

SUMMARY

Key Words: patients, children, right, protection, medical.

Subject matter: Civil status of minor patients in the Russian Federation

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The relevance of the research topic: The protection of such intangible benefits as human health and life are guaranteed in our state by the Constitution of the Russian Federation (part 1 of article 41), norms and acts of civil law. At the same time, from the annual reports of the Commissioner for Human Rights in our country, it follows that cases of the rights violation for minor patients as socially vulnerable category of citizens, have increased. Alas, nowadays it is not uncommon.

One of the reasons for these violations is the imperfection of Russian legislation in the implementation field and protection of the rights for the adolescents as participants in legal relations arising in the field of public health, and the lack of a consistent and effective systemic legal framework that fully reflects the provisions and acts of the international law on rights of minors on health and life.

The purpose of the work: develop and validate a holistic scientific understanding of the civil legal status for minor patients in the Russian Federation, protection ways of their civil rights, as well as the development of proposals aimed at improving Russian legislation that regulates legal relations with underage patients.

Objective: Based on these purposes, tasks in the study will be:

- the rationale for introducing into the scientific circulation of new civil law categories - “minor patient” and “civil status of minor patients”;
- the concept development of “civil status for minor patients” and the establishment of features of its elemental content as a prerequisite for improving the civil legal mechanism in protecting the rights of minor patients;
- the specifics establishment of civil status for minor patients with age, medical, social and other characteristics, and its differentiation on various reasons;
- the specifics identification of civil minor patients under the age of 14 years and from 14 to 18 years;
- the establishment and justification of specific features in the application methods of civil law protection of the rights for minor patients;
- the model development of legal regulation in relations on rendering of minor patients to medical care free, paid basis and the interaction of authorized entities in the protection of their civil rights.

The theoretical and practical significance of the results lies in fact that the results of graduation work complement and develop doctrinal representations of legal status for our citizens, expand their understanding of legal situation and status of the individuals in civil legal matters, as well as civil status of minor patients who apply for medical help; and also provide in-depth scientific knowledge about civil protection and protection of patient rights in minor age.

Results of the study:

1. Medical care is one of the measures for health protect, including the use of measures system aimed at maintaining life and restoring health, including the medical services provision in this area. However, given purpose and tasks of the study, we won't consider in detail relations in the concepts of "medical care" and "medical care", explaining only that provision of medical care and its application entails the emergence of legal relations with participation of minors.

2. The civil law relations are the integral part of legal relations in the field of public health care, connected with the implementation by a citizen of their property and personal non-property rights, when receiving medical care or requesting it in connection with the need to protect life and health as an intangible product, regardless of legal relations.

In accordance with paragraph 1 in Article 150 in the Civil Code of the Russian Federation, life and health are intangible assets, belonging to a citizen from birth, inalienable and beyond description. They are acquired by citizens not on the basis of law, but on the birth basis. Therefore, in legal relations related to the provision of medical care or medical services, the fact is that a medical organization in the face of its medical workers "intrudes" into sphere of the intangible assets (health and life) that belong to a citizen from birth as inalienable.

3. Patients are main but not the only participants in civil relations arising in connection with protection of their life and health in the provision of medical care and in connection with their treatment, as well as in connection with other types of medical care, the actions are performed in relation to them. The other most important participant in this relation is the contractor as a medical organization in which younger patient who doesn't have sufficient medical data and their legal representatives.

4. As noted earlier, a patient can only be an individual (paragraph 9 of part 2 in Federal Law No. 323-FZ). His ability to have civil rights or civil legal capacity with receiving medical care, and being responsible under respect of medical organizations, is equally recognized by all citizens (paragraph 1 of Article 17 in the Civil Code of the Russian Federation). Although, medical services can be ordered, being both physical and legal entity, following from the definition of "client".

5. A study of internal and international legislation allows to conclude that a viable but unborn child isn't part of mother's body, should have right to protect his health.

6. A minor patient over 14 years must have the ability to indicate person to whom he can provide important information about his state of health. Therefore, it is necessary to provide an opportunity to transmit information not only to his parents or other legal representatives, but also with the consent of attending physician and other authorized representatives of the patient, if it has a more beneficial psychological effect on him.

7. A significant level of violations in the analyzed area, as well as a high level of child mortality, leads to the conclusion that ensuring reliable protection of the rights for minor patients has a number of serious problems in our country, namely:

- the inefficiency of national state law systems for protecting the rights of minors;
- non-compliance with legislation on protection of the rights for minors

patients by government and municipal authorities, medical organizations;

- the imperfection of legal mechanisms for legal responsibility in the officials of health authorities and institutions;

- the fragility in the institution of public control in the field of protection interests and rights of minors, their lack of real authority to protect their rights.

Recommendations:

1. It is necessary to improve legal mechanisms for protecting the rights of minor patients, guaranteeing the participation of representatives in the public control bodies for state and municipal health care management; in this regard, we propose to introduce the legislative norm, determining that a minor, in addition to legal representatives and guardianship authorities, has the right to appeal to independent public organizations for representation his interests in medical organizations.

2. To introduce into practice the authorities, medical preventive institutions of systemic control by public control bodies, the public, taking into account the specifics of medical activity (for example, preserving medical confidentiality).

3. To enhance promotion of role for public bodies and their mechanisms of influence on government structures in the field of healthcare; in practice, currently in work of public councils, significant disadvantages are noted that prevent them from affectively defending public interests in medical and legal field, often concerning formalism in the activities of public councils.

4. To allow for minor patients independently apply to the court for protection of their interests and rights with support of public organizations for the protection of patients' rights.

5. It is necessary to implement the inevitability of legal responsibility for the officials of any rank in health authorities.