

MEDICAL ERRORS: CIVIL AND CRIMINAL LIABILITY FOR CAUSING HARM WHEN PROVIDING MEDICAL CARE

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Choosing medical activities, we, future physicians must responsibly apply to medical activities. The doctor will have to study all my life, to constantly work on ourselves, and this largely depends on his professionalism. Unfortunately, sometimes, without error in the medical activities, probably not possible, and to avoid medical errors, should address this important topic. Medical errors are divided into deontological, diagnostic and therapeutic. The basis of ethical errors is a violation of the principles of proper behaviour of doctor towards the patient, i.e. the failure by the doctor the ethics of medical practice. The main reasons for diagnostic errors are: ignoring or inept use of history; incomplete examination of the patient; incorrect interpretation of clinical data; incorrect evaluation of x-ray and laboratory tests; carelessness and haste in the examination; incorrect diagnosis statement. However, according to English jurisprudence, error in diagnosis would not be considered criminal negligence if it had complied with the relevant standard for the care of the patient, but will be considered as one of the inevitable hazards that accompany medical practice. Medical errors related to incorrect clinical diagnoses. As a result of these diagnoses the patient is assigned a treatment that does not match the true nature of the disease, and at the same time is not shown and need treatment.

Keywords: medical errors, medical care, liability

The most important principle of health in our country is the quality and availability of medical care. Quality medical care can be called only in the event when it meets the following requirements:

- 1) the timeliness of the delivery.
- 2) the Correct choice of preventive methods.
- 3) select a proper diagnosis, treatment and rehabilitation.
- 4) Achieving a result that was planned.

The above requirements are reflected in paragraph 21 of article 2 of the Law "On fundamentals of protection of citizens". Nevertheless, quite often we have to deal with the medical errors that occur on exposure to different circumstances. Consequence of medical errors is causing harm to the health and lives of citizens. With medical or a medical error can be encountered both at the stage of diagnosis and during treatment or even surgical intervention. The most common causes of medical errors are:

- 1) Uncoordinated actions of doctors. Especially if the patient is treated by several doctors.
- 2) Improper handling of medical equipment.
- 3) Dismissive attitude to the established sanitary standards.
- 4) Careless administration of medicines.

For example, if they have been prescribed in the wrong dosage, or do not meet the diagnosis.

Civil liability

Property liability for damage resulting from the provision of medical care is governed by civil law in civil Affairs. In a criminal case brought by law enforcement for committing a

crime, the victim can also file a civil suit about property responsibility for damage, which is discussed in a separate civil claim in the criminal process. If this claim is satisfied, then, in addition to criminal penalties, the tortfeasor is obliged to compensate the damage according to the rules of civil procedure, that is, in the form of property (often cash) compensation. Harm may be caused to the plaintiff by any employee of the institution (organization) of health, which he provided medical help. The definition of negligence can be simple in some cases but in other to give the correct qualifications is very difficult. Often the question arises: who is responsible from a rather large clinic staff, which may include a General practitioner, consultant, other hospital specialists and nurses? The definition of a causal link between the alleged negligence of personnel, which allegedly caused the harm, and the harm can also be somewhat difficult. A claim can be brought against the physician when there is reason to assume negligence on his part. In some countries one doctor is solely responsible for the treatment of their patients and the responsibility cannot be imposed on health care institution (clinic), unless the institution did not intervene in the process of treating physician of his patient.

Criminal liability for medical error

Criminal liability for medical error, article the fault of the doctor of the criminal code in relation to medical errors does not provide for a special offence. The actions and omissions of the physician, in which he may be prosecuted as described in the Special part of Criminal code of the Russian Federation.

Article 125. Abandonment in danger

Knowingly leaving without the aid of a person in a life-threatening or health condition and deprived of opportunities to take action for self-preservation on the early childhood, old age, sickness or because of his helplessness, in cases if the guilty had possibility to assist this person and was obliged to have about it care or itself has put it in a life-threatening or health a condition, -shall be punished by a fine of up to eighty thousand rubles or the salary or other income for a period of up to six months, or by compulsory works for a term of up to three hundred and sixty hours, or correctional labor for a term up to one year, compulsory works for a term of up to one year, or with arrest for the term up to three months, or by deprivation of liberty for a term up to one year.

Article 109. Causing death by negligence

1. Causing death by negligence is punished with correctional labor for up to two years, or restraint of liberty for a term up to two years, or hard labor for a term up to two years, or imprisonment for the same term.

2. Causing death by negligence due to improper performance of their professional duties shall be punishable by restraint of liberty for a term up to three years, compulsory labor for a term up to three years with deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years or without such, or imprisonment for the same term with deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years or without it.

3. Causing death by negligence to two or more persons -is punished by restriction of liberty for a term up to four years, or hard labor for a term up to four years, or imprisonment for the same term with deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years or without it.

Article 118. Causing of heavy harm to health on imprudence

1. Causing of heavy harm to health on imprudence -shall be punished by a fine of up to eighty thousand rubles or the salary or other income for a period of up to six months, or by compulsory works for a term of up to four hundred eighty hours, or correctional labor for a term up to two years, or restraint of liberty for a term up to three years, or with arrest for the term up to six months.

2. The same action committed due to improper execution of their professional duties, shall be punishable by restraint of liberty for a term up to four years, or hard labor for a term up to one year with deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years or without such, or by deprivation of liberty for a term up to one year with deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years or without it.

In this case, must adhere to the following conditions:

1. wrongful conduct of a doctor.
- 2) the Infliction of grievous bodily harm or death.
- 3) a causal connection between the harm and the unlawful conduct of the doctor.
- 4) the Fault of the doctor.

At first glance it may seem that to attract a physician to criminal responsibility in the presence of the above-described conditions is not difficult. But it is actually not so simple. Often to prove the fact that there has been unlawful action or inaction of a doctor is quite difficult, and sometimes impossible.

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