

однозначно не належить до норми, а є патологією і яка, хоч і становить меншість, однак поширена в усіх суспільствах, культурах та середовищах. Осіб, що здійснюють нетипові сексуально-поведінкові акти, об'єднує те, що вона є для них домінуючим або єдиним шляхом досягнення сексуального задоволення і під час розслідування даних злочинів підлягають з'ясуванню всі деталі перебігу злочину: місце зустрічі, шлях та спосіб прямування до місця події, зміст розмови до події і після неї, дії злочинця.

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FORENSIC MEDICAL EXAMINATION IN THE COURSE OF INVESTIGATION OF IMPROPER DISCHARGE OF PROFESSIONAL OBLIGATIONS BY A MEDICAL OR PHARMACEUTICAL WORKER

The institute of appointment and conducting expert investigations has always been one of the main in criminal proceedings. The importance of examination is determined by the need of conducting of criminalistic examination and forensic medical examination in each criminal case. The effectiveness of criminal proceedings is often depends on the timeliness of the examination's appointment and the quality of its fulfillment [1, p. 76]. The appointment of a forensic examination is a doubtless condition for successful investigation of improper discharge of professional obligations by a medical or pharmaceutical worker. According to the results of criminal investigations forensic medical examinations were

set in almost 100 % of cases concerning the improper discharge of professional obligations by a medical or pharmaceutical worker.

In accordance with the clauses 1, 2 part 2 of Art. 242 of the Criminal Procedural Code of Ukraine, the investigator and the prosecutor are obliged to apply to an expert for examination for ascertainment the causes of death or severity and nature of bodily harm [2, p. 235]. To fulfill this demand, the decision about the appointment of a forensic medical examination is passed.

Special attention is paid to the nature of issues during the conducting of a forensic examination, which are crucial for clarifying the causes and circumstances of the crime committed by a medical or pharmaceutical worker. The main issues which are solved during the forensic examination are: 1) whether the diagnosis was right; 2) whether the provided medical aid was full and qualified; 3) is there a direct causal link between the death of the patient and actions of doctors? 4) whether the current instructions for treatment have been violated; is there a direct causal link between ill consequences and an inadequate providing of medical care? 5) was the reasonable method used during the treatment?

The investigator should provide appropriate documents for the qualitative conducting of a forensic medical examination, which are: (1) an outpatient's medical history or an inpatient's medical history; (2) materials of departmental investigation; (3) medical workers' characteristics; (4) information on documents concerning the particular case; (5) contracts, letters of consent for medical intervention and other documents describing the form of doctor's relationship with the patient and the level of awareness of the latter concerning the receipt of services; (6) a copy of the first aid call log; (7) other materials concerning the case (statements of interested persons, records of interrogation of medical workers, witnesses, other persons that possess information about the criminal offence, official characteristics of medical staff, licences, letters of accreditation and other documentation of the medical institution etc.) [3, p. 4–7].

When appointing a forensic medical examination it is important to choose the relevant institution and the forensic expert who will conduct the research, since the hospital, where the criminal offense stipulated by the Article 140 of the Criminal Code of Ukraine was committed, may belong to one territorial department of

health care. In such circumstances local offices for forensic medical examination issue (as a rule) «justifying» conclusions for doctors [4, p. 161].

Consequently forensic medical examination plays an important role in the course of investigating of improper discharge of professional obligations by a medical or pharmaceutical worker and in the process of solving medical problems arising in investigating and judicial practice.

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ПРИВОДИ ТА ПІДСТАВИ ПОЧАТКУ ДОСУДОВОГО РОЗСЛІДУВАННЯ ПОРУШЕНЬ НЕДОТОРКАНОСТІ ПРИВАТНОГО ЖИТТЯ

Початок досудового розслідування порушень недоторканності приватного життя має певні особливості, що зумовлені специфікою предмету безпосереднього злочинного посягання, способами вчинення цього злочину (збирання, зберігання, використання та поширення конфіденційної інформації про особу з порушенням встановленого чинним законодавством України порядку), його високою латентністю,