

ПАТОЛОГІЯ ТА СУДОВА МЕДИЦИНА

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LAWYER'S QUERIES IN MEDICAL PRACTICE: LEGAL REGULATION

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Many questions arise when health institutions provide responses to lawyers' queries on medical information about patients. There are specific grounds of failure to meet the lawyers' query.

Respond to queries on health and other personal information about patient is inseparably linked with compliance of medical confidentiality (secrecy). Medical secrecy is properly documented information about the disease, medical examination of a patient, inspection and its results, information about the intimate life of a person. According to Ukrainian Law medical officers: have the duty to preserve medical secrecy (Civil Code of Ukraine, article 286; the Law of Ukraine "Fundamentals of legislation on health care", article 40; the Law of Ukraine "On information", article 46); bear legal liability for medical secrecy disclosure (the Criminal Code of Ukraine, article 145); have specified grounds for disclosure of medical secrecy. On getting a lawyer's query to share information on provision of medical assistance to a patient, the management of a medical institution should remember that lawyers in discharging of their duties have the right of access to the documents and materials except for those which contain secret and are protected by the law (the Law of Ukraine "On Advocacy", article As well, they have the right to obtain documents or copies from enterprises, institutions, organizations, associations, and from citizens upon their consent, as a respond to their queries.

Specific rules for lawyers' queries content are not defined by Ukrainian law. On getting a lawyer's query and getting prepared with an answer, management of a medical institution should observe the following provisions: preserve medical secrecy; act for the benefit of a patient; get permission or deny from a patient to disclose confidential information; get documents confirming identity and authority of a lawyer. Primarily, the patient should be notified of the query to disclose confidential information about his health, as well as he should be informed that this information is treated as medical secrecy and protected by law. A lawyer's query can be provided by both: a legal defender of a patient and a representative of his opponent in the court. The patient may confirm or deny disclosure of the requested personal data. The obtained confirmation or refusal to share confidential information should be documented. The patient makes his decision by writing it in his medical documents, marking signature and date. If another person is authorized to represent the patient's interests, then this person should confirm or deny disclosure of the requested information.

Secondly, the management of a health institution should get ready with an answer to a query. In case the patient refused to share confidential information, the management of a health institution should respond that the requested data is treated as medical secrecy and may not be disclosed. In case the patient confirmed disclosure of personal information, the management of a health institution should inform the lawyer of getting confirmation from the patient. However, medical documents/copies are eligible to be transmitted to the lawyer only after getting proof of the lawyer's identity and authority. The fact of the medical documents/copies transmission to the authorized lawyer within the lawyer's query should be mentioned in these medical documents.