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## MEDICAL LAW DEVELOPMENT IN KIEVAN RUS

**Summary.** Article proposed devoted to the historical development of medically-social relations and medical law in Kievan Rus. The purpose of this study is a retrospective review of public relations, scientific doctrine and regulatory acts that led to the development of medical law in aforesaid State; identification of their patterns, features and dialectical connections; derivation of relations in the field of medicine, which, due to their social significance, need legal regulation, in particular, by labour law norms; development of author's conclusions and outlining prospective directions of furthermore scientific research.

Research methodology is based on general scientific methods such as analysis, synthesis, induction, deduction, analogy, and empirical methods. Research materials are rare publications and modern sources for the period from 1814 to 2022. In particular, it was concluded that the above-mentioned social relations were inextricably linked with the development and approval of labour, criminal and administrative law norms.

The issues of criminal liability of doctors in Kyiv Rus were somewhere shifted, but the issues of patients' responsibility who escaped from the hospital were put forward, without working out in its favour the costs incurred by for his/her own treatment. Therefore, the medical-legal paradox and the medical-legal triad, so as in Western Europe remained relevant. The priority character for medicine has acquired the development and requests of labour law.

It is concluded that medical law in Kyiv Rus is characterized by gender and property discrimination, the peculiarity of doctors, children's apprenticeship, the appearance of the first artel of orderlies, hospital charters, which contained norms on staff salaries and wages, the recognize of donations for the development of the hospital system, the appearance of the first private and craft hospitals, etc.

Despite this, the development of medical law was under the jurisdiction of church law, from the one hand, and impacted by complications of workshop and agricultural relations, changing the lifestyle of citizens, from the other hand. A relatively large number of written sources of medical law appeared in Kievan Rus.

In respect to these circumstances, the development of medically-legal relations of the Ukrainian lands after the fall of Kievan Rus should be further studied in order to consolidate the existing conclusions and identify new features of development, in particular, domestic medical law.

**Key words:** Kievan Rus, medical law, workshop medicine, church jurisdiction, medically-legal triad, labour law, lifestyle of citizens.

**Introduction.** Properly scientific investigation in field of medically-labour relations causes need of pay attention to their development and the degree of legal adjustment in Kievan Rus, which is logical given our previous research.

Aforesaid approach will entitle us to consider medical law not only as a separate branch, but also as a guarantor of social stability,

labour protection and industrial relations, a regulator of labour and work's safety, which gives conducted study an increased relevance and social demand.

At different times, the general issues of the history of medicine of the Kievan Rus were devoted to the works of such domestic scientists as Balov A.V., Bogoyavlenski N.A., Verhratski S.A., Zabludovski P.E., Demich V.F., Levitski A.P., Reitlinger L.R. and so on and so forth.

The general issues of the development of medical law, in particular, 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., Kolosov I.V. [5–20, 25] etc.

With all acknowledgements to the scientific achievements of the aforesaid scholars, the issues of the development of medical and social relations and medical law in the Kievan Rus, their peculiarities and relationships with the norms of labour law, in our viewpoint, were not given sufficient attention.

**Materials and Methods.** Presented survey has done with assistance of formal and compares methods 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. Thereof, research methodology is based on general scientific methods such as analysis, synthesis, induction, deduction, analogy and empirical methods – observation, comparison and statistical ones.

A qualitative research used content analysis of publications during 1814-2022 to examine the extent to which State's policy impacted on medical law norms development. Search for publications was carried out in databases of rarely editions, contemporary papers, encyclopedically data and so on and so forth. The search was carried out by keywords: 1) Kievan Rus; 2) medical law; 3) workshop medicine; 4) church jurisdiction; 5) medically-legal triad; 6) labour law; 7) lifestyle of citizens.

Methodological basis of the survey, undoubtedly, is a dialectical method, the introduction of which provides an opportunity to study the object and subject of research in their gnoseological unity, as well as the nature of medical law development and their impact, as cause and effect. Based on the formal-logical and formal-legal methods, it was developed author's viewpoint about the medical law development in Kievan Rus, their features as well as presented author's conclusions in field showed.

**Tasks and Aims.** Consequently, the purpose of the presented study is to:

1) retrospective review of public relations, doctrines and regulations that created a system of medical law of the Kievan Rus;

2) clarification of their patterns, features and dialectical connections;

3) derivation of relations in the field of medicine, which, due to their social significance, need and needed legal regulation, in particular, due to labour law;

4) providing of author's conclusions and outlining perspective directions of further scientific investigation.

The object of the study will be medically-social system and medical law sources of the Kievan Rus.

**Results and Discussion.** The medical and sanitary level of ancient Russia is presented by finds of archeology, non-medical writing of various genres, fine and applied arts and oral folk art. The formation of medicine of Kievan Rus was influenced by the connection and communication of Slavic peoples with the peoples of Western Europe, China, India, Iran, Syria and other states [1, p. 53].

Words with the root "lek" served in ancient Russia to refer to medicine as a profession (medicine) and its representative (medico, practitioner). The word "doctor" also arose in ancient times. All these terms are widespread in "Russkaya Pravda" (11th-12th centuries), "Church Charter" by Vladimir Svyatoslavich, "Tolkovaya Paleya" (11th-12th centuries) [4].

Sharing of the medical knowledge came from fathers to children – a type of education most characteristic to traditional medicine. The apokrifes mention the teaching of children with medicines modeled on craft apprenticeship. In routine of secular foreign doctors and monastery practitioners, a prominent place was occupied by the "medical workers" (apprentices), who had been preparing since childhood by the older generation. Sometimes medicine was also studied by aristocratic women, an example of which is Efrosinya of Chernigov (13th century), who, under the guidance of the Russian teacher Fedor, "learned" in reading "Asclepian books" so much that she was subsequently engaged in medico in the monastery hospital she founded in Suzdal [3, p. 657].

Information about the branches of medical knowledge has been preserved. The "halo" of honour was surrounded by surgery. In the Slavic monuments of writing, surgery was known as "cutting," the surgeon – "cutter," in other sources the terms "needlework," "hand-made" were mentioned. Since iron was considered a professional attribute of the surgeon ("iron is not know what it does, but the doctor is in charge of the iron action"), surgery was also called "iron cunning" – skill, art, science. The surgeon must be decisive, bold, at a blooming age, otherwise he "will not see where the iron lies in the wound," the patient must be operated on quickly in order to "hide the feeling of illness with speed" (collection "Margaret," 12th century). Surgical instruments consisted of a knife, razor, sawn, saw, frame, drill, tesla, and a set of bloodletting – a run, rage, bodets, etc. Wounds were sewn with harsh hemp threads, "strings" from the intestine, peritoneum of young animals. For anesthesia, painkillers and sleeping pills (handsome, hemlock, opium) were used; they were also used to anesthetize childbirth (the story "Alexandria," 11th century). Operations took place at home, but more frequent in hospitals at monasteries. Stomach dissection and amputation of the limbs were considered as most dangerous operations [25].

Hospitals as institutions for the treatment of patients, unlike sometimes opened almshouses (nursing homes), were usually located at monasteries and churches. Merchant and workshops hospitals in the Novgorod feudal republic, the Galicia-Volin principality received material assistance from secular authorities, but were under the jurisdiction of the church. One of the earliest hospitals was founded by Feodosiy Pechersky in Kyiv at the turn of the third and fourth quarters of the 11th century. For hospitals, there were

more or less same type of provisions ("charters"), which stipulated the costs of maintaining patients, staff and management procedures. At the head of the hospital was a senior or caretaker. The work of the orderlies (hospital employees) was very hard. During the days spent in the hospital, the poor population pledged to repay the monastery by working on arable land, in the cabbage, crafts or cattle yards. Methods of physical violence were applied to escape from work, followed by return to the monastery [22].

In ancient Russian medicine, great importance was attached to the prevention of diseases. The Greek term of "philactoria" in the meaning of protecting a person from diseases is mentioned in pandects, Kormch books of Novgorod and Ryazan (11–13 centuries) [23].

In connection with the development of public life by the 10–11 centuries a wide range of sanitary and hygienic requirements for various aspects of the national way of life were determined. Settlements were built in a beautiful place, far from the swamps, near the high-quality drinking water sources. Archaeological excavations in Novgorod discovered pavement, wooden water supply, one of the oldest in Northern Europe. The huts were built so that as much light as possible would get inside (apocrypha about Thomas, 11th century). The buildings whitened with chalk and lime, both inside and out. Laundry washing, hair cutting, hand washing, bathing in baths were common [2, p. 250; 21].

The need to isolate patients from healthy people is mentioned in the Svyatoslav Izbornik of the 11th century. This requirement was carried out especially during pandemics, for example, in Polotsk in 1092. From time to time, very large measures have been taken to protect public health and prevent the introduction of infection from abroad. The chronicle reports on the mass cleaning in 1230 of the territory of Novgorod from thousands of plague corpses and their burial in special burial grounds. Archbishop Spiridon donated money to this event; it was carried out by the forces of a large artel of cleaning orderlies [20, p. 414].

**Conclusions.** 1. In Kievan Rus for the first time: 1) vary of medical law's sources were adopted; 2) requirements to surgeons' instruments and facilities were provided; 3) anesthesia's procedure was developed; 4) more or less same type of hospitals' provisions ("charters"), which stipulated the costs of maintaining patients, staff, and management procedures were arisen; 5) repayment for hospital's days was developed (however, for poor patients only); 6) a wide range of sanitary and hygienic requirements for various aspects of the national way of life were determined; 7) a large artel of cleaning orderlies appeared; 8) statutory and private donates for public hospital's system prosperity were recognized; 9) medically-housing requirements (in forms of friendly advices) were appeared as a background of furthermore detailed legal prescriptions, which would present LCHA impact factor in Capitalist era; 10) merchant and workshops hospitals were established.

2. Quarantine and anti-epidemic measures were further developed as well as the fight against the spread of contagious infectious diseases.

3. These relations were characterized by workshop (craft) isolation, gender and property discrimination, the excessive impact of dogmatic scholasticism, church jurisdiction, children's apprenticeship, experience exchange with foreign, particularly, European and Asian, doctors.

4. As in the Ancient World States, medical law developed and was caused by the development, maturation of labour and administrative law. The issues of criminal liability of doctors in the Kievan

Rus were disappeared instead of appearance of patients' quasi-criminal liability for escapes from monasteries without repayment for hospital's days (with violently remove as way of punishment).

5. As a result of aforesaid, the medically-legal paradox and the medically-legal triad remained relevant so for Western Europe as for Eastern one; however, in the Kievan Rus, development of medicine and medical legal norms was directly dictated by the complication of craft and agricultural relations, which, in combine with the multitude of medical law sources, brought medical law closer to the subject of labour law.

6. In respect to these circumstances, the development of medically-legal relations in the Ukrainian lands after Kievan Rus fall is to be further studied in order to consolidate the existing conclusions and identify new features of development, Native medical law and medically-labour relations.

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**Колосов І. Розвиток медичного права у Київській Русі**

**Анотація.** У статті розглядаються питання історичного розвитку медико-соціальних відносин і медичного права у Київській Русі. Метою даного дослідження є ретроспективний огляд суспільних відносин, наукової доктрини та нормативно-правових актів, які призвели до розвитку медичного права у вищевказаній державі; виявлення їх закономірностей, особливостей і діалектичних зв'язків; виведення відносин у сфері медицини, які в силу своєї соціальної значущості потребують і потребували правового регулювання, зокрема, нормами трудового права; розробка авторських висновків та окреслення перспективних напрямів подальшого наукового дослідження.

Методологія дослідження базується на загальних наукових методах, таких як аналіз, синтез, індукція, дедукція, аналогія та емпіричні методи. Матеріали досліджень є рідкісними виданнями та сучасними джерелами за період з 1814 по 2022 роки. Зокрема, було зроблено висновок, що вищезгадані суспільні відносини були нерозривно пов'язані з розвитком та утвердженням норм трудового, кримінального та адміністративного права. Питання кримінальної відповідальності лікарів у Київській Русі були дещо зміщені в бік, але на порядок денний поставлені питання відповідальності пацієнтів, які втекли з лікарні, не відпрацювавши на її користь витрати, понесені

нею на власне лікування. Отже, медико-правовий парадокс та медико-правова тріада, які і у державах Західної Європи залишалися актуальними. Пріоритетного характеру для медицини набув розвиток і запити трудового права.

Зроблено висновок, що медичне право в Київській Русі характеризується гендерною та майновою дискримінацією, цеховою обособленістю лікарів, дитячим учеництвом, появою першої артілі санітарів, госпітальних статутів, які містили норми про витрати на оплату праці штату, унормуванням донатів на розвиток шпитальної системи, появою перших приватних та цехових лікарень тощо.

Незважаючи на це, розвиток медичного права перебував під юрисдикцією церковного права, з одного боку, та відчував на собі ускладнення цехових та сільськогосподарських відносин, зміну побутового укладу життя громадян, з іншого боку. У Київській Русі з'явилась порівняно велика кількість письмових джерел медичного права.

У зв'язку з цим, має бути додатково вивчений розвиток медико-правових відносин українських земель після занепаду Київської Русі, з метою закріплення існуючих висновків та виявлення нових особливостей розвитку, зокрема, вітчизняного медичного права.

**Ключові слова:** Київська Русь, медичне право, цехова медицина, церковна юрисдикція, медико-правова тріада, трудове право, побутовий уклад життя.