

PUBLIC MANAGEMENT OF THE FIELD OF FORENSIC MEDICAL EXAMINATIONS IN THE HEALTHCARE SYSTEM

ПУБЛІЧНЕ УПРАВЛІННЯ СФЕРОЮ СУДОВО-МЕДИЧНИХ ЕКСПЕРТИЗ У СИСТЕМІ ОХОРОНИ ЗДОРОВ'Я

The article identifies the specific features of defining the concept of forensic medical examination and the core competencies required for its conduction. It analyzes the key aspects of legal support for the activities of the forensic medical service. It is established that forensic medical activities are carried out by state specialized institutions, expert institutions of communal ownership, including the Main Bureau of Forensic Medical Institutions, which has the status of a state specialized institution, and regional-level bureaus of forensic medical examinations, which are communal institutions under regional councils.

It is indicated that all forensic medical examination bureaus, from an organizational and methodological perspective, are subordinate to the Ministry of Health of Ukraine. However, in practice, there is a lack of vertical authority at the national level that would coordinate the functioning of these bureaus and promote their independence from regional structures. This overall has a negative impact on the general functioning of forensic medical examination bureaus in Ukraine.

The fundamental principles of forensic medical expert activity are emphasized, including the supremacy of the law, respect for human rights and freedoms, legality, impartiality, independence, objectivity, and thoroughness of investigation, as well as the utmost preservation of the objects of forensic medical examination. Emphasis is placed on the impartiality and independence of the forensic medical expert in carrying out forensic medical examinations, as well as the prohibition of interference in its conduct and any influence by external parties.

It is defined that state regulation of forensic medical expert activity involves ensuring normative-legal, organizational-administrative, scientific-methodological, and socio-economic foundations in the field of forensic medical examination to create effective conditions for the functioning and comprehensive development of expert support.

It is noted that the organizational leadership of the forensic medical service is carried out by the Ministry of Health of Ukraine, which has the competence to develop policies, normative-legal acts related to forensic medical activities. In addition, the functions of the Ministry of Health of Ukraine include forecasting, planning, regulation, control, communication, and coordination. In terms of administrative-economic and scientific-methodological aspects, the bureaus of forensic medical examination are subordinate to the respective healthcare management. The Main Bureau of Forensic Medical Examinations of the Ministry of Health of Ukraine.

The problematic issue of the absence of vertical authority at the national level, which would coordinate the work of the bureaus and promote independence from the regional level, is highlighted, and the main organizational and economic avenues for the development of forensic medical institutions in Ukraine.

Key words: forensic medical activity, forensic medical expert, forensic medical examination, bureau of forensic medical examinations, legal support, dual subordination, healthcare system, healthcare system funding.

У статті визначено особливості визначення поняття судово-медична експертиза та основні компетенції до її проведення. Проаналізовано основні аспекти правового забезпечення діяльності судово-медичної служби. Встановлено, що судово-медичну діяльність здійснюють державні спеціалізовані установи, експертні установи комунальної форми власності, серед яких Головне бюро судово-медичних установ, яка має статус державної спеціалізованої установи та бюро судово-медичних експертиз обласного рівня, що є комунальними установами при обласній раді.

Вказано, що всі бюро судово-медичної експертизи, з погляду організаційно-методичного аспекту, підпорядковуються Міністерству охорони здоров'я України. Проте, на практиці відсутня вертикальна влада на державному рівні, яка б координувала функціонування бюро та сприяла їх незалежності від обласних структур. Це в цілому має негативний вплив на загальну діяльність бюро судово-медичних експертиз в Україні.

Підкреслено основні принципи судово-медичної експертної діяльності, серед яких: верховенство права; дотримання прав і свобод людини; законність; неупередженість; незалежність; об'єктивність і повнота дослідження; максимальне збереження об'єктів судово-медичної експертизи.

Наголошено на неупередженості та незалежності судово-медичного експерта у здійсненні судово-медичної експертизи, а також забороні втручання в її проведення та будь-якому впливі сторонніх осіб.

Визначено, що державне регулювання судово-медичної експертної діяльності полягає в забезпеченні нормативно-правових, організаційно-управлінських, науково-методичних і соціально-економічних засад у галузі судово-медичної експертизи з метою створення ефективних умов функціонування та комплексного розвитку експертного забезпечення правосуддя.

Констатовано, що організаційне керівництво судово-медичною службою здійснює Міністерство охорони здоров'я України, що має компетенцію у розробці політики, нормативно-правових актів, пов'язаних з діяльністю судово-медичної діяльності. Крім того до функцій Міністерства охорони здоров'я України належить: прогнозування, планування, регулювання, контроль, комунікація, координація. В адміністративно-господарському та науково-методичному відношенні бюро судово-медичної експертизи підпорядковані відповідному управлінню охорони здоров'я. Головному бюро судово-медичних експертиз МОЗ України.

Підкреслено проблематичне питання відсутності вертикалі влади з державного рівня, яка б узгоджувала роботу бюро та сприяла б незалежності від обласного рівня, а також виділено основні організаційні та економічні шляхи розвитку судово-медичних закладів в Україні.

Ключові слова: судово-медична діяльність, судово-медичний експерт, судово-медична експертиза, бюро судово-медичних експертиз, правове забезпечення, подвійне підпорядкування, система охорони здоров'я, фінансування системи охорони здоров'я.

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Formulation of the problem. Forensic medical examination is an expert investigation based on specialized medical knowledge of material objects containing information about the circumstances of a case under investigation by pre-trial authorities or a court [8]. The competence of forensic medical examination includes: examination of corpses in cases of violent death; examination of corpses in cases of suspected violence or under other circumstances that necessitate such examination; examination of victims, defendants, and other individuals; examination of material evidence; examination based on materials from criminal and civil cases.

The legal support for the activities of the forensic medical service and forensic experts is primarily provided by the Law of Ukraine "On Judicial Expertise." [10]. This Law establishes the legal, organizational, and financial foundations of forensic activities with the aim of ensuring justice in Ukraine through the provision of independent, qualified, and objective expertise based on the latest advances in science and technology.

Forensic expertise activities are carried out by state specialized institutions, their territorial branches, expert institutions of communal ownership, as well as court experts who are not employees of the aforementioned institutions, and other specialists (experts) from relevant fields of knowledge.

The "Law on Judicial Expertise" stipulates that exclusively by state specialized institutions, forensic activities related to conducting forensic, forensic medical, and forensic psychiatric examinations are carried out.

State specialized institutions include: scientific research institutions of forensic expertise under the Ministry of Justice of Ukraine; scientific research institutions of forensic expertise, forensic medical and forensic psychiatric institutions under the Ministry of Health of Ukraine; expert services of the Ministry of Internal Affairs of Ukraine, the Ministry of Defense of Ukraine, the Security Service of Ukraine, and the State Border Guard Service of Ukraine.

The "Regulation on the Bureau of Forensic Medical Examination of the Health Departments of Regional Executive Committees" states: "The Bureau of Forensic Medical Examination of the Health Departments of Regional Executive Committees is a state specialized institution that is part of the structure of healthcare institutions of Ukraine." The same is also defined in the "Regulation on the Chief of the Bureau of Forensic Medical Examination of the Health Departments of Regional Executive Committees [7]."

The primary legislative act in the field of judicial expertise and the fundamental regulatory

documents concerning the existence of forensic medical services classify the Bureau of Forensic Medical Examination as a state specialized institution.

However, by the resolution of the Cabinet of Ministers of Ukraine "On the Division of State Property of Ukraine between State (Republican) Ownership and Ownership of Administrative-Territorial Units (Communal Ownership)" dated November 5, 1991, No. 311, the "List of State Property of Ukraine Transferred to the Ownership of Administrative-Territorial Units (Communal Ownership)" was approved [9]. This list includes the Bureau of Forensic Medical Examination. In accordance with this resolution, a reorganization was carried out, as a result of which the Bureau of Forensic Medical Examination became communal institutions, and consequently, contracts with their directors are concluded by the regional council.

The dates of issuance (publication) of the aforementioned regulatory legal acts are noteworthy. Cabinet Resolution No. 311 was issued on November 5, 1991, Order of the Ministry of Health of Ukraine No. 6 was issued on January 17, 1995, amendments to the Law of Ukraine "On Judicial Expertise" were introduced on October 3, 2017. However, the Cabinet Resolution has not yet been brought into compliance with the law, and the Bureau of Forensic Medical Examination remains communal institutions.

In accordance with the order of the Ministry of Health dated January 17, 1995, No. 6, all bureaus of forensic medical examination, in terms of organizational and methodological aspects, are subordinated to the Ministry of Health of Ukraine [1]. However, in practice, there is a lack of vertical authority at the state level that would coordinate the work of the bureaus and promote independence from the regional level, which overall has a negative impact on the overall activities of the Bureau of Forensic Medical Examinations in Ukraine.

Analysis of recent research and publications. Scientists explore the issues of organization and functioning of forensic medical services in various scientific researches. Among the works of scholars addressing this topic, the works of Ozierniuk H. V. regarding the regulation of forensic medical examination in Ukraine and certain European countries [4], Klymenko O. S. on the ways to improve public management and administration in the field of forensic medical examinations in Ukraine [2], Pletenetska A. O. and Varfolomeieva Ye. A., who examine the mechanisms of cooperation between the Bureau of Forensic Medical Examination and local self-government bodies [6]. Some researchers, such

as Lukyanenko V.V. and Repeshko P. I., have illuminated the methods and principles of state management of forensic expert activities [3].

Experts in the field of public administration have not yet reached a consensus on addressing the issue of public management and administration of the field of forensic medical examinations, particularly conflicts within legislation regarding the jurisdiction of the bureau of forensic medical examination. This is precisely why we consider this study to be relevant.

Objective. Defining the specifics of public administration in the field of forensic medical examinations within the healthcare system and substantiating the pathways for the development of forensic medical institutions in Ukraine.

Presenting main material. Forensic medical expert activity is carried out based on the following principles: rule of law; respect for human rights and freedoms; legality; impartiality; independence; objectivity and thoroughness of examination; maximum preservation of objects of forensic medical examination [8].

Subjects of forensic medical expert activity operate solely based on the provisions, within the scope of authority, and in the manner defined by the Constitution, laws, and other legal norms of Ukraine.

Impartiality of the forensic medical expert entails the absence of preconceived opinions regarding the outcomes of the forensic medical examination. The conclusion of the forensic medical expert is solely derived from the results of their conducted investigations.

The forensic medical expert is independent and autonomous in conducting forensic medical examinations, and any interference in its execution or influence upon it is prohibited.

The forensic medical expert provides conclusions based on the results of their conducted investigations. In doing so, they exercise independence in selecting methods, means, and approaches to examination, the admissibility of which is determined by the prevailing legislation of Ukraine.

The independence of the forensic medical expert and the accuracy of their conclusions are ensured by: the procedural procedure for appointing a forensic medical expert; prohibition, under the threat of legally prescribed responsibility, from anyone interfering in the conduct of a forensic medical examination; the existence of the state forensic medical institution under the Ministry of Health of Ukraine and its territorial branches; creating necessary conditions for the activities of the forensic medical expert, their material and social support; criminal liability of the forensic medical expert for providing knowingly

false conclusions and refusing, without valid reasons, to perform their assigned duties; the possibility of appointing a repeat forensic medical examination; the presence of process participants in cases stipulated by law during the conduct of a forensic medical examination; the objectivity and thoroughness of investigation during the conduct of a forensic medical examination are ensured by the expert taking exhaustive measures to conduct comprehensive, complete, and objective expert research.

State regulation of forensic medical expert activity involves ensuring normative-legal, organizational-management, scientific-methodological, and socio-economic foundations in the field of forensic medical examination, with the aim of creating effective conditions for the functioning and comprehensive development of expert support [2].

The principles of organizational and management framework are geared towards ensuring the effectiveness, independence, quality, and reliability of forensic expert activities [2]. These principles establish the foundations for the management and functioning of state specialized institutions engaged in forensic activities, aiming to ensure the objectivity and credibility of expert conclusions in legal proceedings.

The organizational leadership of the forensic medical and forensic psychiatric services is overseen by the central executive authority responsible for implementing the state healthcare policy, as outlined in Article 71 of the Law of Ukraine on "Fundamentals of Legislation of Ukraine on Healthcare," adopted on November 19, 1992 [5].

Therefore, the Ministry of Health of Ukraine holds the competence and authority to manage and organize the work of the forensic medical and forensic psychiatric services. This includes developing policies and regulatory acts related to the activities of these services. Moreover, this central executive authority ensures the execution of functions such as forecasting, planning, regulation, control, communication, and coordination for the operation of these mentioned services.

It is important to note that the aforementioned Article 71 of the Law of Ukraine "Fundamentals of Legislation of Ukraine on Healthcare" establishes general principles and provisions for the organization of healthcare in Ukraine [5]. Other specialized laws and regulatory acts further detail the functions and powers of the central executive authority in the field of forensic medical and forensic psychiatric services.

From an administrative and economic standpoint, the bureaus of forensic medical

examination are subordinated to the relevant healthcare authority. The main bureau falls under the jurisdiction of the Ministry of Health of Ukraine. In terms of scientific-practical and organizational-methodological aspects, regional bureaus are under the authority of the Chief Bureau of Forensic Medical Examination of the Ministry of Health of Ukraine.

On January 17, 1995, through Order No. 6 of the Ministry of Health of Ukraine, titled "On the Development and Improvement of the Forensic Medical Service of Ukraine," the "Instruction on Conducting Forensic Medical Examination" was approved [1]. This Instruction establishes that forensic medical examination is carried out in accordance with the Law of Ukraine "On Judicial Expertise," procedural legislation, other legislative acts, international treaties and agreements on mutual legal assistance and cooperation that regulate legal relations in the field of forensic expert activities, as well as this Instruction and regulatory documents approved by the Ministry of Health.

According to the "Provision on the Bureau of Forensic Medical Examination of the Healthcare Departments of Regional Executive Committees and the Republican Bureau (Autonomous Republic of Crimea)," scientific research institutes, higher educational institutions, medical-preventive establishments, and other institutions that are part of the healthcare system of Ukraine are obligated to support the Bureau of Forensic Medical Examination in fulfilling their assigned tasks by providing scientific-practical and consultative assistance [7].

In practice, there is a lack of vertical authority at the national level that would coordinate the bureau's operations and contribute to its independence from the regional level, which overall has a detrimental impact on the overall functioning of forensic medical examination bureaus in Ukraine.

A distinctive aspect of the functioning of institutions conducting forensic medical examinations is that they fall under the purview of municipal establishments governed by the executive committees of regional administrations. This status entails funding solely from the regional budget. However, Article 15 "Funding of Judicial Expertise" of the Law of Ukraine "On Judicial Expertise" [10] governs that the conducting of forensic examinations by state specialized institutions in criminal proceedings upon the order of an investigator, prosecutor, court, and in cases of administrative offenses is financed through funds allocated for this purpose from the State Budget of Ukraine.

From this, one can draw the conclusion that although municipal institutions of the bureau of

forensic medical examination are funded from the regional budget, the conducting of forensic examinations in criminal proceedings and cases of administrative offenses is supported by funds allocated to these specialized institutions from the State Budget of Ukraine. This implies that state funding is directed towards conducting forensic examinations, yet municipal institutions of the bureau of forensic medical examination have limited financial support based on the regional budget.

Administration of forensic medical examination institutions within the healthcare system encompasses the management of all functions related to the operation of these institutions, ranging from day-to-day routines to personnel provisions, budgeting, financing, and long-term strategic planning to ensure the success of the operational system. Healthcare management is viewed as a process of overseeing every aspect of the business side of providing medical services in the field of forensic medical examination. The healthcare institution system is built upon the existing administrative-territorial division of Ukraine and operates through two primary management mechanisms: administrative-territorial and sectoral.

The current phase of healthcare system development in Ukraine is marked by the quest for novel and contemporary approaches and methods to deliver high-quality medical services, particularly in the domain of forensic medical activities, with the aim of meeting the expectations of the citizens.

The primary levers of state governance within the healthcare sector in Ukraine encompass social, administrative, economic, organizational influence, as well as socio-psychological and informational aspects.

Let's outline the main organizational paths for the development of forensic medical institutions in Ukraine: establishing a legislative framework and monitoring compliance at the state, regional, and local government levels; monitoring compliance with legislation and regulated norms within institutions conducting forensic medical examinations; implementing a system of performance-based management assessment at various levels of leadership within forensic medical institutions within the healthcare system; ensuring adherence to and implementation of standards for both conducting forensic medical examinations and certifying medical institutions and personnel; forming a legislative basis for pricing medical services in the field of forensic medical examination.

Identifying the key economic avenues for the development of forensic medical institutions in

Ukraine: funding from the state budget of Ukraine; allocating state subsidies for specific tasks in the management of forensic medical institutions; establishing performance-based management; monitoring compliance with modern legislation, including tax laws, by institutions conducting forensic medical examinations.

Conclusions. Thus, in the study of public administration in the field of conducting forensic medical examinations within the healthcare system, the peculiarities of functioning of forensic medical institutions have been identified. In particular, the legal framework for forensic expert activities has been examined, which involves the conduct of forensic medical examinations by state specialized institutions. The problematic aspects of the reorganization that led to forensic medical examination institutions becoming communal establishments have been emphasized. It is noted that the Bureau of Forensic Medical Examinations is subordinated to the Ministry of Health of Ukraine, but in current conditions, the subordination is dual, primarily to the regional council. The status of the forensic medical expert as independent and autonomous in conducting forensic medical examinations has been underscored.

It has been established that the state governance impact in the system of managing healthcare forensic medical examination institutions in Ukraine should encompass social, administrative, economic, organizational influence, socio-psychological, and informational aspects to ensure the provision of independent, qualified, and objective expertise based on advanced scientific and technological achievements. The main organizational and economic paths for the development of forensic medical institutions in Ukraine are outlined.

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