jurisprudence, as O.V. Tykhomyrov rightly points out, proved to be unsecured either methodically or organizationally, and, in fact, became a platform for self-proclamation, since anyone can declare himself a medical lawyer, medical lawyer or specialist in medical law, not to mention patient advocate. As a result, medical jurisprudence, as he notes, became practiced by doctors, general practitioners and even neither those nor others but businessmen from outside [22]. As a result, "the medical vision of law prevailed, not the legal vision of medicine. Therefore, every doctor began to consider himself to be a great expert in medical law. And even if such doctors began to receive a law education, then, while maintaining a medical vision of law and continuing to work in a medical specialty, they did not become lawyers (since they did not work as such)» [9].

The expediency of a lawyer's professional activity in providing legal assistance to a person in the field of health care is disclosed primarily as a result of research into the ways in which the lawyer and the doctor interact. Undoubtedly, the most common way of interaction of these professions in the field of jurisprudence is to involve the last specialist (usually forensic expert) to provide expert opinion, counseling, etc. At the same time, this way of interaction does not always make it possible to provide professional legal assistance. This is due to the fact that Ye.Kh. Barinov and O.V. Tykhomyrov, a legal analysis of the domestic situation, even a road accident does not require knowledge similar to those without which a legal analysis of the circumstances of providing medical assistance is impossible, and for this it is not enough to enlist the support of professional medical experts, whose opinion does not replace the legal qualification of the action. They argue their position that neither medical nor civil and criminal cases are resolved not in the medical field, but in the legal field, and the medical vision of the legal situation is clearly not enough [9]. We fully share the stated position of scientists, because proper legal qualification of a particular activity, in particular in the field of health care, requires the professional activity of a lawyer, first of all, a lawyer, who must have some medical knowledge.

The field of activity of a medical lawyer is multidimensional and is primarily subject to "the practice of personal injury, medical malpractice and health care legislation" [26]. Such activity involves, in particular, the filing of medical claims and other claims regarding fraudulent actions by physicians and require both knowledge of medical laws and standards, principles governing ethical and professional conduct in the field of medicine, and awareness of the medical lawyer in several other areas of law, who may also be the subject of medical claims (insurance law, personal injury law, contract law, and medical malpractice law) [28].

In general, «medical disputes», as scientists rightly point out, are characterized by the peculiarities of tort due to the commodity-non-commodity duality of medical aid, when its consumer part is subject to legal principles, and professional (medical care) - to the rules of medicine, and causing harm (harm) health damage due to defects in the provision of medical care, due to the failure to provide information on the nature of the impact of such care on health and harm that is of a non-medical nature) [7]. Today, the main area of activity of a medical lawyer is claims for compensation for damage to the patient's health. In order to receive such compensation, a lawyer must first of all prove that there was a medical error in the physician's activity which resulted in the harm to the patient's health (there will be a causal link between the wrongful conduct of the doctor and the harm to the patient). Therefore, the lawyer, as noted by A.V. Ivantsova and Ye.Ye. Demydov, first of all, it must be proved that the harm caused to the victim is a consequence of the unlawful behavior (action or inactivity) of the health care provider, and did not occur for other reasons, for example, due to the individual characteristics of the patient's body [3]. In addition, it is necessary to take into account that the doctor is not responsible for the health of the patient in case of refusal of the latter from medical prescriptions or violation by the patient of the regime established for him part 4 Article 34 of Basics of the Ukrainian legislation on health care [18].

This has led to the fact that in modern practice in the case of «medical» disputes more and more often forensic expert studies are designed to resolve the issue of the presence (or absence) of a cause-and-effect relationship between the actions of medical personnel and subsequent adverse effects, and also to determine the type of such connection [14]. Such expertise, which are still considered as "medical expertise", are considered by scientists as the most controversial and time-consuming [21]. Controversy of such expertise is manifested primarily due to the inconsistency of experts' findings with legal and medical criteria, namely: lack of substantiation of expert opinions, attempt to provide legal assessment of the investigated facts, providing answers to the questions posed to the expert in case of insufficiency of materials submitted for examination, contradictions expert conclusions that result in the widespread use of medical terminology (generalizations of judgment) that do not allows to evaluate the validity of conclusions, the use of incorrect formulations that allow for different decisions in the case, etc. [8]. But in order to find such a discrepancy, a lawyer must analyze the expert's opinion through the lens of its completeness and scientific validity, which clearly requires him / her to possess a certain amount of medical knowledge. So, analyzing the quality and full conclusions of the expert, as noted by S. M. Kozlov and S. I. Veliezhev, the lawyer should pay attention to: the sufficiency of the use of the materials presented to the expert; the use of a variety of complementary research methods and techniques necessary to answer the questions correctly; the presence in the conclusion of the answers to all questions; the completeness of the description of the expert's work that is relevant to the conclusions [15].

Unfortunately, in many cases, the shortcomings in conducting such forensics are due to incorrect formulation of the questions that the expert must answer. Thus, the reason for the shortcomings and the low informativeness of expert opinions on cases of harm to health in the provision of medical services, according to a number of scientists, is incorrect (without taking into account the specific nature of the activity, the circumstances of the case, and sometimes the views of the parties) the formulation of issues - usually extremely excessive, repetitive and incomprehensible in the intended purpose - an expert who disorients the latter in the needs of a specific legal procedure [8]. Therefore, in order to fully implement the position of the case when considering the question of the appointment of the court's examination and the subsequent use of its results, the lawyer himself must have a certain set of special knowledge in order to competently, and most importantly, precisely in accordance with the purpose of proof, formulate the question before the expert [11].

It should be noted that the involvement of an expert medical expert is not limited to cases of forensic examination, compensation for damage to the health of the patient, medical and social and health insurance examinations are conducted, cases and quality of medical care are known, etc. There are also widespread cases of use by a medical lawyer and services of specialists, in particular: when acquainting and receiving things and documents from other persons (first of all, to prevent mistakes in the collection (detection, fixing, removal) of objects that may later become tangible evidence); when deciding issues related to the examination (to justify the need for appointment and examination; filing a request for the appointment of additional and re-examination; when selecting samples for examination, etc.) [2]. Therefore, the use of expert services by experts and specialists first of all when considering cases for compensation for damage to the health of the patient, on the one hand, significantly expands his capabilities in the aspect of obtaining evidential information, and on the other - requires special knowledge not only of such persons in the field of medical care. assistance, but usually requires some experience and, better, a narrow specialization and the lawyer himself, which allows you to more thoroughly analyze all the intricacies of the expert activity and provide your client nt qualified legal assistance.

Although compensation for damage to a patient's health constitutes the lion's share of the professional practice of a medical lawyer, counseling his client (a patient in a healthcare facility) before starting to provide assistance (for example, in the case of surgical intervention, concluding a contract with medical center for the provision of certain medical services, etc.). Such counseling has a kind of preventive function and is a rather complicated type of advocacy, since medical contracts, like any other treaty, require the conscious will of the parties, which is quite difficult given the medical terminology (the lawyer must make sure that the client actually agreed and understood all the inherent risks of the complex medical procedure that would apply to him [27]).

The need for professional assistance of a medical lawyer is typical not only for patients but also for the doctor and the medical institution as a whole. Unfortunately, in the vast majority of cases, practice is a one-sided way of providing such assistance. Thus, O.M. Rezepkin and O.S. Zviezdina note that human rights defenders do not place recommendations on their sites not on how to help their potential principals (doctors or patients) to reach a legitimate and just decision, but how to bring a civil or criminal liability to the doctor, although more doctors problems in the legal field than in patients [19]. The problem is that, on the one hand, the qualification of acting as a medical mistake is complicated by itself, and on the other hand, the point of view is "if a medical mistake is made, then there are already grounds for bringing a doctor to justice. This approach is complicated by the fact that, as a rule, the investigator does not delve into the intricacies of medical practice, medical deontology, does not analyze the case law in this category of cases. All this leads to wrong legal qualification of actions» [13]. The advocate's activity to protect and represent the interests of a physician should also be aimed at preventing the latter from being involved in the process, as A. Elers notes, if the process still happens, the physician's image is significantly reduced, even though 2/3 of the processes are won by doctors [24].

The provision of medical facilities is a large part of the activity of a medical lawyer. Lawyers in medical organizations, as O.A. Mokhov notes, are involved not so much in "contract work" (preparation of draft contracts and their approval with other units, as well as counterparties, consideration of proposals coming from counterparties, control over the fulfillment of contract terms), as a claim (pre-trial) and court settlement disputes arising between the organization and its customers, counterparties, and patients (their relatives). The scientist notes that lawyer can involve legal entities in the provision of legal services both on an ongoing basis and in the implementation of certain legally significant actions, represent the interests of the subject in a particular legal conflict, and draws attention to the benefits of attracting lawyers for them decisions [16] (disclosed in the context of the peculiarities of the lawyer's rights, duties, guarantees and responsibilities as structural elements of his legal status [12]). Also important is the involvement of a medical lawyer on ethics committees, which are established in many health care facilities as an alternative to judicial review of ethical and moral decisions [25].

One of the areas of activity of a medical lawyer is to perform the function of a defender in criminal proceedings, first of all, in order to provide protection to persons for whom coercive measures of a medical nature are envisaged or the question of their application is being decided. According to paragraph 5 of Part 2 of Art. 52 of the CPC of Ukraine, it is obligatory for the defender to participate since the establishment of the fact that a person has a mental illness or other information that raises doubts about his or her conviction. The obligatory participation of a lawyer in such categories of cases is related to the need for the proper protection of the rights and freedoms of people who have committed a socially dangerous act in a state of insanity or have become ill with mental illness after committing a crime, as Ye. V. Sukhoverkhova stated, are often unable to perceive and evaluate the environment properly, unable to understand and manage the actual nature and social dangers of their actions [21]. As a result, criminal proceedings for the application of compulsory measures of a medical nature (Chapter 59 of the CPC of Ukraine) have a number of features aimed at providing additional guarantees for the protection of the rights of such persons, among which the obligatory participation of the defender, who must possess the appropriate qualification, is a prominent one. The activity of a medical lawyer should be directed to "establish circumstances relating to the presence, degree and nature of a person's mental disorder and his / her social dangers" that may facilitate the client's selection of preventive measures not related to imprisonment; severe or avoid any unlawful use of compulsory medical measures against him. The activity of a medical lawyer in criminal proceedings is not limited only to his involvement in the application of compulsory medical measures to the client, and to assist in the exercise of the right to medical assistance, first of all, to persons serving sentences and who are in custody. Thus, although the Procedure of interaction of health care institutions of the State Penal Enforcement Service of Ukraine with health care facilities for people in custody [5] regulates the issue of medical care to persons in custody in a very detailed way, we agree with statement S.M. Moisak, who draws attention to the declarative nature and overwhelming inappropriateness of its implementation, despite the fact that the violation of the rights to medical care of such persons should be regarded not as a simple violation of human rights, but as torture or inhuman or degrading treatment [4].

Given the specifics of the medical profession's professional activity, as well as the particularities of certain types of proceedings, including civil litigation, in our opinion, such a lawyer and other entities (litigants) who are highly vulnerable (eg, in cases of solicitation) need legal assistance psychiatric help in compulsory order, recognition of a person incapacitated, etc.).

In this case, a positive experience is the United States, where the medical-legal partnership that was founded at Boston Medical Center in 1993 is developing rapidly. To date, according to the National Center for Medical-Legal Partnerships (https://medical-legalpartnership.org/partnerships/), there are more than 300 medical-legal partnerships in the 46 participating states, including 146 legal aid agencies and 53 law firms schools. The activities of such partnerships are aimed at improving the health and well-being of low-income citizens and other vulnerable sections of the population by meeting their legal needs and facilitating the removal of legal barriers to health care [29].

Finding out the relationship between the professions of lawyer and doctor indicates the presence of a number of common features (the professional activity of each of them is to provide exactly (not service) to any person who is in a difficult life situation, the provision of which is accompanied by compliance with the regime of preservation secrecy and the fulfillment of a socially important function in society), as well as significant differences (fundamental differences in training, deepen and complex professional terminology, which is used nowadays doctors and fundamentally different methods, tools used them).

On the one hand, the significant differences in the professional activity of the lawyer and the doctor, and on the other - the intertwining in many cases of their field of activity, causes the existence of certain ways of interaction between them. The most common way of interacting these professions in the field of jurisprudence is to involve a specialist doctor (usually a forensic expert) to provide an expert opinion, to consult first and foremost with a view to addressing the presence (or absence) of a causal link between the actions of medical staff and subsequent consequences for the health of his patient.

The use of expert and specialist services by a lawyer, first and foremost, when considering cases for compensation for damage to a patient's health, on the one hand, significantly expands his / her possibilities in the aspect of obtaining evidential information, and on the other - requires special knowledge not only of such persons in the field of medical care. , but it usually requires some experience and, more preferably, a narrow specialization and a lawyer himself, which allows him to more thoroughly analyze all the subtleties of expert activity and provide his client qualified legal assistance (from the stage of appointment of the examination to the examination of its findings in court).

An important role in the professional work of a medical lawyer is played by counselling his client (a patient in a medical institution) before beginning to provide care, which performs a kind of preventive function and is a rather complex type of advocacy, given first of all the specificity of medical activity.

The need for professional assistance of a medical lawyer is characteristic not only for patients but also for the doctor (first of all, in case of considering the case of bringing to civil or criminal liability of the doctor for a medical mistake made by him), and the medical institution as a whole (carrying out «contract work» , participation in pre-trial (including ethics committees) and litigation on disputes that arise between a healthcare organization and its clients, in particular patients and their relatives. An important role plays a lawyer to provide legal assistance to participants of the trial, which are characterized by high vulnerability (those for which the expected application of compulsory medical measures, custody, etc.).

A medical lawyer is a natural person who performs professional activities in the protection, representation and provision of other legal assistance to a client (in particular, a patient, a doctor, a medical institution, socially vulnerable groups of the population) in need of possession of medical knowledge (laws in the field of medicine, standards governing ethical and professional conduct of physicians, etc.), as well as his / her awareness in a number of other areas of law, which may also be the subject of lawsuits or other claims in the field of health care.

REFERENCES

1. Заборовський В.В. Співвідношення понять «правова допомога» та «правова послуга» в аспекті визначення сутності професійної діяльності адвоката. Науковий вісник Ужгородського національного університету. Серія: Право. 2016;40,Т. 2: 131-137.
2. Орешин Е.В. К вопросу о сущности и признаках адвокатской деятельности применительно к обязанности адвоката принимать поручения. 2017;12:282-288.
3. Трунов И.Л. Что делать с противоправным воспрепятствованием деятельности адвоката. Адвокат. 2005;12: С. 11.
4. Retkin R., Brandfield J., Lawton E., Zuckerman B., DeFrancesco D. Lawyers and doctors working together – a formidable team. The Health Lawyer. 2007; Vol. 20, Num. 1:33-36.
5. Martin J. Stillman, A Difference of Degrees, JAMA. 2003; Sept. 3:1135-1136.
6. Peter D. Jacobson, Gregg M. Bloch. Improving Relations between Attorneys and Physicians, JAMA. 2005; Oct. 26:2083-2084.
7. Louise G. Trubek, Barbara Zabawa, Paula Galowitz. Transformations in Health Law Practice: The Intersections of Changes in Health Care and Legal Workplaces. Indiana health law review. 2015; Vol. 12, № 1:183-226.
8. Элерс А. Долг разъяснения с точки зрения адвоката. Современное медицинское право в России и за рубежом: сб. науч. тр. / ред.: О.Л. Дубовик, Ю.С. Пивоваров. М.: ИНИОН, 2003.192-197.
9. Баринов Е.Х. Судебно-медицинская экспертиза в гражданском судопроизводстве по медицинским делам: монография. 2-е изд., перераб. и доп. Москва: Издательство Юрайт, 2019.181.
10. Основи законодавства України про охорону здоров'я: Закон України від 19.11.1992 р. № 2341-III (у ред. від 02.10.2018 р.). Відомості Верховної Ради України. 1993;4:19.
11. Афанасьева Е.Г. Право на информированное согласие как основа юридического статуса пациента. Современное медицинское право в России и за рубежом: сб. науч. тр. / ред.: О.Л. Дубовик, Ю.С. Пивоваров. М.: ИНИОН, 2003.142-162.
12. Иванцова А. Нужен ли нам «медицинский адвокат», или адвокат по медицинским вопросам? Visegrad Journal on Human Rights. 2017;1/2:87-91.
13. Тихомиров А.В. Осторожно, «специалисты». Главный врач: хозяйство и право. 2012;3:2-3.
14. Баринов Е.Х., Тихомиров А.В. Медицинская юриспруденция и судебная медицина. Медицинская экспертиза и право. 2011;3:7-11.
15. Bonnie F. Fremgen. Medical Law and Ethics. 2011.4 edition. 400 [Електронний ресурс]. URL: https://study.com/articles/How_to_Become_a_Medical_Lawyer_Education_and_Career_Roadmap.html
16. Ken LaMance. What Is a Medical Lawyer? LegalMatch Law Library.2018 [Електронний ресурс]. URL: https://www.legalmatch.com/law-library/article/what-is-a-medical-lawyer.html
17. Баринов Е.Х., Тихомиров А.В. Судебно медицинская экспертиза при решении вопросов, связанных с «медицинскими» спорами. Медицинская экспертиза и право. 2010;6:5-7.

18. Іванцова А.В., Демидова Є.Є. Проблеми захисту прав потерпілих від ятрогенних злочинів. Юрист України. 2013;2:151-157.
19. Каменева К.Ю., Баринов Е.Х., Тихомиров А.В. Особенности оценки заключений судебно-медицинских экспертиз по «медицинским» делам. Медицинская экспертиза и право. 2013;5:8-10.
20. Семенов А.С., Шильт М.Я. «Врачебные» дела – причины роста нагрузки на сотрудников отдела сложных экспертиз. Актуальные вопросы судебной медицины и медицинского права. 2013;1:272-274.
21. Баринов Е.Х., Родин О.В., Ромодановский П.О., Тихомиров А.В. К вопросу о правовой оценке выводов судебно-медицинской экспертизы по гражданским делам, связанным с оказанием медицинских услуг. Проблемы экспертизы в медицине. 2010;3-4:9-11.
22. Козлов С.Н., Вележев С.И. Медицинская судебная экспертиза в современном праве: монография. 2-е изд., перераб. и доп. Самара: Самарский юридический институт ФСИН России, 2016. 350.
23. Доманов В.Н. Реализация позиции адвоката по делам, связанным с дорожно-транспортными происшествиями, в гражданском судопроизводстве. Государство и право. Юридические науки. 2015;3:50-58.
24. Заборовський В.В., Бисага Ю.М., Булеца С.Б. Правовий статус адвоката: проблеми теорії та практики: монографія. Ужгород: Видавничий дім «Гельветика», 2019. 650.
25. Careers in Law: Why Become a Health Care Lawyer? [Електронний ресурс]. URL: https://www.kaptest.com/study/lsat/why-become-a-health-care-lawyer/
26. Резепкин А.С., Звездина А.С. Медицинское право и медицинская адвокатура. Альманах молодой науки. 2017;2:27-30.
27. Мохов А.А. Правовое обеспечение деятельности медицинских организаций и индивидуальных предпринимателей, осуществляющих медицинскую деятельность Психология. Экономика. Право. 2013;4:78-88.
28. Заборовский В.В. Некоторые проблемные вопросы определения структуры правового статуса адвоката. Евразийская адвокатура. 2016;6:31-37.
29. Amy L. McGuire, Mary A. Majumder, J. Richard Cheney. The Ethical Health Lawyer: The Ethics of Lawyer-Ethicist. The Journal of Law, Medicine & Ethics. 2005;9:603-607.
30. Суховерхова Е.В. Проблемы участия защитника в предварительном следствии по делам о применении принудительных мер медицинского характера. Адвокат. 2012;12: 27-33.
31. Нестеровская Ю.Л., Фахрутдинова А.Н. Проблемы участия защитника в предварительном следствии по делам о применении принудительных мер медицинского характера. Молодежный научный форум: Гуманитарные науки: сб. ст. материал. XIII Междунар. студ. науч.-практ. конф. Москва: МЦНО, 2014. 6(13) [Електронний ресурс]. URL: https://nauchforum.ru/studconf/gum/xiii/3758
32. Про затвердження Порядку взаємодії закладів охорони здоров'я Державної кримінально-виконавчої служби України із закладами охорони здоров'я з питань надання медичної допомоги особам, узятим під варту: наказ Міністерства юстиції України, Міністерства охорони здоров'я України від 10.02.2012 № 239/5/104. Офіційний вісник України. 2012;13:167.
33. Мойсак С.М. Сприяння адвоката в реалізації права на медичну допомогу особі, яку взято під варту. Адвокат. 2012;6:24-27.

SUMMARY

PROFESSIONAL ACTIVITY OF MEDICAL LAWYER

[1]Zaborovskyy V., [1]Buletsa S., [1] Bysaga Yu., [1]Manzyuk V., [2]Lenher Ya.

[1]State Higher Education Institution «Uzhhorod National University»; [2] Lutsk National Technical University, Ukraine

The main aim of the article is a comprehensive study of the theoretical and legal aspects in the context of defining ways of interaction between the professions of lawyer and doctor, to justify the need to assist a medical lawyer and to reveal the main features of his professional activity.

To achieve this goal, a comprehensive study of the civil, criminal and administrative legislation of Ukraine regulating the professional activity of a medical lawyer was conducted, the activity of which is aimed at ensuring the proper realization of a person's right to health care, medical care and medical insurance. The results of scientific researches on this subject are analyzed by both Ukrainian scientists and many foreign scientists (USA, Canada, Great Britain, Russia, Belarus, etc.). Different methods of scientific cognition were used during the research. The comparative-legal method made it possible to compare the peculiarities of the legal regulation of the activity of the medical lawyer to Ukraine and other countries. Using the system-complex method, both common and distinct features between the profession of lawyer and doctor were investigated. Based on the dialectical method, it is concluded that there are significant differences in the professional activity of the lawyer and the doctor, and many cases their fields of activity, which leads to the existence of certain ways of interaction between them. Other methods were used in the work, in particular: formal-logical, dogmatic, analysis and synthesis.

Based on the conducted research the relation between the professions of the lawyer and the doctor is revealed, which indicates the presence of both several common features and significant differences between them. The main ways of interaction between a lawyer and a doctor are described, in particular, the essence of the most common way of their interaction in the field of jurisprudence is revealed, which is to involve a specialist doctor (usually a forensic expert) to provide an expert opinion. The role and peculiarities of the need for the professional assistance of a medical lawyer are described not only for patients but also for doctors and the medical institution as a whole.

Keywords: medical lawyer, legal aid, medical aid, health care, forensic examination.

РЕЗЮМЕ

СПЕЦИФИКА ПРОФЕССИОНАЛЬНОЙ ДЕЯТЕЛЬНОСТИ МЕДИЦИНСКОГО АДВОКАТА

[1]Заборовский В.В., [1]Булеца С.Б., [1]Бисага Ю.М., [1]Манзюк В.В., [2]Ленгер Я.И.

[1]Государственное высшее учебное заведение «Ужгородский национальный университет»; [2]Луцкий национальный технический университет, Украина

Целью статьи является комплексное исследование теоретико-правовых аспектов в контексте определения способов