Current Issues of Legal Personnel Training in Telemedicine

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Abstract. Nowadays, telemedicine has become an integral part of healthcare. Such services are provided both in Russia and foreign countries. Funding in this area increases every year. The economic and social value of these digital technologies in medicine is widely recognized. The worldwide coronavirus pandemic has only accelerated the implementation of telemedicine technologies and changed the attitude of citizens to online consultations. However, even now there are some problems. The study is devoted to analyzing one of them. The purpose of the study was to highlight the problematic aspects of training and retraining of legal personnel for healthcare institutions that provide telemedicine services. To do this, we have analyzed and summarized the factors that affect the requirements to lawyers who provide legal support of telemedicine services. The article highlights the areas of knowledge, necessary for lawyers that provide services in the field of telemedicine technologies. The result of the research will be the development of a proposal to reform the educational process of training lawyers in the field of telemedicine.

Keywords: Competence · Education · Healthcare institution · Informatization · Lawyer · Telemedicine

1 Introduction

The market economy, globalization and Informatization in all spheres of public life [9], the development of telemedicine technologies impose fundamentally new requirements to the legal personnel of health institutions, the organization and content of their training and retraining, and professional development. In the field of telemedicine, special requirements are imposed to the skills and qualifications, competencies and knowledge of legal personnel of healthcare institutions. High-quality functioning and development of any medical organization, especially in the field of telemedicine, is impossible without proper legal support and improvement of legal education. On the one hand, the task is to train a sufficient number of qualified legal advisers (lawyers). They know the specifics of healthcare in general and the specific rules for providing various types of medical care. On the other hand, telemedicine technologies require special knowledge about the specifics of personal data processing, ensuring the safety of personal data and the safety of personal data storage media; the creation and operation of information systems, data transmission, information protection from unauthorized access, etc.
2 Methodology

Scientific research is the form of existence and development of science. Any scientific research begins with the definition of its purposes that determine the tasks. The purposes and objectives of the research determine its methodology. The correct choice of a set of knowledge methods in a particular subject area allows you to formulate reliable conclusions. The set of methods allows you to show the real situation of the studied area. The method of scientific knowledge for us is a method of theoretical or experimental study of a phenomenon or a process that contributes to the discovery of objective laws of reality. This research should be qualified as theoretical and applied. This has determined the set of its methodological tools. The main methods of this research are theoretical methods, in particular, it is analysis and idealization. Their use made it possible to identify problematic aspects of training lawyers in the field of telemedicine and to construct a progressive model of the educational process in this aspect. In addition, the authors also used empirical methods: observation, methodical analysis.

3 Results

The development of telemedicine technologies has a global scale. In Russia, its rapid development has began after 2018. However, even today there are disadvantages: a limited range of medical services provided by the nomenclature of medical services is used; insufficient development of the regulatory framework; lack of interaction between federal and regional ministries on the implementation, regulation and development of telemedicine; lack of a payment model for telemedicine services [7]. There are also problems that lie not only in telemedicine and law, but also in pedagogy.

High-quality functioning and development of any medical organization, especially in the field of telemedicine, is impossible without proper legal support and improvement of legal education [10]. On the one hand, the task is to train a sufficient number of qualified legal advisers (lawyers). They know the specifics of healthcare in general and the specific rules for providing various types of medical care. On the other hand, telemedicine technologies require special knowledge about the specifics of personal data processing, ensuring the safety of personal data and the safety of personal data storage media; the creation and operation of information systems, data transmission, information protection from unauthorized access, etc.

The Russian system of professional legal personnel training has a long history and established traditions. Decree of the President of the Russian Federation of 26.05.2009 N 599”On measures to improve higher legal education in the Russian Federation” has defined some measures to improve the training of legal personnel [2]. This concerns the development and implementation of a mechanism for public accreditation of federal, state and non-state educational institutions of higher professional education that train legal personnel, and provides for the development and public discussion of federal state standards of higher professional education in the field of training (specialty) “jurisprudence”, which provide for increasing the volume of the practical part of the main educational program, improving the licensing procedures for educational activities.
Despite the fact that the legal literature suggests that it is necessary to stop the recruitment of students to law faculties of non-specialized universities [5], we believe that healthcare requires lawyers with special knowledge that can be obtained when studying at the law faculty of a medical university or specialization in the field of “Medical law” in specialized law schools. We agree with the statement “medical law is formed as a complex branch of legislation, including the norms of many branches of Russian law that regulate relations in various fields of medical activity - from health care management to specific relations between medical institutions and citizens [8]. In foreign countries, interest in medical law also does not weaken [3, 6].

Forms of professional training, retraining and advanced training of employees, the list of necessary professions and specialties are determined by the employer, taking into account the opinion of the representative body of employees in accordance with article 372 of the Labor code of the Russian Federation for the adoption of local normative acts [4].

When determining the content of training and further training of lawyers of the health institutions in terms of development of telemedicine it is necessary to provide understanding of the development trends of telemedicine; development of principles and rules for the development of telemedicine; application of standards and other normative legal acts in the sphere of public health and health protection including telemedicine; readiness to development of the local regulations of the medical organization based on the principles and requirements established by applicable standards, and clinical guidelines and other normative legal acts; skills formation of professional judgment in the qualification, the classification and assessment of the significance of various aspects of the telemedicine activities of the health institutions in the legal field; understanding of socio-technical processes of the telemedicine activities.

The basis for the development of educational programs for training, retraining and advanced training of legal personnel in the field of healthcare and telemedicine is the national legislative framework that regulates the use of telemedicine technologies and combines national legislation that is directly or indirectly related to the process of telemedicine interaction; national protocols and standards of health care; national and international harmonized engineering and telecommunications standards.

Changing approaches to training and retraining of legal personnel of healthcare institutions in telemedicine is determined by many factors: federal law on telemedicine; limits of out the telemedical consultations, the current regulations; the absence of approved procedures for registration of protocols; patients rights in remote communications (information booth and Internet website of the institution, forms of consents/refusals; respect the patient’s right to receive information about his health, familiarization with medical documentation and providing it on request); medical confidentiality of the personal data security (reasons for disclosing information without a patient’s consent, differentiation of personal data of the patient, the proper execution of the patient consent and/or his representatives to the processing of patient’ personal data depending on the category of patient’ personal data, the reasons for their treatment without a patient’s consent, all medical records of the patient at the request of supervisory authorities, law enforcement agencies, court investigation, etc.; the possibility of video recording of the patient and by the patient, including hidden; transfer of research results and analysis by email & SMS); the proliferation of remote communications,
including monitoring the health status of the patient; the adoption of a uniform format and recognition of the status of electronic medical records of the patient; the possibility of realization patient’s right to receive anonymous medical services; the specifics of registration of contractual relations with patients in the provision of services within the mandatory and optional medical insurance (LPA and AMV) and reimbursement for provided medical services; specifics of payment of medical services provided under contract with an individual and honors the patient/consumer of services from the customer/payer; the possibilities of failure in the treatment/of treatment (including hospitalization) under the rule of law and algorithm design appropriate medical documentation; the possibility of failure of the patient and/or legal representative from intensive care taking into account patient’s right to refuse medical intervention, including resuscitation, provided their disengagement with euthanasia.

Modern training, retraining and advanced training programs for legal personnel of healthcare institutions in the context of telemedicine development should focus on the formation of relevant key competencies considering the requirements for practice-oriented educational programs. Fundamental problems of legal responsibility of doctor and medical organization, defining new requirements for the competences, skills and qualifications of the legal professionals of healthcare institutions in the development of telemedicine are the following: legal responsibility of doctor and medical organization, which defines the responsibilities of doctor and medical organization in front of the patient, its forms, limitations and maintenance; legal security of doctor and medical organization; minimize legal risks; the possibility of criminal responsibility of medical personnel; the differences of professional and official offences “iatrogenic” crimes, medical malpractice; liability of physicians engaged by the court as third parties; the possibility of recourse actions within the institution.

4 Discussion

In the formation educational programs work, programs of retraining and advanced training of legal workers, healthcare institutions it is necessary to analyze very specific questions for ensuring the patient’s right on secure medical services; status of orders and standards of care, clinical guidelines; safety criteria of medical care defects, its difference from the shortcomings in medical services; the procedure of internal control of the quality and safety of medical activities in recommendations issued by Roszdravnadzor. In the framework of practical training it is necessary to consider the currently claims of patients to medical organizations for various reasons (poor quality of medical aid, defects of healthcare, causing harm to life and health, the fact of a medical error, negligence of medical personnel, etc.); possible pre-trial settlement of the dispute and the options for compromise agreements; litigation practice in civil and criminal cases, particularly article 238 of the Criminal Code of the Russian Federation [1] (providing services without meeting safety requirements), the analysis of specific
criminal and civil cases in the field of medical care, modern litigation practice, new
trends in litigation, “strong” and “weak” positions of medical organizations in the role
of responder in the judicial process; the possibilities of modern evidence-based med-
icine, independent examination, forensic medical examination; the adoption of rea-
sonable risk and extreme necessity as conditions of exemption.

The main directions of improving the system of training and advanced training of
legal personnel are: orientation of educational programs of higher educational insti-
tutions, as well as retraining programs for professional lawyers to an in–depth study of
the order of medical care and legal regulation of telemedicine; orientation of educa-
tional programs of higher educational institutions, as well as programs for retraining of
professional lawyers in healthcare and in telemedicine; monitoring the quality of
educational programs of higher educational institutions, as well as programs for
retraining of professional lawyers in healthcare institutions; updating and development
of educational and methodical support of the educational process for lawyers in the
field of medicine and telemedicine technologies.

5 Conclusion

Interaction of legal personnel of healthcare institutions with medical personnel of a
medical organization should be due to the specifics of the functions and requirements
division to the quality and safety of medical services. Medical personnel of the medical
organization fully responsible for the quality and safety of medical care (including
quality criteria and practices), compliance with standards and procedures of providing
standards and clinical guidelines; results of examination of medical care quality in
providing requirements of the state quality control and safety of medical activities.

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