

## Research Article

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## Legal Training of Surgeons of the Republic of Tatarstan Based on the Experience of Participation in Criminal Proceedings in “Medical” Cases

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**RELEVANCE** In modern realities, medical workers, primarily representatives of surgical specialties, are increasingly faced with the need to have legal literacy, since medical activities associated with surgical practice are associated with high legal risks.

**AIM OF STUDY** Studying the legal training of surgeons in the Republic of Tatarstan based on the experience of participating in criminal proceedings in cases related to improper provision of medical care.

**MATERIAL AND METHODS** During the period from May 15 to May 31, 2021, an anonymous survey of 124 surgeons from various medical organizations of the Republic of Tatarstan was conducted. The questionnaire consisted of 13 multiple-choice questions with an additional field for comments. The participation in the survey was voluntary, and the questions were devoted to the experience of participation in criminal proceedings in “medical” cases and the need for legal training in this matter.

**RESULTS** Among those surveyed, 51.5% of respondents at least once during the years of their career gave explanations to law enforcement agencies regarding the unfavorable outcome of medical care, and 38.7% were directly involved in a criminal case. According to 52.2% of respondents, the most common reason for complaints to law enforcement agencies is the inadequacy/bad manners of patients. The vast majority of doctors surveyed are guided in their activities by currently existing procedures, orders, standards and clinical recommendations. However, more than 37% of doctors have no idea how to act in the event of a criminal case being initiated due to an unfavorable outcome of medical care, and for 71.0%, medico-legal training is “highly relevant”.

**CONCLUSION** The problem of criminal liability for improper provision of medical care for surgeons in the Republic of Tatarstan is extremely relevant. There is an urgent need to develop interdisciplinary formats for interaction between the medical, forensic and legal communities in order to improve the legal literacy of medical workers and reduce criminal risks in surgical practice.

**Keywords:** survey of surgeons, defects in medical care, criminal liability of medical workers

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## INTRODUCTION

In modern realities, medical workers, primarily representatives of surgical specialties, are increasingly faced with the need to have legal literacy. Judicial disputes, procedural checks by law enforcement agencies, criminal cases and conflict situations with patients, management and government agencies distract doctors from performing their main duties such as treating people and saving lives. In this aspect, both the healthcare of the Russian Federation in general and the surgical service of the Republic of Tatarstan in particular carry out a large amount of work. Thus, over the past 10 years, in the Republic of Tatarstan with a population of 3,886,640 people, in accordance with the State Guarantees Program, there has been a systematic optimization of the bed capacity of healthcare institutions, aimed at reducing inefficiently operating round-the-clock beds by intensifying the work of existing ones. Today in the region, the provision of inpatient general surgical care to the adult population, including emergency care, is organized in 1,766 round-the-clock beds, in 62 medical organizations, where 315 surgeons work. In the Republic of Tatarstan, the provision of general surgical beds for the adult population is decreasing annually, and according to the results of 2020 it amounted to 4.5 beds per 10,000 permanent population of adults. The provision of surgeons in 2016 was 1.44, and in 2020 it was 1.38 per 10,000 adult population. For comparison, for the Russian Federation as a whole, this figure was 1.76 and 1.65, and in the Volga Federal District figures were 1.71 and 1.55, respectively. At the same time, in 2020, 66,996 patients were treated in general surgical departments, including 47,532 (70.9%) cases for emergency indications. For comparison, in the Russian Federation: 2,328,113 and 1,576,201 (67.7%), and in the Volga Federal District: 507,001 and 342,508 (67.6%), respectively. There are 141 surgeons working in the outpatient department of

the republican surgical service. In 2020, they provided assistance to 693,615 applicants, or 0.23 per adult resident of the republic. For comparison, for the Russian Federation as a whole: 5,869; 27,538,849; 0.24, and in the Volga Federal District: 1,263; 5,891,424 and 0.25 respectively. Despite the improvement of the material and technical conditions for the provision of surgical care in medical organizations, the provision of modern high-tech equipment, the improvement of diagnostic methods, and the introduction of innovative methods of surgical interventions, the overall (hospital) mortality rate in a general surgical bed based on the results of 2020 was 2.4%. For comparison, it was 3.68% in the Russian Federation, and 3.51%, in the Volga Federal District respectively [1].

Fatalities often trigger legal proceedings. Thus, an analysis of forensic and legal literature shows that in recent years there has been a significant increase in the number of requests from patients and their relatives to law enforcement agencies due to improper provision of medical care with demands to bring medical workers to criminal liability [2]. In the framework of the above cases, so-called complex commission forensic medical examinations are appointed, based on the results of which a direct cause-and-effect relationship is often established between defects in the provision of medical care and an unfavorable outcome, which is of fundamental importance for the prosecution [3].

On September 20, 2019, a round table meeting was held in the State Duma of the Federal Assembly of the Russian Federation on the topic "Surgery is an area of professional and legal risk," organized by the Health Protection Committee. In total, more than 200 leading experts in the field of surgery, healthcare organization and medical law took part in the round table. At the meeting, during a 4-hour discussion, issues of the legal and social status of a surgeon in modern society were discussed. The round table

participants noted with great concern the fact that today, unfortunately, the criminal legal assessment of medical care is increasingly becoming the subject of discussion not only among patients and medical workers, but also in law enforcement agencies. Surgeons lead among the specialties of medical workers in the number of complaints related to improper provision of medical care. Thus, the number of appeals to the Investigative Committee of the Russian Federation was 4,947 in 2016, 6,050 in 2017, and 6,600 in 2018. Criminal cases were initiated: 878, 1,791, 2,200, respectively. Of these, 205, 199, 348 were sent to court. Acquittals were made in only 4% of cases [4].

The statistics from the Republic of Tatarstan confirm these data: the number of commission examinations in the region related to defects in the provision of medical care in the specialty "Surgery" has been consistently maintained at 26.8% since 2013 and has no tendency to decrease [5]. If in 2012 there were only 3 applications from patients to the courts asking for compensation for moral and material damage from medical institutions for a total amount of 500,000 rubles, while no criminal cases were initiated, then in 2018 39 claims from patients were already filed for a total amount of 74 000,000 rubles and 10 criminal cases were initiated. The specialties of medical workers convicted in 2016–2017 were distributed as follows: surgeons, 40%; obstetricians-gynecologists, 21%; anesthesiologists-resuscitators, 13%; pediatricians, 8%; emergency doctors, 6%; therapists, 6%; others, 6%.

Thus, it is obvious that medical activities associated with surgical practice are associated with high legal risks. In connection with the above, **the aim of the study** was to study the legal training of surgeons in the Republic of Tatarstan based on the experience of participating in criminal proceedings in cases related to improper provision of medical care.

## MATERIAL AND METHODS

For the period from May 15 to May 31, 2021, we conducted an anonymous survey of 124 surgical

doctors from various medical organizations in the Republic of Tatarstan. The questionnaire consisted of 13 multiple-choice questions with an additional field for comments. Participation in the survey was voluntary, and the questions were devoted to the experience of participation in criminal proceedings in medical cases and the need for legal training in this matter.

## RESULTS

Age structure of respondents: from 18 to 35 years old, 29.8%; from 36 to 50 years old, 40.3%; from 51 to 65 years old, 28.2%; 66 years old and over, 1.6%.

By specialization, respondents were divided as follows: surgeons, 61.3%; cardiovascular surgeons, 11.3%; orthopedic traumatologists, 11.3%; anesthesiologists-resuscitators, 8.9%; pediatric surgeons, 3.2%; urologists, 4.0%.

Work experience of respondents: up to 5 years, 17.8%; from 6 to 10 years, 14.5%; from 11 to 20 years, 25.8%; from 21 to 30 years, 22.6%; 31 years and more, 19.3%.

Level of education: 3.2% of respondents have an academic degree of Doctor of Medical Sciences, 16.2% have a Candidate of Medical Sciences, 80.6% do not have an academic degree. Also, 3.2% have the academic title of professor, 5.6% have the title of associate professor, and 91.2% do not have an academic title.

Level of medical organization: 23.4% of survey participants represent a level I medical organization, primarily providing primary health care and specialized care; 39.5% represent level II medical organization providing specialized care, with the exception of high-tech; 37.1% represent level III medical organization providing high-tech medical care.

Speaking of legal consequences: 51.5% of respondents at least once during the years of their professional activity gave explanations to law enforcement agencies regarding the unfavorable outcome of medical care (Fig. 1).

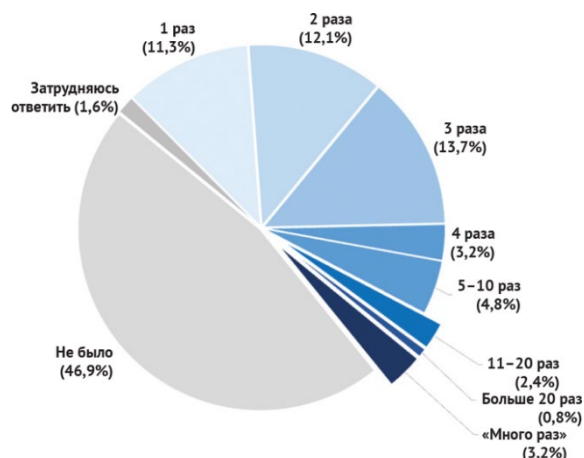


Fig. 1. Distribution of answers to the question: "Have you ever had to give an explanation to an investigator/prosecutor/court about an unfavorable outcome of medical care? If yes, how many times?" (n=124 people)

At the same time, 38.7% of respondents noted that they had somehow participated in a criminal case regarding an unfavorable outcome of medical care (Fig. 2). At the same time, 5.6% noted that they witnessed it up to 5 times, 2.4% witnessed up to 10 times.



Fig. 2. Distribution of answers to the question: "Have you ever participated in a criminal case regarding an unfavorable outcome of medical care?" If yes, specify (witness, accused, expert)?" (n=124 people)

The authors associate the presence of a low percentage of accused among respondents compared to the percentage of witnesses with the peculiarities of legal proceedings in "medical" cases. This category of criminal cases is initiated, as a rule, against an unspecified circle of persons, and

therefore, in practice, specific doctors are in the status of a witness until the actual end of the preliminary investigation stage, which ends with the filing of charges only after a series of commission forensic medical examinations and interrogations. Thus, doctors still go through the ordeal of a criminal trial, even if the case is ultimately dismissed due to lack of corpus delicti.

The opinion of doctors about the reasons for complaints from relatives is of interest. The survey showed that respondents most often associate complaints to law enforcement agencies with the subjective characteristics of the patients' character, or with complications and errors that arose during treatment. Reasons associated with poor-quality medical care or a doctor's violation of ethical and deontological norms did not find widespread support among respondents (Fig. 3).



Fig. 3. Distribution of answers to the question: "Name the most common, in your opinion, reasons for complaints from relatives to law enforcement agencies" (n=124 people, several answer options)

One cannot but rejoice that doctors of surgical specialties, in most cases, take the regulation of their activities seriously and provide medical care, guided not only by experience, but, first of all, by official and legal sources (Fig. 4).

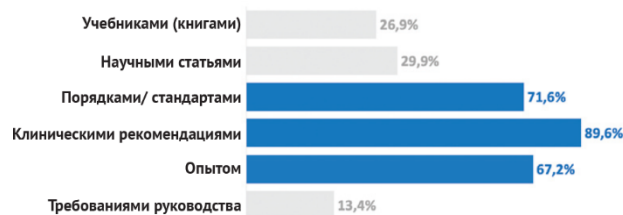


Fig. 4. Distribution of answers to the question: "What guides you when providing medical care?" (n=124 people, multiple answer options)

The results obtained revealed a high level of misunderstanding of the algorithm of actions in the event of a criminal case being initiated due to an unfavorable outcome of medical care: 37.1% of respondents found it difficult to answer where they would turn for legal assistance, 28.2% reported that they would seek support from the Association of Medical employees of your region and the in-house lawyer of your institution; 20.2% would go to a private medical lawyer; 12.1% referred to the Bar Association of the Russian Society of Surgeons. The authors of several comments (2.4%) drew attention to the fact that it is useless to go anywhere, since “a doctor is an unprotected profession.”

During the survey, we also decided to find out: “How important is legal training for surgical doctors today?”, and asked respondents to rank the relevance of such training from 1 to 10, where 1 is completely irrelevant, 10 is extremely relevant. The results are presented in Fig. 5.

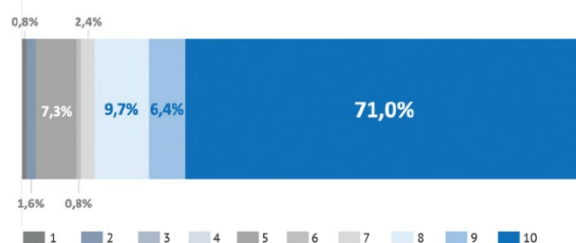


Fig. 5. Distribution of answers to the question: “How relevant is legal training in the field of medical care to you personally?” (n=124 people)

At the same time, 47.6% of respondents independently indicated issues that they would like to study in more detail. Thus, the most interesting topic (29.8%) in one form or another was the legal protection of a medical worker and his rights in the exercise of professional activities; 8.0% are interested in the peculiarities of investigating “medical” cases; 7.2% want to know about medical malpractice insurance. Also, several respondents noted the problem of the level of responsibility of the administration of the institution in the event of an unfavorable outcome in the provision of medical care. Other comments included topics of a general legal nature, such as informed voluntary consent, aspects of photo/video recording of the patient and the doctor, and ensuring medical confidentiality.

## DISCUSSION

The results obtained show that participation in criminal proceedings is currently a truly pressing topic for practicing surgical specialists. In general, the medical community is wary of the practice of initiating criminal cases against doctors, but experts are ready to admit that mistakes do happen. System failures bear fruit. Cuts, staff shortages, increased workload for doctors. This cannot but affect the objective increase in adverse outcomes. A tired, sleep-deprived medical employee working at several positions is naturally more susceptible to professional errors and legal risks.

The situation is aggravated by cases when an unfavorable outcome occurs due to the outright frivolity or negligence of the doctor. Such crimes must be investigated and the perpetrators must be punished. In this context, legal training is an essential professional competence of any health professional involved in the practice of healthcare.

Our study confirms a proven fact: the higher the level of a medical organization, the greater the likelihood of becoming a participant in criminal proceedings. On the one hand, this fact can be associated with lower legal literacy and high compliance of patients in the regions, which leads to fewer complaints. On the other hand, level II and III medical organizations that provide specialized and high-tech medical care work with more physically ill patients, which cannot but directly affect the statistics of surgical complications and adverse outcomes. Moreover, a formal approach to assessing a patient's condition within the walls of a medical organization of this level often leads to erroneous treatment tactics, which, in turn, is an objective basis for a possible complaint about improper provision of medical care.

It is alarming that in the era of legal medicine, when providing assistance, a quarter of doctors are still guided by the requirements of the management of the medical organization. Of course, internal requirements can also be of a precautionary nature, duplicating the provisions enshrined in procedures and standards. However, as criminal and forensic practice shows (the Sushkevich-Belaya case, the Shishlov case), the requirements of the management



of a medical organization can be, to put it mildly, illegal, for the consequences of which the medical worker will be personally held criminally liable. In this regard, we consider the question from respondents about the extent of responsibility of the administration of a medical institution in the event of an unfavorable outcome to be completely justified and requiring the attention of not only the scientific community, but also law enforcement agencies.

Returning to the round table of the Health Protection Committee of the State Duma of the Federal Assembly of the Russian Federation, it should be noted that according to the Chief Surgeon of the Ministry of Health of the Russian Federation, Academician of the Russian Academy of Sciences A.Sh. Revishvili, today the country lacks 7,500 surgeons. If in 2016 there were 20,683 general surgeons in the Russian Federation, then in 2020 there were already 19,149. In the Republic of Tatarstan, ultimately, the shortage of surgeons continues to be one of the most pressing problems of the surgical service today. If in 2016 there were 443 general surgeons working in surgical hospitals, then in 2021 there are already 315.

The answers to the last questions of the questionnaire convincingly indicate the absolute need to increase the legal, in particular criminal, literacy of medical specialists. In this context, the authors consider it appropriate to develop interdisciplinary formats for the purpose of educational and scientific-practical interaction between the medical and legal communities.

Based on the above, employees of the Department of Forensic Medicine of the Federal State Budgetary Educational Institution of Higher Education Kazan State Medical University of the Ministry of Health of Russia, the Department of Emergency Medical Care and Simulation Medicine of the Federal State Autonomous Educational Institution of Higher Education "Kazan (Volga Region) Federal University" with the participation of the ANO "Clinic of Medical Law" on June 11, 2021, organized and conducted an Interregional Scientific-practical conference "Surgery is a zone of professional and legal risk" [6]. The conference was dedicated to the legal aspects of providing surgical care and brought together 92 surgeons and lawyers from the Republic of Tatarstan, the Republic of Mari

El, the Republic of Chuvashia and the Republic of Udmurtia. The program featured reports from forensic experts, practicing lawyers in criminal and civil cases, representatives of the Bar Association of the Russian Society of Surgeons and the legal department of the Association of Medical Workers of the Republic of Tatarstan, as well as the head of the territorial Office of Roszdravnadzor. The reports were devoted to such topics as the legal protection of medical workers in criminal proceedings, the peculiarities of establishing cause-and-effect relationships within the framework of commission forensic medical examinations, quality control of surgical care, and ethical and legal aspects of photographic recording in the implementation of medical activities.

Based on the results of the Interregional Scientific and Practical Conference, a decision was made on the need to develop the Tatarstan regional branch of the Russian Society of Surgeons with the possibility of participation of specialists from this non-profit professional association in conducting commission forensic medical examinations, interaction with the Investigative Committee and the prosecutor's office in the investigation of "medical cases" and the development of interdisciplinary formats of interaction to improve the legal literacy of surgeons.

## CONCLUSION

The problem of criminal liability for improper provision of medical care for surgeons in the Republic of Tatarstan is extremely relevant.

Among the respondents, 51.5% at least once in their career gave explanations to law enforcement agencies regarding the unfavorable outcome of medical care, 38.7% participated in a criminal case.

According to 52.2% of respondents, the most common reason for complaints to law enforcement agencies is the inadequacy/bad manners of patients.

The vast majority of respondents are guided in their activities by procedures, standards and clinical recommendations.

More than 37% of doctors have no idea how to act in the event of a criminal case being initiated due to an unfavorable outcome of medical care; for 71.0%, medico-legal training is "highly relevant."

There is an urgent need to develop interdisciplinary formats for interaction between the medical, forensic and legal communities in order to

improve the legal literacy of medical workers and reduce criminal risks in surgical practice.

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