**Legal status of business entities engaged in economic activities in medical practice in the field of healthcare**

***N. Harasymchuk***

*student, Department of Civil Law and Procedure*

*Ivan Franko National University of Lviv*

Given the European vector of our country development and the gradual approximation of domestic legislation to the European Union’s law, the necessity for the reforms in Ukraine had become, of course, a topical issue facing the domestic legislator. The obsolete legal regulation inherited since the Soviet era, and social demands of the population, make the restructuring of the healthcare system one of the most demanded among the said reforms. An important issue is who exactly carries out medical practice in the healthcare sector, the legal status of these actors and the quality of the health services provided by them. Changes to Ukrainian legislation led to the need to review existing doctrinal studies and to analyze the latest trends in the issue of the legal status of a business entity in medical practice in the health sector.

The procedure for acquiring the status of a business entity that carries out economic activities in medical practice in the field of health care can be divided into two types: such that it is acquired under general and special conditions.

Medical practice is a kind of economic activity that is subject to licensing. It means that the individual or legal entity, willing to obtain a license, shall comply with the licensing conditions in accordance with the specifics of the type of conducted economic activity for obtaining it. The actor, willing to obtain a license in the field of medicaid, becomes a recognized in the State licensee and can engage in economic activities in medical practice in the field of healthcare, since it have obtained a record in the Unified State Register of Legal Entities, Individual Entrepreneurs.

The procedure for termination of a business entity and an individual entrepreneur carrying out medical practice practically does not differ from the termination of activity of any other economic entities. Such termination can be done via reorganization or liquidation. Moreover, the latter implies the complete cessation of the legal entity, while the first means the transition from one organizational legal form to another. At the same time, attention should be drawn to the provisions of Art. 49 of the Constitution of Ukraine, which stipulates that the existing network of such institutions can not be reduced. Consequently, taking into account the important social role of these entities, the termination of their activities should be carried out with the preservation of the access of citizens to healthcare system.

A separate and rather specific way of termination of economic activity in medical practice in the field of healthcare is the cessation of this particular kind of activity. Such termination can take place in two ways: voluntary and compulsory. Voluntary termination of activity is conditioned by the internal convictions of the business entities and is the consequence of their respective decision. Compulsory cessation of economic activity in healthcare practice may be available in the event of the loss of the right to carry out an appropriate type of economic activity, that is, cancellation of the corresponding license. This method has its own characteristics, based on the specifics of the scope of the licensee.

The rights and obligations of the actors in the field of economic activity in the field of healthcare are an important component of their legal status, but these rights and obligations have not been formulated in the current legislation of Ukraine. Such situation has a negative impact on the development of business entities in the field of healthcare. Researchers divide these rights and obligations into organizational, management, and proprietary.

Organizational rights and obligations are those for organization of medical care and other medical services provision for the population, ensuring compliance with and implementation of organizational, personnel and technological requirements of the Licensing conditions for the conduct of economic activity in medical practice, which are acquired and carried out by the individual entrepreneur and on behalf of the health care institution by its management bodies and officials. They can be divided into general (inherent to all economic entities) and special (inherent only to the subjects of medical practice).

Management rights and obligations are those, acquired and implemented during the process of providing medical care and other medical services for the population and/or taking measures conducive to the implementation of medical practice. They consist of the independent participation in the relevant legal relations through the implementation of management powers by the individual entrepreneur and the authorities and officials of the health care institution. Management rights and obligations, along with organizational ones, are stipulated, among other issues, by the need to comply with the requirements of the Licensing Conditions for economic activity in medical practice conduction, they are enshrined in certain regulatory and legal acts, including local acts of business entities. On behalf of the institution of health care, certain management rights and obligations are acquired and performed by the chief and deputy physicians.

Proprietary rights and obligations are related to the acquisition, possession, use and disposal of proprietary medical resources for the purpose of medical assistance and other medical care providing for the population in accordance with the requirements of the current legislation, which are acquired and carried out by an individual entrepreneur and by the governing bodies on behalf of the health care institution.

Legal liability in the field of medicine is a form of state coercive influence on persons who have committed an offense with the purpose of applying certain sanctions provided for by the current legislation. In cases where the actions or inactions of an official in the field of medicine did not lead to a violation of the law, the rights of the patient; and did not lead to negative consequences for health or life of natural person, no liability arises. Persons guilty of violating the health legislation bare civil, administrative or criminal liability in accordance with the law. However, liability does not come from the very fact of committing the offense, but in the event of negative consequences for the health or life of the patient. In the event that negative consequences have not occurred, liability for the defect in the provision of medical care remains in the sphere of ethics and deontology.

In order to bring medical professional to the responsibility, several conditions are required: a proven fact of the unlawful nature of actions or inactivity; presence of negative influence on patient's health; establishing a causal relationship between these facts; proving the fault of the physician.

Thus, the subjects of economic activity on medical practice in the field of healthcare are healthcare business entities and individual entrepreneurs who have received the corresponding license and carry out activities in accordance with all organizational, personnel, technical requirements. Legal status of these entities is disclosed in detail through the procedure for obtaining and termination of such status, rights and obligations of the said entities and legal liability for failure to perform or improper performance of the latter. Noadays, there is a positive dynamics in the number of licensed medical practitioners in 2017 compared to 2016. Also, the number of individual entrepreneurs licensees significantly exceeds the number of business entities licensees. The inconsistency of existing state and municipal healthcare institutions with current legislative requirements for licensing activities in this area is linked, among other issues, to outdated equipment and underfunding. One of the ways to achieve significant changes in this situation is to turn healthcare institutions from budget institutions into utility non-profit enterprises.