

LEGAL AND DOCTRINAL PROBLEMS OF MEDICAL RELATIONS' ADJUSTMENT IN UKRAINE

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INTRODUCTION

The problems of human rights' proper provision are closely related with issues of public relations in field of medicine legal adjustment, which key purpose is to ensure the Human Right to life, healthy and safe working conditions, living, public sanitary welfare.

For general issues of the medical law development, particularly, in the context of labour law were devoted to the works of Moskalenko V.F., Yaroshenko O.M., Prylipko S.M., Inshyn M.I., Zhernakov V.V., Stetsenko S.G., Senyuta I.A., Sereda O.H., Yakovlev O.A., Yakovleva G.O., Kolosov I.V., Viennikova V.¹ and so on and so forth.

For instance, we have constituted² that prof. Yakovlev O.A.³ and Inshin M.I.⁴ studied the legal adjustment of home and distance work in the conditions of the COVID-19 pandemic as a sign of the direct impact of medical and social relations on the content of the labor contract and the problem of organizing labor discipline. Prof. Yakovleva G.O. paid attention to the phenomenon of social risk, which is inextricably linked to the medical component⁵. Prof. Zhernakov V.V. researched the socio-legal components of the realization of the right to donation in a military conflict⁶. Prof. Yakovlev O.A., in addition, devoted the research to the problems of workplace certification as a guarantee of the right to safe work⁷. Notwithstanding,

¹ Kolosov I. V. Medical law development on capitalist era (1639–1917). *Науковий вісник Міжнародного гуманітарного університету. Серія: Юриспруденція*. № 58. 2022. С. 36. doi: <https://doi.org/10.32841/2307-1745.2022.58.8>

² П'яа Kolosov. Military's medical cooperation between Poland and Ukraine: labour law features. The security architecture of European and Euro-Atlantic spaces: Scientific monograph [science eds. T. Astramovich-Leik, Ya. Turchyn, R. Kordonskyi]. Riga, Latvia: «Baltija Publishing». 2022. P. 136. DOI <https://doi.org/10.30525/978-9934-26-225-8-9>

³ Яковлев О.А., Ванджурак М.М. Теоретико-правові аспекти розвитку та впровадження надомної та дистанційної праці в сучасних реаліях. *Право та інноваційне суспільство*. № 2 (15). 2020. С. 62. doi: [https://doi.org/10.37772/2309-9275-2020-2\(15\)-9](https://doi.org/10.37772/2309-9275-2020-2(15)-9)

⁴ Іншин М.І. Переваги дистанційної зайнятості працівників. *Правове забезпечення соціальної сфери*: матеріали XI Міжнародної науково-практичної конференції (м. Одеса, 27 травня 2020 року). Одеса: Фенікс, 2020. С. 16.

⁵ Яковлева Г.О. До визначення поняття та природи соціальних ризиків у праві соціального забезпечення. *Право та інновації*. Вип. 2. 2018. С. 53.

⁶ Михайлін А., Жернаков В. Соціально-правові складові реалізації права на донорство крові. *ЛОГОС. Мистецтво наукової думки*. Вип. 8. 2019. С. 153.

⁷ Яковлев О.А. Атестація робочих місць як дієвий захід гарантування для працівників належних, безпечних і здорових умов праці. *Науковий вісник Міжнародного гуманітарного університету*. № 45. 2020. С. 99. doi: <https://doi.org/10.32841/2307-1745.2020.45.21>

Ukrainian system of law and legislation does not sufficiently emphasize the issues of medical law adjustment in society.

The methodological basis of the survey, undoubtedly, is a dialectical method, which introduction provides an opportunity to study the object and subject of research in their gnoseological unity⁸, as well as the nature of the Medical relations and their adjustment, as cause and effect. Presented survey has done with assistance of formal method as special and ontology, deduction, analysis ad synthesis as common, which led to obtain a new data and background for discussion and further investigations from contemporary scientific viewpoint. Thus, research methodology is based on general scientific methods such as analysis, synthesis, induction, deduction, analogy and empirical methods – observation, comparison and statistical ones. Additionally, in article proposed is used a structure qualitative and differential analysis research methodology based on the «formational sociological approach in which the overall research context is emphasized»⁹. Aforesaid approach provides implication and meaning of a complex number of issues regarded to Medical relations' legal adjustment.

Thus, the purposes of the study are consist in: a) research of the medical relations as a subject of social and legal adjustment; b) put forward and discuss debatable aspects of the medical law's place and role in the Ukrainian legal system; c) clarify an Administrative Law's problems of medical relations adjustment an as well as giving recommendations to improve this ones from the positions of social dialogue's maintaining and Native legal reforming in aforesaid field.

1. Medical relations as a subject of social and legal adjustment

Voronina M.A. is convinced that the people's behavior in society is ordered through a variety of social norms – rules that are a benchmark, model, a sample of such behavior. From the other hand, social norms are rules of general behavior, the effective performance in society is provided by measures of social influence. Scientist refers to following general features of social norms: 1) their predetermination by the level of socio-economic development; 2) reflection of their respective cultural traditions; 3) general character, repeatability; 4) conscious and strong-willed creation and implementation; 5) focus on regulating the interaction of subjects; 6) the mission to ensure stability and order in society; 7) the presence of guaranteed measures of public influence in case of their violation. Author classifies social norms into political, economic, organizational, family; norms of law, morals, customs, traditions, religious and corporate; oral and written. Along with social

⁸ Getman, A., Karasiuk, V. & Hetman, Y. Ontologies as a set to describe legal information. *CEUR Workshop Proceedings*. 2604. 2020. P. 357.

⁹ Прилипко С. М., Колосов І. В., Веннікова В. В. Профспілки у Північній Америці та Австралії: ключові особливості, вплив та роль у підтриманні соціального діалогу. *Вісник Національної академії правових наук України*. 2022. Т. 29. №3. С. 209. doi: <https://doi.org/10.31359/1993-0909-2022-29-3-205>

norms, the scientist identifies technical norms, which, in her viewpoint, are divided into solely technical and technical-legal¹⁰.

In addition to the previous opinion, Kalinovsky Yu.Yu. et al. paid attention to the fact that the value of law at different times was squeezed out with its huge moral significance, which turned out to be the need for «good» laws, «fair» rulers, «correct» forms of government. Obviously, the clash of specific moral and legal values remains a characteristic of the relationship between morality and law at the contemporary stage. Therefore, morality and law are necessary and mutually agreed components of the general system of adjustment of public relations¹¹.

Dashkovska O.R. argues that legal relations are social relations regulated by law, whose participants are carriers of subjective rights and legal duties. The following are characteristic features of legal relations: 1) their sociability; 2) emergence, modification and termination on the basis of norms and principles of law; 3) the binding of their subjects with each other by mutual rights and obligations; 4) the presence of individualized and specified bonds¹².

Taking into account aforesaid viewpoints of scholars and applying the modern conceptually-categorical staff and methodological basis of medicine, we can derivate the following legal facts, documents, procedures, phenomena, objects, subjects, social relations or activities etc. are directly related to medicine and due to their significance can and should be adjusted by law: 1) abortion, emergency rescue, aviation hygiene, aviation medicine, aviation sanitary transport, autogenously welding, automobile sanitary transport, acoustic injury, obstetric operations, alimony, outpatient clinic¹³; 2) aniline-colorful production, archive of forensic medicine and public hygiene, asbestos industry, nuclear industry, nuclear energy, nuclear weapons, airfield¹⁴; 3) bacterial standard, bacteriological laboratory, bacteriological study, bacteriological weapons, balneology, balneotherapy, balneotechnics, bath laundry and disinfection train, bath laundry and disinfection service of troops, bath laundry, biological cleaning, landscaping of settlements, medical libraries¹⁵; 4) hospital, sick, great medical encyclopedia¹⁶; 5) material evidence, virological technology, virological research, vitalism, diving work, hydropathical facility, waterlogging, water tower, water elevators, water supply, military medical commission, educational home, restorative surgery, recovery, doctor, medical responsibility, medical supervision, medical advisory commission, medical nutritional point, medical errors, medical control, medical charter, medical

¹⁰ Теорія держави і права : підручник / О.В. Петришин, С.П. Погребняк, В.С. Смородинський та ін.; за ред. О.В. Петришина. – Х.: Право. 2015. С. 99, 100.

¹¹ Філософія права: підруч. для студ. юрид. вищ. навч. закл. / О.Г. Данильян, О.П. Дзьобань, С.І. Максимов та ін. ; за ред. д-ра філос. наук, проф. О.Г. Данильяна. – Х.: Право. 2014. С. 179, 181.

¹² See note # 10, p. 231,232.

¹³ Great Medical Encyclopedia. Volume 1. 1956. P. 21,65,69,76,108,121,570,578,702.

¹⁴ Great Medical Encyclopedia. Volume 2. 1957. P. 185, 851,875,1065,1070,1072,1272.

¹⁵ Great Medical Encyclopedia. Volume 3. 1957. P. 100, 201, 219, 226, 298, 338-356, 366, 378, 381, 386, 719, 830, 923, 982, 1093.

¹⁶ Great Medical Encyclopedia. Volume 4. 1958. P. 84,149,153.

site, World Medical Association, World Health Organization¹⁷; 6) recovery, extinction, extinction of peoples, hygiene, military hygiene, gymnastics¹⁸; 7) mountain climatic resorts, mining industry, hospitalization, military hospital, hospital for lightly wounded, hospital base, hospital schools, mud industry, mud bath, mud treatment, fingerprinting, capacity, decontamination, disinsection, disinfection stations, points, disinfection, demography, medical deontology, deratization¹⁹; 8) infanticide, children's colonies, playgrounds, children's reception centers, children's institutions, orphanage, kindergarten, children's sanatorium, water dechlorination, division medical center, dispensary, medical examination, medical documentation, mother's and child's home, rest house, child's home, health education home, railway sanitary transport²⁰; 9) Geneva Conventions, vitality, life, housing, hardening, burial of corpses, protective equipment, public buildings, health, health care, health center, sanitary protection zones, spectacles²¹; 10) rape, isolation checkpoints, isolation home, isolation of infectious patients, immunization, disability, infectious disease field hospital, barracks²²; 11) sewerage, quarantine, coffers' work²³; 12) leather production, coke chemical production, mine wells, communal hygiene, mother and child room, international health conventions, consultation, pharmacy control, bacterial drug control, international conference on the use of atomic energy²⁴; 13) resorts, including Crimean ones²⁵; 14) laboratory, laboratory of aviation medicine, military camp, infirmary, athletics, physical therapy, clinics, hospital, medical care, medical and evacuation support, treatment²⁶; 15) foundry, personal hygiene, painting, maternal mortality, motherhood, furniture²⁷; 16) medicine, military medicine, medical industry, medical intelligence, medical service of the armed forces, medical publishing houses, medical institutes, medical staff, medical examinations, medical conventions, medical encyclopedias, medical personnel, medical support of the armed forces, medical education, medical supply, medical unit, international medical organizations²⁸; 17) stillbirth, meteorology, fur production²⁹; 18) medical museum, garbage, meat processing

¹⁷ Great Medical Encyclopedia. Volume 5. 1958. P. 320, 429, 443, 665, 823, 829, 832, 846, 848, 860, 898, 1099, 1105, 1109, 1117, 1137, 1141, 1142, 1144, 1149, 1154, 1166, 1167, 1190.

¹⁸ Great Medical Encyclopedia. Volume 6. 1958. P. 83, 86, 1025, 1052, 1166.

¹⁹ Great Medical Encyclopedia. Volume 8. 1958. P. 32, 35, 89, 99, 100, 103, 114, 118, 122, 129, 529, 541, 551, 647, 819, 842, 915, 919, 1029, 1048, 1072.

²⁰ Great Medical Encyclopedia. Volume 9. 1959. P. 18, 42, 66, 67, 70, 72, 74, 78, 94, 287, 472, 488, 701, 716, 718, 731, 735, 1105.

²¹ Great Medical Encyclopedia. Volume 10. 1959. P. 333, 409, 410, 424, 592, 710, 714, 732, 738, 741, 837, 972, 997.

²² Great Medical Encyclopedia. Volume 11. 1959. P. 112, 127, 129, 130, 227, 376, 836, 1140.

²³ Great Medical Encyclopedia. Volume 12. 1959. P. 109, 228, 707.

²⁴ Great Medical Encyclopedia. Volume 13. 1959. P. 323, 440, 637, 750, 758, 792, 928, 929, 954.

²⁵ Great Medical Encyclopedia. Volume 14. 1960. P. 856, 1 060, 1087.

²⁶ Great Medical Encyclopedia. Volume 15. 1960. P. 103, 117, 174, 182, 310, 936, 955, 957, 959, 972, 992.

²⁷ Great Medical Encyclopedia. Volume 16. 1960. P. 91, 200, 808, 1001, 1005, 1151.

²⁸ Great Medical Encyclopedia. Volume 17. 1960. P. 47, 513, 703, 708, 711, 727, 731, 743, 768, 769, 788, 805, 813, 848, 855, 861

²⁹ Great Medical Encyclopedia. Volume 18. 1960. P. 11, 77, 231.

plant, meat control station, population³⁰; 19) research institutes, insanity, prematurity, emergency care, minors, accident, disability, oil industry³¹; 20) hygienic standards, washing and disinfection plants, civil defense, footwear industry, footwear, dormitory, societies combating child mortality, public medicine, clothing, operating room, operating tables, surgical operation, healthcare organization, organization in pathology³²; 21) waste, poisonous substances, parenthood, medical reporting, child and adolescent health protection, occupational safety, a focus of mass lesions, water purification, settlement cleaning, lighting, spraying, rest, security zone³³; 22) medical papyri, Parisian anatomical nomenclature, desk, Pasteur vaccinations, Pasteur stations, points, pathology department, patronage, first aid, dressing and feeding point, population census, resettlement, dressing, dressing tables, blood transfusion³⁴; 23) layout of populated areas³⁵; 24) beach, field medical equipment, field mobile hospital, sanitary landfill, printing production, regimental medical center, gunpowder production³⁶; 25) sanitary transport post, utensils, laundry, pathoanatomics, vaccinations, life expectancy, prosthetics, anti-atomic protection, air defense, contraceptives, anti-beam protection, antimalarial stations, points, anti-plague institutions, anti-noise, anti-epidemic institutions, anti-epidemic support for troops, occupational pathology, occupational diseases, occupational harmfulness, professional selection, rolling shop, commercial animals, gas mask³⁷; 26) prevention, health workers union, psychiatry, psychohygiene, psychoprophylaxis, water supply point, radiation hygiene, depraved activities, molestation, medical rationalization and inventing, nuclear reactors³⁸; 27) regeneration, maternity hospital, maternity care, birth rate, search for affected³⁹; 28) suicide, sanatorium, sanitary inspection, sanitary protection of atmospheric air, sanitary protection of water bodies, health training of troops, health statistics, health legislation, health education, health condition of the population, sanitary and chemical protection, sanitary and epidemiological organization, sanitary and epidemiological intelligence, sanitary and epidemiological station, sanitary and epidemiological surveillance, sanitary and epidemiological description, sanitary and epidemiological condition of troops,

³⁰ Great Medical Encyclopedia. Volume 19. 1961. P. 399, 454, 756, 763, 995.

³¹ Great Medical Encyclopedia. Volume 20. 1961. P. 61-107, 135, 379, 167, 872, 883, 1018.

³² Great Medical Encyclopedia. Volume 21. 1961. P. 140, 305, 327, 358, 361, 381, 383, 385, 437, 923, 942, 1125.

³³ Great Medical Encyclopedia. Volume 22. 1961. P. 142, 269, 572, 574, 807, 838, 840, 903, 909, 916, 939, 944.

³⁴ Great Medical Encyclopedia. Volume 23. 1961. P. 86, 150, 379, 416, 418, 463, 466, 535, 552, 559, 727, 750, 753, 755, 782, 903, 913.

³⁵ Great Medical Encyclopedia. Volume 24. 1962. P. 232, 823, 834.

³⁶ Great Medical Encyclopedia. Volume 25. 1962. P. 40, 693, 696, 706, 865, 1387.

³⁷ Great Medical Encyclopedia. Volume 26. 1962. P. 125, 132, 512, 665, 693, 756, 758, 843, 900, 969, 974, 1063, 1105, 1108, 1112, 1137, 1150, 1169, 1186, 1189, 1191, 1194, 1195, 1231, 1236, 1245, 1253.

³⁸ Great Medical Encyclopedia. Volume 27. 1962. P. 9, 25, 116, 316, 392, 542, 710, 850, 1071, 1137, 1190.

³⁹ Great Medical Encyclopedia. Volume 28. 1962. P. 144, 830, 1085, 1086.

sanitary samples, sanitary minimum, sanitary supervision, sanitary passport, sanitary post, sanitary pass, sanitary transport, sanitary commissioner, certificate of illness, death certificate, rural medical site, agriculture⁴⁰; 29) council of medical boards, social hygiene, social security, social insurance⁴¹; 30) sport, sports medicine, sports facilities, old age, aging, glass industry, canteens, sewage water, sexual sterilization, forensic medicine, ship hygiene, tobacco production, medical property card, medical service tactics⁴²; 31) therapeutic field mobile hospital, safety equipment, technology of dosage forms and galenic drugs, injuries, trauma point, labor, labor therapy, labor device, ability to work, corpse, tuberculosis⁴³; 32) shelter, murder, coal industry, mineral fertilizers, chemical and pharmaceutical industry, chemoprevention, chemical industry, surgical field mobile hospital, pharmacy, surgery, bakery, drinking water chlorination⁴⁴; 33) non-ferrous metallurgy, cement production, workshop medical center, ferrous metallurgy, chamotte-dinas production, mines, silk production, school, evacuation hospital, evacuation receivers, evacuation point, medical evacuation, exhumation⁴⁵; 34) expertise (including ability to work), electric welding, power plant, epidemic analysis, medical ethics, industrial poisons, nursery⁴⁶; 35) genetics, infectious diseases office, space medicine, furniture industry, metal and ceramic production, metalware production, handwriting⁴⁷.

Ones presented and the social relations associated with them will be the subject of scientific discussion, which we put forward in the second paragraph.

2. Debatable aspects of the medical law's place and role in the Ukrainian legal system

Now, when with help of the categorical staff of medical science we were able to distinguish the layer of research, let's make effort to derivate from it specific social relations that need to be settled by law, while separating subjects, objects, sources, etc. We present the results in the form of a table (see Table 1):

⁴⁰ Great Medical Encyclopedia. Volume 29. 1963. P. 157, 167, 214, 221, 233, 234, 267, 275, 307, 309, 312, 316, 321, 324, 325,

326, 346, 351, 352, 358, 359, 360, 361, 502, 203, 688, 689.

⁴¹ Great Medical Encyclopedia. Volume 30. 1963. P. 559, 614, 624, 774, 982-1008.

⁴² Great Medical Encyclopedia. Volume 31. 1963. P. 206-229, 298, 374, 427, 510, 514, 579, 687, 706, 984, 992, 1088.

⁴³ Great Medical Encyclopedia. Volume 32. 1963. P. 37, 144, 148, 496, 535, 848-911, 920.

⁴⁴ Great Medical Encyclopedia. Volume 33. 1963. P. 45, 46, 119, 511, 1060, 1111, 1114, 1140, 1159, 1179, 1212, 1238.

⁴⁵ Great Medical Encyclopedia. Volume 34. 1964. P. 301, 341, 382, 728, 867, 913, 1174, 1176, 1177, 1181, 1291.

⁴⁶ Great Medical Encyclopedia. Volume 35. 1964. P. 23, 224, 229, 600, 832, 996, 1199.

⁴⁷ Great Medical Encyclopedia. Volume 35. 1964. P. 241, 495, 569, 674, 711, 715, 926.

Table 1

**Approximate distribution of medical public relations
between branches of law⁴⁸**

Civil	Criminal	Admin.	Labour	Housing	Medical
emergency rescue, acoustic injury, alimony, medical responsibility capacity, prematurity, parenthood, medical rationalization and inventing.	abortion, acoustic injury, material evidence, medical responsibility, medical errors, fingerprinting, infanticide, children's colonies, rape, stillbirth, insanity, deprived activities, suicide,	emergency rescue, obstetric operations, archive of forensic medicine and public hygiene, bath laundry and disinfection of service of troops, public medical bibliography, landscaping of settlements,	aviation hygiene, aniline-colorful production asbestos industry, nuclear industry, diving work, recovery, hygiene, laundry, resorts, mining industry, mud industry	decontamination, disinfection, disinfection, deratization, dormitory.	bacterial standard, balneotherapy, biological cleaning, virological technology virological research restorative surgery medical supervision, medical advisory commission,
	forensic medicine, sexual sterilization, murder, exhumation, forensic expertise, handwri ting.	military medical commission, medical responsibility, military hygiene, orphanage, kindergarten, children's sanatorium, water dechlorination, sanitary protection zones, spectacles, health care, sewerage, communal hygiene, pharmacy control, bacterial drug control	medical examination protective equipment, disability, coffers' work, leather production, coke chemical production, mine wells, foundry, personal hygiene, painting, medical industry, medical staff, medical personnel, medical supply, medical unit,		hospital base, mud treatment, decontamination, medical deontology, medical documentation, vitality, isolation of infectious patients, immunization, quarantine, resorts, pharmacy control, bacterial drug control, medical care, medical and evacuation support, treatment, maternal mortality, motherhood, medical supply, stillbirth, emergency care,

⁴⁸ From the viewpoint of relevant native legal acts. Created from author's viewpoint taking in account.

Continue of Table 1

Civil	Criminal	Admin.	Labour	Housing	Medical
		insanity, public medicine, healthcare organization, organization in pathology, water purification, settlement cleaning, civil defense, anti-atomic protection, air defense, anti-beam protection, anti-epidemic support for troops, radiation hygiene, search for affected, social	fur production, accident, disability, oil industry, footwear industry, hygienic standards, washing and disinfection plants, poisonous substances, occupational safety, rest, printing production, gunpowder production, anti-noise, occupational pathology, occupational diseases, occupational harmfulness,		hygienic standards, poisonous substances, patronage, blood transfusion, prevention, regeneration, maternity care, sanitary inspection, health training of troops, health statistics, sanitary and chemical protection, sanitary and epidemiological organization, sanitary and epidemiological intelligence, sanitary and epidemiological surveillance, sanitary and
		hygiene, sport, drinking water chlorination, medical evacuation.	professional selection, rolling shop, health workers union, medical rationalization and inventing, psychohygiene, radiation hygiene, agriculture, social security, social insurance, sport, glass industry, ship hygiene, tobacco production, injuries, labour, ability to work, coal industry, chemical and pharmaceutical industry, bakery,		epidemiological description, sanitary supervision, sport, medical service tactics, sexual sterilization, pharmacy, medical evacuation, epidemic analysis, medical ethics, genetics, infectious diseases office, space medicine.

Continue of Table 1

Civil	Criminal	Admin.	Labour	Housing	Medical
			non-ferrous metallurgy, cement production, workshop medical center, ferrous metallurgy, chamotte-dinas production, mines, silk production, industrial poisons, furniture, metal and ceramic, metalware productions, work ability's expertise.		

In addition, the social relations of sanitary protection of atmospheric air and water bodies, mineral fertilizers use and security zones' organizing evidently belong to subject of Environmental law. Such division, however, is debatable within scholars as Native, as foreign; aforesaid will be described in following paragraph.

3. Administrative law's problems of medical relations adjustment

The table presented in the previous paragraph clearly demonstrates that medical public relations are so complex and multi-layered that they cannot be the subject of any of the existing branches of law separately, which creates the problems of demarcation of the medical law subject, which we wrote about in previous papers^{49,50}. They cannot, due to their prevalence, be ranked among the sub-branches of law. From these provisions, it seems fair for us to propose the concept of a meta-branch of law – such a branch that, having its own independent and undoubtful subject of legal adjustment, simultaneously penetrates into a link of other branches of law, sometimes become essence of their existence. Let's try to justify this thesis.

In modern scientific literature, much is written about the need to develop of medical law within the framework of the administrative law subject solely. Let us disagree with this statement. Firstly, earlier, speaking in the same context about labor disputes, we have already noted that there are four substantive differences between

⁴⁹ Колосов І.В. Щодо предмету медичного права України. *Розвиток медичного права України в контексті євроінтеграційних та глобалізаційних процесів*: матер. III Всеукр. наук.-практ. конф. з міжнар. участю (м. Київ, 12 грудня 2018 р.) Київ: Видавничий дім «Гельветика», 2018. С. 73 – 75;

⁵⁰ Колосов І.В. Проблеми предмету медичного права та його місце у системі права України. *Юридичні гарантії забезпечення прав громадян на працю і соціальній захист*: тези доп. і наук. повідомл. X Міжнар. наук.-практ. конф. (м. Харків, 09 жовтня 2020 р.) Харків: Право, 2020. С. 372 – 373.

administrative and labour legal relationship: a) on way of regulation; b) on effects of imperative intervention; c) on regulative significance of local norms; d) on valued-principles' component of social guaranteeing and securing relationships⁵¹. Secondly, without challenging the competence of administrative law in the above-mentioned medical public relations, it is powerless in the case of private medicine, industrial or departmental medicine, traditional medicine, etc.

Thus, it becomes abundantly clear that administrative law cannot encompass medical social relations, and this conclusion is evident by making sure that they (relationships) are tangent to six branches of law: civil, criminal, administrative, labour, housing and environmental.

Moreover, reasoning analytically, we understand that almost all the branches of law have named, including administrative, as theoretically, as practically maintain their independence and stability of sectoral legal relations, if we assume suddenly that medical social relations have disappeared for various reasons. Indeed: state and local self-government will continue to exist, as, for example, management in the field of education, science, industry, architecture, etc. Copyright, related rights, ownership, other property rights, obligations will not suffer significantly from such a disappearance. Crimes against property, the established procedure for military service, in the field of information technology, national security will continue to be investigated. The norms and rules on the use of office housing will not significantly suffer. Finally from this provision, violators will not be able to avoid statutory responsibility for illegal fishing or illegal logging. This situation does not depend on imperatives of coercion inherent in administrative law. However, the complexity of medical public relations has such level that even aforesaid does not fully outline the circuit of the problem presented.

In this context, prof. Venediktov S.V. notes that the labour relations are social relations arising directly in field of production between the employee and the employer as the owner of the production tools regarding the *employee's personal performance* of a certain type of work *in accordance with his function*. At the same time, the employee is included in the labor collective of the enterprise, and the work is carried out under the conditions of a certain labor regime for subordination of the employee to the settled conditions of joint activity⁵².

Taking in account that the work function must be performed personally by the employee, a fair question arises about how to correlate this personal performance with the function entitled to the employee. There is a question about the employee's ability to carry out a certain kind of work, i.e. working capacity. And this question is key in understanding whether labor legal relations may or may not take place.

Professor Aleksandrov N.G. answered this question quite convincingly. From his viewpoint, there is only one undoubtful criterion that determines the ability of an employee to directly fulfill a particular labour function. This is his or her

⁵¹ Колосов І. Відмінності між адміністративним та трудовим правовідношенням у контексті проблеми процесуального врегулювання публічно-службових спорів. *Адміністративне право і процес*. 2018. № 2 (21), С. 93.

⁵² Вenediktov С.В. Теоретико-правові засади сучасної концепції трудового правовідношення в Україні: монографія. Харків: ХНУ ім. В.Н. Каразіна. 2011. С. 43.

*state of health*⁵³. Without its qualitative definition and qualified assessment, labour legal relations cannot exist, which means that labour law cannot exist similarly. Disability for health reasons also excludes the presence of any labour legal relationship. Administrative law as a branch is not at all interested in these issues and is not included in the scope of its legal adjustment.

Thus, medical social relation is so significant for the emergence of labor legal relations that without the existence of the first in society, the second will not exist same. This does not mean that labor will disappear as a social phenomenon in general. The work of a contractor, entrepreneur, farmer will remain. However, there will be no relationship between the employer and the employee. That is, there will be no labour law.

Returning to our table, we are repeatedly convinced how diverse medical public relations are in fact.^{54,55,56,57,58,59,60,61,62,63,64,65,66,67,68,69,70,71,72,73,74,75} However, there

⁵³ Александров М.Г. Трудове правовідношення. 1948. С. 124.

⁵⁴ Діллон Я.Г. Рентгенографічна життєва проба. *Архів патологічної анатомії*. № 1. 1939. С. 50.

⁵⁵ Буличев І.О. Рослинні дехлорувальні речовини. *Гігієна і санітарія*. № 10. 1946. С. 13.

⁵⁶ Кульський Л.А., Моріц П.Б. До питання про дехлорувальну властивість неактивованого дров'янистого вугілля у порівнянні із промисловим активованим. *Український хімічний журнал*. Т.9. Кн. 2. 1934. С. 185.

⁵⁷ Фішман Ф.М. Деякі питання організації роботи у постійних військово-санітарних поїздах. *Військово-санітарна справа*. № 9. 1942. С.14.

⁵⁸ Гринчар Ф. М., Долгов О.П. Проблема професійних дерматозів і піодермій. *Вісник венерології і дерматології*. № 2. 1948. С. 3.

⁵⁹ Сгорьев В. Політичні моменти міжнародної санітарної конференції 1926 року. *Гігієна та епідеміологія*. № 8-9. 1928. С. 5.

⁶⁰ World Health Organization, the annual report. *Journal of American Medical Association*. V. 164.1957. P.1270.

⁶¹ Шефер С.С. Система заходів з боротьби із пилом у ливарних цехах. *Гігієна і санітарія*. № 3. 1955. С. 17.

⁶² Шкарінов Л.М. Основні гігієнічні фактори у праці обрубника при пневматичній обробці литва. *Гігієна праці та професійні захворювання*. № 4. 1959. С. 3.

⁶³ Die Hygiene und Diätetik [in book of: Jashke R. Th. u. Pankow O. Lehrbuch d. Gynäk]. 1923. P. 66.

⁶⁴ Бернштейн М. Сучасна біомеханіка та питання охорони праці. *Гігієна, безпека та патологія праці*. № 2.1930 С.3.

⁶⁵ Бернштейн М. Новий метод дзеркальної циклозіймки та його застосування. *Гігієна, безпека та патологія праці*. № 5, 6.1930 С.3.

⁶⁶ Зальцгебер О.А. Раціоналізація робочих меблів на виробництві. *Охорона праці*. 1930 № 1. С. 12; № 10. С. 12; № 9. С. 34. 1931. № 9. С. 26.

⁶⁷ Asher. Zweckmässige Gestaltung von Arbeitstisch und stuhl. *Psychotechnik Z*. 1931. S. 13.

⁶⁸ Gelbrich H. Arbeitsshtüle für Werkstätten. *Arbeiterschulz*. 1928. S.168.

⁶⁹ Кетчер Я. Сучасні пляжі за кордоном. *Закордонна архітектура*. № 5. 1936. С. 21.

⁷⁰ Чухін М.Є. Про організацію роботи на санаторних лікувальних пляжах та у соляріях. *Питання курортології*. № 3. 1960. С. 11.

⁷¹ Tjaden O. Une plage privée a Atlantic Beach (New-York), L'Architecture française. 1948. P. 42.

⁷² Хмиров О.Б., Давигора М.Д. Розгортання полкового медичного пункту. *Військово-медичний журнал*. № 1. 1960. С. 13.

⁷³ Масака В.Г., Юдін К.О. До питання про очищення вентиляційного повітря від нітратної кислоти та оксидів азоту. *Гігієна праці та техніка безпеки*. № 5. 1936. С. 78.

⁷⁴ Aktualne problemy opieki nad psychicznie chorymi w Polsce. *Zdrow. Publ*. № 1. 1961. S. 1 – 74.

⁷⁵ Jus A. Zadania i perspektywy rozwoju praktyki i nauki psychiatrycznej, *ibid*. 1957. S.463.

are groups of relations that may constitute the separate subject of medical law. Surely, a link of the provisions and statements summarized in the table have a debatable nature, but the general issues correlate with objective reality.

Rather clearly demonstrated that medical public relations are mostly adjusted by the norms of criminal, administrative and labour law, which creates the medically-legal triad that we talked about earlier^{76,77}. Other branches at the contemporary stage of development are obviously lesser in contact with medical relations in compare with aforesaid. At the same time, the «palm» belongs both quantitatively and qualitatively to labour law, although the lag of administrative law is relatively few and may be as the subject of further discussion.

Notwithstanding, it is impossible to consider our conclusion about the medically-legal tetrarch and the LCHA impact factor, which was made based on the results of a study of the era of capitalism, as erroneous⁷⁸. This conclusion was based on the modern stage belongs research field on the patterns of development of medical public relations and medical law, and fact that the contemporary state of affairs does not correspond to these realities (housing law, to a lesser degree than the rest of the branches, is in contact with medical public relations), testifies only to the degradation of housing law as such due to mass privatization in Ukraine, the rarity of sources of medical law at the level of Acts and, in this regard, the dominance of administrative and legal influence on medical public relations through governmental mechanisms and imperative non-freedom. From the other hand, the increasing regulatory impact of the civil law on medical social relations is quite understandable by the socio-economic transformations that have befallen all the states of the post-Soviet area and the former Socialist Camp.

Thus, our statement about medical law as a meta-branch of law is fully justified: it penetrates into a link of branches of law (criminal, civil, administrative, environmental, housing), while having a stable and independent subject matter of legal adjustment, but its existence is most essential for *labour law*, which it has the deepest ties with and public relations which regulated it embodies an objective reality.

This state of affairs cannot be suitable to the subject of administrative law and grows far beyond the framework of administrative legal adjustment both for reasons of legal relations' content and from the viewpoint of its method. Labour law is much «freer» than administrative law, it is based on the principles of a combination of centralized and local regulation and provides much more freedom to its subjects than administrative law can afford. And in the absence of an administrative-command

⁷⁶ Колосов І.В. Історичні передумови виникнення правових актів у галузі медицини в державах Стародавнього Світу. *Вісник НТУУ «КПІ» Політологія. Соціологія. Право*. 2022. № 1(53). С. 79. doi: 10.20535/2308-5053.2022.1(53).261124.

⁷⁷ Kolosov I.V. European medical law development on Middle ages and Renaissance. *Нове українське право. Випуск 6, присвячений євроінтеграційній тематиці*. Т. 1. 2022. С. 180. doi: <https://doi.org/10.51989/NUL.2022.6.1.25>

⁷⁸ Kolosov I. V. Medical law development on capitalist era (1639–1917). *Науковий вісник Міжнародного гуманітарного університету. Серія: Юриспруденція*. № 58. 2022. С. 36. doi: <https://doi.org/10.32841/2307-1745.2022.58.8>

system and the growing importance of a market economy, this is the factor that will encourage to the further development of medical law and strengthen the autonomy of its own subject.

And one administrative legal problem more. Particularly in the EU, there are two ways for patients to bring the medical applications before: classical, through the courts and alternative, through subsidiary and arbitration bodies or medical boards⁷⁹.

It is undoubtedly difficult to imagine the resolution of such a dispute under the rules of administrative process, which is limited by the methods of law protection and the need to oblige to do certain actions⁸⁰. In medicine, this is not always appropriate, correct and ethical. No less significant Administrative Law's problem in modern realities becomes from introduction of artificial intelligence in the field of medicine.

Completing our survey, we have to summarize its results briefly, putting forward author's recommendations, which will be discussed in more detail in the Conclusions; it will fully correspond to the aims of the papers.

CONCLUSIONS

1. Medical public relations are so multi-layered that cannot be covered by the subject of any single branch of law; having an independent subject it comes into contact with subjects of at least six branches of law, and for labour law plays the role of essential, which corresponds to our proposed definition of medical law as a meta-branch of law.

2. Based on research conducted, medical public relations have binded with the subject of civil, criminal, administrative, labour, housing and environmental law. Thus, in respect to summarizing legal work in direction of their settlement, we propose to classify these relations as: medical-civil, medical-criminal, medical-administrative, medical-labour, medical-housing and medical-environmental. At the same time, should be not forgetting that there is a rather extensive group of social relations, which are an independent subject of medical law. The largest number of medical social relations in this case refers to the subject of labour law.

3. The approach established in domestic science to the settlement of medical social relations through the norms of administrative law solely can be justified only in the case of medical-administrative relations identified earlier. In other cases, there will be difficulties with the methods of adjustment, ways of rights' protection and lack of proper legal tools for resolving those relations that initially go beyond the limits of administrative legal adjustment. In addition, medical public relations are not essential for administrative legal relations and the existence of the latter from the presence of the former is not directly dependent. At the same time, labour legal relations without properly regulated relations in the field of medicine cannot exist in whole.

⁷⁹ See note # 50. P.372.

⁸⁰ Кодекс адміністративного судочинства України. Відомості Верховної Ради України (ВВР), 2005, № 35-36, № 37, ст.446 (зі змінами та доповненнями). URL: <https://zakon.rada.gov.ua/laws/show/2747-15#Text> (Date of Address is May, 15, 2023).

Thus, medical social relation seems so significant for the emergence of labor legal relations that without the existence of the first in society, the second will not exist same. However, no less significant legal problem in modern realities becomes from introduction of artificial intelligence in the field of medicine, which need furthermore surveys and properly investigations.

SUMMARY

The problems of human rights' proper provision are closely related with issues of public relations in field of medicine legal adjustment, which key purpose is to ensure the Human Right to life, healthy and safe working conditions, living, public sanitary welfare. For general issues of the medical law development, particularly, in the context of labour law were devoted to dozens of papers. Notwithstanding, Ukrainian system of law and legislation does not sufficiently emphasize the issues of medical law adjustment in society. Thus, the purposes of the study are consist in: a) research of the medical relations as a subject of social and legal adjustment; b) put forward and discuss debatable aspects of the medical law's place and role in the Ukrainian legal system; c) clarify an Administrative Law's problems of medical relations adjustment an as well as giving recommendations to improve this ones from the positions of social dialogue's maintaining and Native legal reforming in aforesaid field. The methodological basis of the survey, undoubtedly, is a dialectical method, which introduction provides an opportunity to study the object and subject of research in their gnoseological unity, as well as the nature of the Medical relations and their adjustment, as cause and effect.

Particularly concluded that Medical public relations are so multi-layered that cannot be covered by the subject of any single branch of law; having an independent subject it comes into contact with subjects of at least six branches of law, and for labour law plays the role of essential, which corresponds to our proposed definition of medical law as a meta-branch of law. Thus, in respect to summarizing legal work in direction of their settlement, we propose to classify these relations as: medical-civil, medical-criminal, medical-administrative, medical-labour, medical-housing and medical-environmental.

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