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SOME ETHICAL AND LEGAL ASPECTS OF MEDICAL CONFIDENTIALITY IN PEDIATRICS

© Galina L. Mikirtichan, Tatyana V. Kaurova, Anton A. Shmantsar', Natal' ja N. Timofeeva

Saint Petersburg State Pediatric Medical University. Lithuania 2, Saint Petersburg, Russian Federation, 194100

Contact information: Tatyana V. Kaurova — PhD, Senior Lecturer, Department of Humanities and Bioethics.
E-mail: meditanika@gmail.com ORCID ID: 0009-0006-1191-2533

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ABSTRACT. The article deals with the problems of ethical and legal regulation of medical secrecy. Special attention is paid to the legal regulation of medical secrecy in relation to children. This is due to the fact that an underage is a special subject of law who does not have full legal capacity, the replenishment of which falls on his legal representatives. The problem of patient's confidentiality is closely connected with the right to informed voluntary consent of minors, as the decisive factor of being granted this right is children's age: up to 15 years (up to 16 years for drug addicts) or those who have reached 15 years (16 years for drug addicts). The problems of legal regulation include absence of a clear procedure in the law for informing parents or other legal representatives about the state of health of children aged 15–18 years. In this regard, the analysis of articles of the Federal Law of November 21, 2011 was carried out. No. 323-FZ "On the basics of protecting the Health of citizens in the Russian Federation", affecting the provisions on granting minors aged from 15 (or 16 for drug addicts) to 18 years of age the right to medical secrecy. Subsequent amendments made to Article 22 of Federal Law No. 323 of 31.07.2020 deprived them of this right, and legal representatives were given the opportunity to receive all information about the health status of their minors, including information about early pregnancy, sexually transmitted diseases, drug abuse, etc. The argument for such an innovation was the opinion that not all minors can cope with such problems on their own, as well as a reference to articles 56 and 63 of the Family Code of the Russian Federation, obliging parents to take care of the health of their children. Without having this information, parents will not be able to fulfill this obligation. At the same time, the legislator did not fix the obligation of a medical organization on its own initiative to provide information about the health status of a minor patient to his legal representatives. The reaction of adolescents to changes in the law depriving them of the right to medical secrecy was generally negative; being mainly effected by psychological features of the transition age, negativism and protest inherent in adolescents, unwillingness to be under the care and control of parents, etc. The article offers some solutions of these problems. This study confirms that

medical secrecy is one of the topical and vulnerable topics of ethical and legal regulation of medical activity, especially in pediatrics.

KEY WORDS: bioethics; medical law; medical secrecy; informed consent; rights of minors; legal representatives.

НЕКОТОРЫЕ ЭТИКО-ПРАВОВЫЕ АСПЕКТЫ ВРАЧЕБНОЙ ТАЙНЫ В ПЕДИАТРИИ

© Галина Львовна Микиртичан, Татьяна Владимировна Каурова, Антон Андреевич Шманцарь, Наталья Николаевна Тимофеева

Санкт-Петербургский государственный педиатрический медицинский университет.
194100, Российская Федерация, Санкт-Петербург, ул. Литовская, д. 2

Контактная информация: Татьяна Владимировна Каурова — к.м.н., старший преподаватель кафедры гуманитарных дисциплин и биоэтики. E-mail: meditanika@gmail.com ORCID ID: 0009-0006-1191-2533

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РЕЗЮМЕ. В статье рассматриваются проблемы этического и правового регулирования врачебной тайны. Отдельное внимание уделено правовой регламентации врачебной тайны в отношении детей. Обусловлено это тем, что несовершеннолетний — особый субъект права, не обладающий полной дееспособностью, восполнение которой ложится на его законных представителей. Проблема врачебной тайны тесно сопряжена с правом на информированное добровольное согласие несовершеннолетних, причем определяющим обстоятельством в наделении их этим правом служит возраст детей: до 15 лет (до 16 лет для больных наркоманией) или достигших 15 лет (16 лет для больных наркоманией). К проблемам правового регулирования можно отнести отсутствие в законе четкого порядка информирования родителей или иных законных представителей о состоянии здоровья детей в возрасте 15–18 лет. В связи с этим проведен анализ статей Федерального закона от 21 ноября 2011 г. № 323-ФЗ «Об основах охраны здоровья граждан в Российской Федерации», затрагивающих положения о наделении несовершеннолетних в возрасте от 15 (или 16 для наркозависимых) до 18 лет правом на врачебную тайну. Последующие изменения, внесенные в статью 22 ФЗ № 323 от 31.07.2020 г., лишили их этого права, а законным представителям предоставили возможность получать всю информацию о состоянии здоровья своих несовершеннолетних детей, включая сведения о ранней беременности, заболеваниях, передающихся половым путем, злоупотреблении наркотическими веществами и т.д. Аргументом для такой новации послужило мнение о том, что не все несовершеннолетние могут справиться с данными проблемами самостоятельно, а также ссылка на статьи 56 и 63 Семейного кодекса РФ, обязывающие родителей заботиться о здоровье своих детей. Не владея указанной информацией, родители не смогут исполнить это обязательство. В то же время законодатель не закрепил обязанность медицинской организации по своей инициативе предоставлять сведения о состоянии здоровья несовершеннолетнего пациента его законным представителям. Реакция подростков на изменения в законе, лишающие их права на врачебную тайну, была в общем негативной; здесь во многом сказались психологические особенности переходного возраста, присущие подросткам негативизм и протест, нежелание находиться под опекой и контролем родителей и др. В статье предлагаются некоторые решения перечисленных проблем. Данное исследование подтверждает, что врачебная тайна — одна из актуальных и уязвимых тем этического и правового регулирования медицинской деятельности, особенно в педиатрии.

КЛЮЧЕВЫЕ СЛОВА: биоэтика; медицинское право; врачебная тайна; информированное согласие; права несовершеннолетних; законные представители.

Medical confidentiality is one of the oldest categories of medical ethics. All ethical documents of antiquity emphasise the doctor's duty to keep information about the patient's illness, intimate and family life at all costs. In ancient India, a doctor who wished to be successful had to fulfil the following requirements: "A doctor who comes only by invitation, and when visiting a patient's home, concentrates exclusively on what is related to the patient, who examines the patient thoroughly, without rushing, but also without spending too much time, and who does not disclose what may harm or embarrass the patient, and who prescribes the correct treatment, achieves success" [24]. It shows that the institution of protecting patient information (doctor-patient confidentiality) was formed and has existed for several millennia on the basis of the regulation on the protection of patient information [1]. The fundamental document that influenced all subsequent centuries was the "Hippocratic Oath" (5th century BC), which contained the following provision: "Whatever I may have seen or heard in the course of treatment, or even without treatment, concerning human life that should never be divulged, I will keep silent about it, considering such things a secret" [6].

In the future, especially in the late nineteenth and early twentieth centuries, the problem of medical secrecy became the subject of numerous discussions, discussed in detail on the pages of medical and legal press. Various opinions were expressed: from the unconditional preservation of information about the patient to allowing the doctor to decide in which cases he would preserve or violate the patient's secrecy, i.e. secrecy was considered as an ethical category. It should be noted that during this period the legislation of a number of European countries (Germany, Austria, France, Belgium, Hungary, Italy, Portugal) already had a norm regarding the preservation of medical secrecy. In Russia and some European countries such as Netherlands, England, Switzerland, Norway, Greece, Spain there was no such legislation [21].

At present, medical confidentiality has become one of the rules of bioethics and a legal concept. An ensuring the protection of medical confidentiality is not only the most important manifestation of moral duty and moral responsibility of a doctor, but also his legal obligation. Thus, medical confidentiality is a complex concept that includes medical, legal, social and ethical components.

Observance of medical secrecy is the basis for a doctor-patient relationship of trust, as well as an important condition for the protection of the patient's social status. This applies in the first place to diseases that are subject to negative social attitudes and the risk of discrimination.

Confidentiality is guaranteed by international and national documents. For example, the Declaration of Geneva of the World Medical Association, adopted by the General Assembly of the World Medical Association in 1948, states: "I will respect the secrets entrusted to me, even after the death of my patient" [8]. "The Lisbon Declaration on the Rights of the Patient" (which adopted by the 34th World Medical Assembly, in September/October 1981) states, "The patient has the right to expect that the physician will treat all medical and personal information entrusted to him as confidential" [17]. The provision on medical confidentiality is also contained in the Declaration of Helsinki of the World Medical Association (adopted at the 18th General Assembly of the MMA in June 1964), the Convention on Biomedicine and Human Rights (adopted by the Council of Europe on 4th April 1997), the Universal Declaration on Bioethics and Human Rights (adopted by resolution of the *General Conference of UNESCO* on the report of Commission III at the 18th plenary session on 19th October 2005) [5, 14, 30]. The requirement to observe medical confidentiality is also postulated in the "Code of Ethics of the Russian doctor", approved by the 4th Conference of the Association of Doctors of Russia in November 1994; "Code of Medical Ethics of the Russian Federation", approved by the All-Russian Pirogov Congress of Doctors on 7th June 1997; "Code of Professional Ethics of the Doctor of the Russian Federation", adopted by the First National Congress of Doctors of the Russian Federation (Moscow, 5th October 2012) [11, 12, 31]. In accordance with Article 71 of the Federal Law No. 323 of 21th November 2011 "On the Fundamentals of Health Protection of Citizens in the Russian Federation", the observance of medical secrecy is included in the Oath of a doctor, which is given by persons who have completed the mastery of the basic educational program of higher medical education, when they receive a document on higher professional education. "Receiving the high title of doctor and starting professional activity", doctors solemnly swear to keep medical secrecy and act exclusively in the interests of the patient [26].

The protection of information constituting medical confidentiality is becoming more complicated due to the digitalization of the healthcare system and the widespread introduction of computer technologies [2]. Thus, electronic case histories actively used nowadays by medical organizations may be more convenient in many respects, but at the same time they create a potential possibility of transferring a huge amount of confidential information.

In our country, the legal basis for maintaining medical confidentiality is guaranteed by Articles No. 23 and No. 24 of the Constitution of the Russian Federation, which specify the right of a person to the protection of personal privacy and the inadmissibility of dissemination of information without his or her consent. The provision on the observance of medical confidentiality is enshrined in Article No. 13 of the Federal Law of 21.11.2011 № 323 "On the Fundamentals of Health Protection of Citizens in the Russian Federation" [26]. Medical confidentiality is included in the basic principles of health protection according to paragraph 9 of Article No. 4 of the Federal Law No. 323.

Part 1 of Article No. 13 "Observance of medical confidentiality" of the Federal Law No. 323 of 21.11.2011 lists information that constitutes medical confidentiality: "...information about the fact of a citizen's application for medical care, his health condition and diagnosis, other information obtained during his medical examination and treatment constitute medical confidentiality" [26]. It should be noted that the article does not disclose what is included in "other" information. Certainly, this should include the nature and course of the patient's disease, the results of all diagnostic tests, diagnosis, possible complications, therapy, patient's reports about his intimate and family life, physical abnormalities, mental characteristics and anything that he wishes to conceal, such as profession, financial and official status, religious views and other information that he entrusted to the doctor. The information collected in the course of medical examination and treatment may be accessible only to a certain circle of persons, established either by law or by the patient himself. According to paragraph 4 of Article No. 13 of the Federal Law No. 323 of 21.11.2011, a list of legal grounds for providing information constituting a medical secret without the consent of a citizen or his legal representative was established [26].

The process of providing medical care in paediatric practice, as well as the observance of medical confidentiality, has its own specifics and difficulties due to the age of the child.

According to Article No. 1 of the United Nations Convention on the Rights of the Child of 20.11.1989, a child is recognized as any person "up to the age of 18 years" [16]. The same is stated in the Federal Law No. 124 of 24.07.1998 "On Basic Guarantees of the Rights of the Child in the Russian Federation" (in the edition of 28.12.2016), which defines the concept of "child" — a person up to the age of 18 years [27].

The Federal Law No. 323 of 21.11.2011 contains many norms that establish the peculiarities of the legal status of underage citizens when providing them with various types of medical care [26]. We mean differentiation of legal relations depending on their age: minors up to 15 years old (drug addicts up to 16 years old) and minors from 15 (from 16 years old for drug addicts) up to 18 years old. Each of these subjects has certain specifics of their status when receiving medical care.

It is known that children under 15 years of age have a relative non-self-sufficiency of participation in receiving medical care: parents or legal representatives of a minor act as subjects of legal relations when their children seek medical assistance, i.e. they are participants in all relations between a doctor and a patient. This is primarily due to the age-related anatomic-physiological and psychological features of children and adolescents, their underdeveloped system of values and inadequate setting of life priorities due to their lack of social and psychological experience. A child under the age of 15 is an insufficiently mature individual who lacks the full autonomy to formulate his or her preferences reasonably and to protect his or her own well-being. Parents (legal representatives) are endowed with moral and legal rights to make certain decisions concerning children, so a child's autonomy depends to a large extent on the protection and support of adults. This is in accordance with the article No. 56 of the Family Code of the Russian Federation — the protection of the rights and interests of the child is carried out by parents (or persons replacing them) [23].

A child from 15 to 18 years old, according to Russian legislation (paragraph 1 of Art. 54 of the Family Code of the Russian Federation, paragraph 1 of Art. 21 of the Civil Code of the Rus-

sian Federation, part 1 of Art. 87 of the Criminal Code of the Russian Federation), is also considered a person who has not reached the age of majority, i.e. a minor who has not acquired full legal capacity [7, 23, 25]. Art. 60 of the Constitution of the Russian Federation establishes that "A citizen of the Russian Federation can independently exercise their rights and obligations in full from the age of 18" [15]. It is considered that due to his age a minor from 15 to 18 years old cannot fully realize the meaning of his actions, bear legal responsibility for his actions, defend himself in case of violation of his rights.

However, article 20 of Federal Law No. 323 provides that minors from the age of 15 may exercise their natural rights to life and health and decide independently on medical interventions. This is confirmed by part 2 of article 54 of the Federal Law No. 323, which states that minors over 15 years of age or minors over 16 years of age with drug addiction have the right to informed voluntary consent to medical intervention or to refuse it [26].

With regard to minors, the law on medical confidentiality (paragraph 4 of part 4 of Article 13 of the Federal Law No. 323 of 21.11.2011) allowed the provision of information to one of his parents or other legal representative: in the case of providing medical care to a minor in accordance with paragraph 2 of part 2 of Article 20 of this Federal Law (when providing narcological assistance to a minor with drug addiction or during medical examination of a minor to establish the state of narcotic or other toxic intoxication), as well as to a minor under the age established by paragraph 2 of Article 54 of this Federal Law (i.e. the age of 15 years and 16 years for a minor with drug addiction), to inform one of his parents or other legal representative [26].

As for minors over 15 years of age, the law was silent. Thus, according to the norms of medical legislation, minors over 15 years of age were endowed with the right to medical confidentiality under this article, i.e. the provision of information constituting medical confidentiality to their legal representatives was envisaged only with the written consent of a minor over 15 years of age.

This raises the question of whether the teenager is ready to understand and evaluate such complex information that conditions the giving of consent. These provisions of the Federal Law No. 323 of 21.11.2011, granting minors over 15 years of age the right to independent informed consent and medical confidentiality, raised many questions and came into conflict with the legislation regulating the peculiarities of the legal status of minors and establishing in some cases a special procedure for the exercise of their rights [19]. In particular, questions have been raised regarding the protection of the interests of a minor from 15 to 18 years of age in the case of causing harm to health. Thus, in the case of causing harm to a person under the age of 18 or unlawful interference in the sphere of his health, a minor, not having full legal capacity, is not able to protect himself. If a minor wants to go to court to defend his interests, he must first turn to his legal representatives, who will represent his interests in court. Accordingly, medical confidentiality is automatically violated [29]. Another example: according to the Civil Code of the Russian Federation, a person who has not reached the age of 18 years and is considered incapacitated cannot independently conclude a transaction ("an agreement"), including for the provision of paid medical services [7]. Such a contract is valid only if approved in writing by his/her legal representative. Consequently, the fact of the applying for medical assistance becomes known to the legal representative, but, despite this, he will not be able to obtain information about the state of health of a minor over 15 years of age, if the minor has not included him in the list of persons to whom this information may be communicated. Some medical institutions gave information to parents, guided more by common sense than by the law and believing that "parents are always parents, they should know what ails their children". Other medical organizations were clearly following the law. All this indicated the vulnerability of the legal status of a minor [3].

On 13 November 2019, a law concerning information about the health status of minors was introduced to the State Duma, "On Amending Article No. 22 of the Federal Law 'On the Fundamentals of Health Protection of Citizens in the Russian Federation'". On 31st July 2020, the law was signed by the President of the Russian Federation and published. The new version of Article No. 22 of the Federal Law No. 323 is supplemented with the instruction: "...In respect of persons who have reached the age established by part 2 of article No 54 of this Federal Law, but have not acquired full legal capacity, information about the state of health is provided to these persons, as well as until these persons reach the age of majority to their legal representatives" [26].

The establishment of this provision seems justified, because in accordance with Article No. 63 of the Family Code of the Russian Federation parents are obliged to take care of their children's health, and without information about the state of their health, they will not be able to fulfil this obligation [23]. Failure of parents or other legal representatives to fulfil their obligations to maintain and educate minors entails administrative responsibility in accordance with article No. 5.35 of the Code of the Russian Federation on Administrative Offences [10]. Article No. 69 of the Family Code also provides for the deprivation of parents' rights for evasion of parents duties [23].

The reasons for the changes are also stated in the Explanatory Note to the federal law "On Amending Article 22 of the Federal Law «On the Fundamentals of Health Protection of Citizens in the Russian Federation»" [9]. As follows from the Explanatory Note, the legislative norms in the previous interpretation did not give the opportunity to fully realize parents the obligation to take care of the health of their children. It is emphasized that older adolescent children are often not inclined to inform their parents, adoptive parents and guardians about the problems of the transition period (early pregnancy, sexually transmitted diseases, injuries sustained during conflicts with peers, addiction to alcoholic drinks, smoking tobacco products, substance abuse, drug addiction, etc.) [9]. The explanatory note to the draft law noted that "concealment of information about early sexual activity, combined with the lack of awareness of many adolescents about contraception and sexually transmitted diseases, can lead to an early pregnancy, abortion, infertility".

Conflicts caused by bullying, children seeking psychological counselling, suicide attempts and other facts of teenagers' social life may also be overlooked by parents. In their conclusions, the authors of the amendments to the law rely on the existing practice of legal regulation on this problem (including foreign practice), requests from citizens, statistical data, and the results of sociological surveys of minors, including data from WHO (World Health Organization) reports.

It remains unclear, however, whether information on the health status of minors should be provided unconditionally to parents or whether it should be provided only at the request of legal representatives. This provision of the law requires clarification on the part of the legislator. From the outset, neither the legislator nor the Ministry of Health has clarified how and when parents or other legal representatives should be informed: at their request or the medical organization itself should take the initiative in this matter. The question also arises: if it is necessary to inform, when: before or after the medical intervention?

The formulation in the law initially suggested that the initiative to inform the legal representatives should be entrusted to the medical organization. It seemed logical to inform the parents even before the start of the proposed medical intervention, for example, at the time of the minor's request for medical assistance. However, in practice it would be very difficult to implement this norm.

In December 2020, due to the difficulties associated with the enforcement of a number of articles in Federal Law No. 323 relating to minors, the legal department of the Ministry of Health of the Russian Federation, in accordance with the letter of the "Faculty of Medical Law", clarified that the obligations imposed on medical workers and medical organizations, as defined in Articles 73 and 79 of Federal Law No. 323, do not include the obligation to inform the legal representatives of a minor who visited a medical organization without a legal representative [18]. Thus, it is necessary to inform the legal representatives of a minor only if the legal representatives themselves request it. In other words, the initiative to obtain information constituting medical confidentiality should belong to the legal representatives, and the obligation to provide them should be imposed on the medical organization only in the presence of a request.

Although medical workers are not obliged to inform the legal representatives themselves when a minor asks for help, the child's legal representatives, in accordance with the amendments to part 2 of Article 22 of the Federal Law No. 323 of 31.07.2020, have the right, on their own initiative, not only to familiarize themselves with medical documents, but also to obtain all necessary information from the attending physician or other medical worker who is involved in the provision of medical care to the minor [26].

In the above-mentioned clarification of the Ministry of Health of 25.12.2020 it is also noted that in accordance with paragraph 7 of Article 79 of Federal Law No. 323 medical organizations are obliged to inform citizens in an acces-

sible form, including using the Internet, about the medical activities carried out and about medical workers of medical organizations, about their education and qualifications, as well as to provide other information necessary for the independent quality assessment [18]. The clarification also refers to the Order of the Ministry of Health of Russia from 30.12.2014 № 956n, which provides for the placement on the official websites of medical organizations of information about the rights and obligations of citizens in the field of health protection [20]. Thus, the Ministry of Health proposes that medical organizations place an indication on their websites that, due to legislative changes, they will provide legal representatives with information about the health status of their minor children if requested.

The changes in the law have affected only medical confidentiality, but not the right of a minor to independently request medical assistance. Thus, from the moment a child reaches the age of 15, he or she can still visit any doctor without the accompaniment of legal representatives, receive information in the absence of legal representatives, and has the right to give informed voluntary consent to medical intervention or refuse it. In practice, however, problems may arise in the provision of paid medical services to minors. According to the Civil Code of the Russian Federation (Article 26), their provision is a deal for which a minor needs the written consent of his or her legal representatives — parents, adoptive parents or guardian. The deal made by a minor is also valid in case of its subsequent written approval by his parents, adoptive parents or guardian (Art. 26) [7]. Thus, when concluding an agreement on the provision of medical services, a medical organization may require the presence of legal representatives. In this case, the parents may become aware of the fact of seeking medical assistance even before the actual start of medical care. In other cases, except in the case of paid medical services, the legal representatives of minors over the age of 15 may receive information on the child's state of health upon request, either during the provision of medical care or a medical service, or after it has been provided, or not at all, in the absence of a request on their part.

Despite the new provision in the law, parents are still unable to fully realize their right to care for minors, as doctors are not obliged to provide access to information on the health status of children without a request from their legal representatives. Only upon request a parent could have information from the medical office of an educational establishment, a district polyclinic or another establishment where systematic and routine medical care is provided to children and adolescents. No one is obliged to provide parents with information on visits to other medical organizations.

The absence in the law of a clear obligation of a medical organization to inform legal representatives of the fact that a minor over 15 years of age has sought medical assistance creates legal uncertainty and effectively nullifies the right of legal representatives to information about the health status of minors, since even the most conscientious parents may never find out about a child's visit to a doctor.

Giving a minor the right to make such complex decisions is controversial. In the absence of information about the minor's health status, the parent may not have the actual ability to dissuade the child from medical intervention or convince him or her of its necessity, or to advise him or her to see another doctor or other medical organization. Even if the parent has timely access to the information, he or she cannot legally influence the child's decision regarding medical intervention by virtue of Article 54 part 2 of Federal Law No. 323. The parent of a minor over 15 years of age, for example, has no right to force the child to undergo treatment or to refuse a risky operation. In fact, the only means of influencing the minor's decision may be the doctor's explanation of the consequences of medical intervention or refusal of it. It is good if it concerns medical interventions that do not pose a threat to the life and health of the minor. But at present, a juvenile is often faced with the problem of making decisions alone in cases that pose a threat to his or her life and health. These are primarily problems such as substance abuse, dangerous diseases, including mental health problems, suicidal behavior, sexual identity disorders (the gender dysphoria) and other problems that minors find difficult to cope with on their own. Adolescents may conceal such information to avoid parental control and interference in their personal space. And a doctor is not obliged to seek out parents on his or her own to inform them about their children's health status.

It is obvious that giving an adolescent patient from the age of 15 the right to give "informed consent" or refusal of it himself and the absence in the law of a clearly enshrined obligation of the medical organization to inform the legal repre-

sentatives about the fact of application of a minor over 15 years old for medical help in the clinical practice of different specialists can be ambiguous.

In contrast to the daily practice of a paediatrician, the situation with teenage pregnancy requires special attention. Given a girl's right to make a decision from the age of 15, she may consent to abortion or be in favor of carrying the child to term. Doctors also find themselves in a difficult situation. According to the law, the doctor will not independently find the parents of the minor to inform them of their daughter's pregnancy, but will inform them of this fact only if they request it.

Another situation that requires a sensitive attitude on the part of doctors is related to the detection of STIs (sexually transmitted infections) in adolescents. In this case, the doctor's role is to inform the patient about his/her area of responsibility, but the question arises: despite their "adult" age, will every teenager be able to approach the situation reasonably, assess all the risks and bear responsibility? It should be noted that the law regarding HIV infection is stricter: according to part 2 of article 13 of Federal Law No. 38 "On preventing the spread in the Russian Federation of the disease caused by the human immunodeficiency virus (HIV-infection)" (dated 30.03.1995 in the edition of 14.07.2022), if HIV infection is detected in a minor under 18 years of age, the employee of the medical organization that conducted the medical examination notifies one of the parents or other legal representative [28].

Another difficult situation arises when an adolescent seeks psychotherapeutic help. As a rule, minors who conceal information about their health are afraid of judgement from their parents and do not want their closest relatives to learn about their problems. The relationship with parents is often the most important, difficult and stressful for a teenager. Sometimes disclosing information to parents can be harmful to adolescents, causing them moral distress. Fear of disclosure to parents may be one of the barriers to the adolescent's access to a therapist. This is a threat to the trusting relationship between the doctor and the adolescent patient.

It should be noted that the comments of the Legal Department of the Ministry of Health dated 25.12.2020 also do not definitively put an end to the issue of medical confidentiality for minors over 15 years of age. The response to the letter emphasizes that the Ministry of Health of Russia is not empowered to clarify the legislation of the Russian Federation in relation to the issue in question, accordingly, these explanations cannot be legally binding [13].

Despite the changes of Article 22 in 2020 that information about the state of health of minors over the age of 15 years is provided both by them and until they reach the age of majority to their legal representatives, the legislator has not yet made changes to Part 4 of Article 13 of the Federal Law No. 323 regulating the provision of information constituting a medical secret without the consent of the citizen.

As for minors themselves, many young people in social networks actively spoke out against the amendments to abolish medical confidentiality for adolescents. The reasons cited were the lack of trusting relationships between parents and children, the deliberately negative attitude of parents to a number of diseases, total control by parents, the possibility of their interference in personal life, the impossibility of discussing problems with a psychologist in secret from parents, and other arguments.

It should be noted that the teenage years is the most difficult period in the life of a child who does not yet have sufficient psychological maturity to make independent considered decisions. This is the time of personality formation, formation of most characterological types, intertwining of contradictory tendencies of social development. It is at this age that different typological variants of the norm ("accentuations of character") appear most vividly, as character traits are not yet smoothed and not compensated by life experience. For this period are illustrative of the negative manifestations, disharmony in the structure of personality, curtailing the previously established system of interests of the child, the protest nature of his behavior in relation to adults. At a transitional age, the child realizes that he is an individual, and tries in every way to prove it to everyone, and parents in the first place. He is not ready to be constantly under the care and control of parents, telling about health problems, preferring to discuss them with friends or simply ignoring them [4, 22, 29]. Some adolescents noted that the lack of confidentiality could cause minors to simply stop seeking help from doctors, making the situation even worse. Opponents of the cancellation of medical confidentiality for minors also note that not all parents will act in the interests of the teenager when dealing with medical issues; abuse of rights, threats and

blackmail by parents cannot be ruled out. The situation can be ambiguous in dysfunctional families, with the presence of family conflicts, indifferent or cruel treatment of the child, etc. In the environment of adolescents, the growth of criminal medical services is also possible.

Thus, our analysis of the state of the problem of medical confidentiality confirms that this is one of the urgent and vulnerable topics of ethical and legal regulation of medical activity, especially in paediatrics.

First of all, it is advisable to include in the legislation cases when the preservation of medical confidentiality in respect of minors over 15 years of age should be considered strict in order to protect their interests. This concerns cases involving the disclosure of the diagnosis of a particular disease, the stigmatization of a child, sometimes even the hospitalization in a drug treatment in the prevention institution, a gynecological clinic, and so on. It is unacceptable that such facts become known to the child's peers.

On the whole, the amendments to the Federal Law "On the Fundamentals of Health Care for Citizens in the Russian Federation", which provide that parents or other legal representatives of a child shall have the right to receive information on the health status of their children who have not reached the age of majority (18 years) but who have already reached the age of informed voluntary consent (15 years) to medical assistance and medical intervention, are assessed favorably. The legislator believes that this measure will help parents and other legal representatives to realize the right to bring up their minor children and wards.

The right of parents (legal representatives) to receive information on the health status of their minor children, including information on early pregnancy, sexually transmitted diseases, drug abuse, etc., is exercised only at their request. However, the legislator has not established a direct obligation of a medical organization to provide information on the health status of a minor patient to his/her legal representatives on its own initiative: a medical organization is obliged to respond only to a request from a legal representative on the health status of a minor. All this indicates an inconsistency in the mechanism of realization of the parents right to information on the state of health of their children.

In our opinion, raising the age at which information on the state of health of a child can be provided to his or her parents until the age of majority seems to be justified in general, since not all minors over the age of 15 can cope with health-related problems on their own.

At the same time, the new norm formulated in part 2 of Article 22 of Federal Law No. 323 needs to be specified by the legislator or in official explanations. It is necessary to provide a clearer explanation of Article 13 on the preservation of medical confidentiality in the practice of providing medical care to minors: what information and at what stage can or should be provided to legal representatives. Otherwise, uncertainty in the procedure for providing information about underage patients may lead to violations of their rights.

Undoubtedly, it is necessary to further improve the current legislation governing medical confidentiality for minors in order to ensure the consistency of the relevant provisions in various legislative acts of general and special norms, to establish a mechanism for taking into account the opinion of underage citizens and to create an adequate procedure for providing information and maintaining medical confidentiality in the process of providing them with medical care.

Of course, it is impossible for the law to reflect all possible situations arising in paediatric practice. And here we move from the legal plane to the sphere of ethics. Only a thinking doctor, from the standpoint of his experience, understanding of the psychology of the teenager and his legal representatives, informal approach will be able to make the right decision and give recommendations to the teenager to prevent the violation of interpersonal relations in the triad of doctor-adolescent-parents. In such conditions the professional and personal qualities of the doctor and his fulfilment of the principles of medical ethics play an important role. The doctor's role is to provide adequate information depending on the child's personality type, to gain the trust of the patient and his relatives, and to avoid conflict situations. The actions of a doctor working with children of different ages is a kind of creative process, they should not be limited only to his professional role, because he acts as an pedagogue, and as a psychotherapist, and, most importantly, as a direct agent of socialization of the child. It is very important to help the patient realize the value of his own personality, to teach him to accept himself as he is, with his disease, to help him believe in the effectiveness

of treatment, to guide him psychologically towards recovery or improvement of his condition.

ADDITIONAL INFORMATION

Author contribution. Thereby, all authors made a substantial contribution to the conception of the study, acquisition, analysis, interpretation of data for the work, drafting and revising the article, final approval of the version to be published and agree to be accountable for all aspects of the study.

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