

Pain Relief with Narcotic Drugs as a Guarantee of Proper Quality of Life

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Abstract. The study considers a topic relevant to the life quality of citizens. It reveals the guarantees of the realization of the legal right to receive narcotic drugs and its regulation. The article studies the problems of violation of this right in case of unfair behavior of medical workers. The authors pay special attention to the issue of subjectivity in assessing the intensity of pain. They established that the right to pain relief with narcotic drugs arises from the moment of the onset of intense pain. However, this right can be realized only when a medical professional issues a prescription form, and in case medical care is provided in a hospital setting – at the time of appointment. In the future, the right to receive narcotic drugs is not subject to restriction. Another approach encroaches on the essence of the right to life, creating obstacles to its realization. An extensive system of guarantees in the Russian Federation provides pain relief with narcotic drugs, including the constitutional right to medical care and the constitutional right to protect the dignity of the individual and ensures an adequate quality of life for citizens in the Russian Federation.

1 Introduction

The word "pain" in Russian is defined as a response of the body to developing or already occurring adverse phenomena caused by factors of various nature. In medical practice, there are many types of classification of pain: by duration (acute, subacute, chronic); by the area of localization and location of the pain process (local, reflected, projected, irradiating, phantom); due to health disorders (physical and psychogenic), and others [1, pp. 20-21].

There is a wide range of methods for reducing (relieving) pain syndrome: psychoemotional, taking sedatives, acupuncture, physiotherapy and others. In everyday practice dentists, widely use methods of application, aerosol, and injection anesthesia in addition to those listed above. All of them relieve pain, and sometimes prevent the emergence of pain in the short term – at the time of certain manipulations (treatment or removal of teeth, opening of an abscess, etc.).

However, there is a category of sick people experiencing pain paroxysmally or constantly. Accurate measurement and objective assessment of the intensity of pain is impossible [2, p. 3, 7]. A medical worker with professional competencies (a certain set of knowledge, skills and abilities), taking into account the analysis of the clinical picture and the data of medical and diagnostic studies, is able to diagnose correctly. Nevertheless, the

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concomitant pain syndrome, the severity of sensations is recorded mainly from the words of the patient (that is, it is a subjective factor). This is because the perception of pain in each case is individual; the threshold of sensitivity in people is different and depends not only on gender and age, but also on the physiological and psychological characteristics of the individual. Consequently, imperative connection of the diagnosis with probable pain manifestations are very difficult. Therefore, it is quite logical that in practice, the tactics of pain syndrome therapy consists of information about the diagnosis and intensity of pain. At the same time, the second aspect is recognized as the key in the choice of therapy [3, p. 53].

Narcotic drugs are used in a hospital to reduce sensitivity during surgical interventions and reduce pain in the postoperative period. Potent drugs are indicated for use in an outpatient basis. They are also indicated for the use in palliative and hospice care to get rid of the excruciating suffering of patients in the terminal stage of diseases such as human immunodeficiency virus [4, p. 205], oncological diseases (for example, pancreatic cancer [5, p. 27], colon cancer [6, p. 8], cancer of the jaws, tongue, etc. [7, p. 116]). The above list is only a small part of the indications for the use of the studied group of analgesics.

The use of narcotic drugs can lead to the appearance of a wide range of side effects. It has been scientifically proven that opioids are powerful immunosuppressants (agents that suppress the body's immune response). For example, morphine increases the risk of sepsis by changing the intestinal microbiome, negatively affects the activity of natural killer cells, the production of immunostimulating cytokines, phagocytes and the production of antibodies. There were also other consequences from taking narcotic drugs, including skin itching, muscle rigidity, respiratory depression, dyspeptic disorders and a progressive decrease in analgesic effect (tolerance), as well as habituation to the drug [8, p. 61]. Nevertheless, despite the existing side effects, the indications for their use are very extensive.

2 Methods

The information base of the research includes: the works of domestic scientists in law and medicine devoted to the study of the essence of pain syndrome, its safe and effective relief, scientific articles published in electronic scientific libraries, as well as regulatory legal acts and judicial practice.

In the course of the research, the authors used general scientific methods of cognition: general logical methods of learning: (analysis, synthesis, induction, deduction, generalization), systemic, logical-semantic and dialectical methods. In addition, the work uses a special legal method - formal legal

3 Results

A great number of regulatory legal acts regulate the turnover of narcotic drugs in the form of dosage forms. The basic one is the Federal Law "On Narcotic Drugs and Psychotropic Substances". Paragraph 2 of article 4 of this act refers to the principles of state policy in the field of drug trafficking the availability of narcotic drugs to persons who need them for medical purposes. For that purpose, it is allowed to use narcotic drugs included in lists II and III of the list of narcotic drugs, psychotropic substances and their precursors subject to control in the Russian Federation, approved by the Government of the Russian Federation. Narcotic drugs in the list I are allowed to be processed in the production environment, receiving secondary means and substances. According to paragraph 1 of Article 25 of the mentioned above federal law, the pharmacy and medical organizations are allowed to sell narcotic drugs if licensed. The procedure of leave from the pharmacy, according to part 3 of

Article 55 of the Federal Law "On the Circulation of Medicines", is regulated by the Ministry of Health of the Russian Federation in coordination with the Ministry of Internal Affairs of the Russian Federation.

The right to narcotic drugs arises for individuals when a medical professional draws up a prescription form of a strict form, and when providing medical care in stationary conditions at the time of appointment. The right to receive narcotic drugs is provided by a set of provisions of the Federal Law "On the Basics of protecting the health of citizens in the Russian Federation". In particular, paragraph 4 of part 5 of Article 19 of this law stipulates that the patient has the right to relief of pain associated with the disease, condition and (or) medical intervention. It, like the previous right, is part of the right to provide medical care. The complex of legal duties of medical workers and medical organizations corresponds to it. Among them are the duties to provide qualified medical care, to be guided in their activities by the procedures and standards of medical care, to follow clinical recommendations, to observe medical ethics, to prescribe medications in accordance with the procedure established by the Ministry of Health of the Russian Federation (Articles 73 and 79).

Medicines are usually prescribed directly in the hospital with the consent of a person authorized by a legal act of the chief physician of a medical organization. Replacement of the drug for vital indications or due to individual intolerance of the patient is made by the decision of the medical commission. A medical professional makes the primary prescription alone in outpatient settings. At the same time, the chief physician of a medical organization has the right to issue a legal act on the need to coordinate such appointments with the medical commission. The collegial body does not participate in the reappointment. However, a patient cannot use all narcotic drugs outside a medical organization. For example, the instructions for the medical use of the drug "Fentanyl" state its use only in a hospital setting. "Ketamine" will be applied in a similar way. Prescription forms for these drugs are not issued. The regulations of the Ministry of Health of the Russian Federation indicate other prohibitions, but we will not analyze them.

Since most narcotic drugs are attributed to the pharmacotherapeutic group of analgesics, refusal to prescribe requires extreme caution. A medical professional, determining the severity of sensations, should correlate the patient's complaints of pain with the diagnosis, common information about the course of the disease, and clinical recommendations. Subjectivity of perception should also be taken into account. It is the specific subjective element in the assessment of symptoms that significantly complicates the choice of therapy tactics and can lead to unlawful abuse on the part of the patient and the doctor. The view of the patient's complaints should be critical, since individual patients tend to exaggerate the severity of pain. At the same time, an unjustified refusal to use narcotic drugs in the treatment of pain syndrome is regarded as a deviation from licensing requirements and can be interpreted as a violation of the patient's right to pain relief. Such an act entails the imposition of administrative responsibility on the medical organization. The actions (inaction) of a medical worker that resulted in the death of a patient or the infliction of serious or moderate harm to his health caused by the refusal to prescribe a narcotic drug entail much more serious legal consequences. Thus, if the causal relationship between death and non-fulfillment of the obligation to prescribe an analgesic drug is proved, the medical person is brought to criminal responsibility.

The laconically examined system of legal guarantees of the right to pain relief and partly the related right to receive narcotic drugs reproduces the provisions of part 1 of Article 41 of the Constitution of the Russian Federation. The declaratively proclaimed right to medical care is part of the core of the constitutional status of the individual and implicitly underlies other subjective rights close by nature. First of all, we are talking about sectoral subjective rights focused on maintaining and restoring health. This is the right to provide

medical care that we have already mentioned. It covers the security rights we are investigating. The right to pain relief is aimed at achieving acceptable functioning of the body during the treatment of the disease that triggered the pain syndrome. Improving the quality of life, due to the suppression of negative irritating manifestations, is a derivative goal. A positive effect is impossible without properly selected drugs – medicines. Reflecting in the article on the exceptional cases when it is necessary to use narcotic drugs, it is obvious that the right to prescribe them is closely correlated with the previous one.

In the scientific literature there is an opinion that the right to pain relief borders on the prohibition of ill-treatment in the context of Article 21 of the Constitution of the Russian Federation. Through understanding the scope of the constitutional category "dignity of the individual", scientists have proposed to understand the right to protect the dignity of the individual as an additional guarantee of the right to medical care in general. For example, N. S. Volkova believes that improper care, lack of provision with painkillers directly encroach on the human dignity of the patient [9, p. 36]. Accentuated unscrupulous behavior is akin to indifference. A medical worker cannot fail to understand that any appeal to a medical organization with a request for assistance projects a lack of knowledge and skills to help themselves on their own. The absence of a sensitive and attentive attitude goes against the professional and moral obligations.

The Constitutional Court of the Russian Federation has repeatedly, albeit indirectly, mentioned the category of "dignity of the individual" in its decisions. In particular, the dignity of the individual is recognized as a prerequisite for all other inalienable human rights and freedoms and a condition for their existence and observance (Resolutions No. 6-P of April 25, 2001, No. 41-P of November 14, 2018, No. 33-P of July 18, 2022 and No. 7 of March 02, 2023).P), while the state undertakes to protect the dignity of the individual by providing support to citizens who have lost the opportunity to independently provide a decent standard of living (resolution of February 08, 2018 No. 7-P). Analyzing the conformity of the norms of criminal procedure law with the Constitution of the Russian Federation, the Court formulated the following legal position: "... the state is obliged to contribute to the restoration of the dignity of the individual ... since otherwise it would mean diminishing ... the dignity of the individual ... and by the state itself ..." (Resolution No. 22-P of October 16, 2012). The listed legal positions of the court are fully applicable to relations in the field of realization of the right to pain relief with narcotic drugs.

Thus, the right to pain relief with narcotic drugs arises when severe pain occurs, but for its implementation requires a prescription form issued by a medical professional, and if medical care is provided in a hospital setting – at the time of appointment. In the future, the right is not subject to restriction. An excellent interpretation encroaches on the essence of the right to life, creating obstacles to its realization.

The right to pain relief with narcotic drugs is ensured by an extensive system of guarantees – the right to medical care and the right to protect the dignity of the individual. Both of these powers have found their embodiment in the legislation on healthcare. The latter prevents ill-treatment of the patient due to the assumption of a defect in the provision of medical care.

Meanwhile, the law studied in this article is violated everywhere in practice. The presence of a subjective element in the assessment of pain intensity generates unscrupulous behavior on the part of medical professionals. Some Russian scientists believe that the main barriers in prescribing narcotic drugs are the lack of knowledge among medical professionals on the treatment of pain syndrome, inability to assess correctly the intensity of pain and fear of being held accountable for errors in prescribing [10, p. 15-16; 11, p. 12-13].

4 Conclusions

The use of narcotic drugs in the treatment of pain syndrome is justified when it is known that alternative drugs will not bring the expected result, or their effect has not had a positive effect on the dynamics of the patient's treatment. This right is an organic continuation of such constitutional rights as the right to life and personal integrity. In order to improve the life quality of citizens, especially in the terminal stages of diseases or patients with complex pathology, it is necessary to effectively guarantee them pain relief, including by providing narcotic drugs. To do this, along with the existing regulatory framework, it is necessary to develop and implement medical standards of care that would contain a clear algorithm of actions for medical workers from the diagnostics of pain, making a diagnosis and registration of a prescription form or direct administration of a narcotic drug. In addition, the system of safeguards for pain relief with narcotic drugs should be supplemented with appropriate regular professional development of all medical workers.

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