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**CHILDREN'S HEALTH PROTECTION IN THE RUSSIAN FEDERATION:
LEGAL ISSUES**

Specialty - 5.1.2. Public law (state law) sciences

STRUCTURAL ABSTRACT

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The relevance of the research topic. The amendments to the Constitution of the Russian Federation adopted in 2020 are an important response to a significant public demand - the preservation of traditional values. When discussing the amendments to the bill on amending the Constitution in terms of the importance of children for the Russian Federation, several ratification formulas were proposed, one of which, as a result of the discussion, was legislatively enshrined in paragraph 4 of Article 67.1: "Children are the most important priority of the state policy of Russia ...". Consequently, the child population of the country today is the gene pool of the nation, this is the future development potential of society and the state as a whole (the most productive and creative part of the country's population), which must be valued when developing and implementing public policy, taking into account: a decline in the birth rate, a decrease in the number of healthy children, the risks and threats to their health at all stages of growing up. Thus, it is undeniable that maintaining the health of children in Russia, as in many countries, is one of the pressing issues. Therefore, all transformations in any sphere, including law enforcement practice, must begin with children, from the first days of their life and until they reach adulthood, whose development is influenced not only by internal (biological), but also external (socio-economic, political-legal, cultural and spiritual) factors.

At the end of the 20th century, the relevance of child health protection issues was associated with the insufficient effectiveness of the norm of the "Fundamentals of the Legislation of the Russian Federation on the Protection of Citizens' Health" of July 22, 1993 No. 5487-1, which prompted the adoption of the Federal Law "On the Fundamentals of Health Protection of Citizens in the Russian Federation" No. 323-FZ in 2011. However, according to researchers V.Yu. Albitsky, A.A. Baranov, Yu.E. Lapin, L.S. Namazova-Baranova, L.M. Roshal, T.V. Yakovleva and others, insufficient attention is paid to the existing legislation. The above-mentioned law of 2011 No. 323-FZ is one of the key legislative documents that regulates relations in the field of providing medical care to migrants, only partially touching upon some aspects of children's health protection. Representatives of the expert community

believe that medical care for children has its own specifics, so these features should be enshrined in a separate regulatory legal act that combines all the characteristics of special subjects, such as children.

Proposals for the need to adopt a law on the protection of children's health have been expressed for a long time, they require certain attention, and in order to avoid possible negative consequences, a thorough comprehensive study of this issue is advisable. The solution, which is the development of a new concept of legal regulation of children's health care in the Russian Federation, is due to a differential approach taking into account the individual and age characteristics of the child's body at each stage of development.

In order to improve the state policy in the field of child protection, taking into account the results achieved during the implementation of the National Strategy of Action in the Interests of Children for 2012-2017, by the Decree of the President of the Russian Federation dated 05/29/2017 No. 240 "On the announcement of the Decade of Childhood in the Russian Federation", the period from 2018 to 2027 was declared the Decade of Childhood. Children's health protection issues were considered a priority in many fundamental documents on healthcare in the Russian Federation.

The above indicates the relevance of the topic of the dissertation research on the topic "Children's Health Protection in the Russian Federation: Legal Issues".

The degree of elaboration of the research topic. The protection of children's health in the Russian Federation as a whole and individual aspects of its legal regulation have been repeatedly studied in science. However, it is necessary to clarify that the majority of dissertation studies, an expert on children's jurisprudence, who conducted research in the field of medical science by specialists in social pediatrics and organizations of children's jurisprudence: V.Yu. Albitsky, A.A. Baranov, A.P. Denisov, P.L. Egorova, V.R. Kuchma, Yu.E. Lapin, M.Yu. Rykov, R.N. Terletskaya, A.S. Funtikov, S.A. Sher.

At the same time, the relevant aspects in these studies were characterized in the most general way, with the exception of the dissertation study of E.Yu. Lapin. As

shown by the conducted studies, since the publication of this dissertation (2010), the legislation in the field of children's health care has been amended, but this scientific concept has remained at the level of project development, without receiving its practical implementation - legislative consolidation.

In legal science, specific research material has been collected on the problems of protecting children's health (V.L. Kabanova, A.V. Lebed, E.I. Rashchupkina, G.M. Khamitova, V.V. Yasenova). Adult children can be completely different, but at the same time they can be different.

The object of the study is social relations arising in connection with the implementation by minors of their rights to health protection and medical care, as well as relations associated with them.

The subject of the study is the norms of Russian legislation regulating issues of children's health protection, the practice of their application by government bodies and courts, the patterns of their formation and development, doctrinal sources of law in the field of children's health care, official analytical and statistical materials.

Methodological basis of the study. In the process of the research, general and special scientific methods were used. The entire system of the used methods of cognition was aimed at solving the set tasks and achieving the goal of the dissertation. A special role in the study was given to special scientific methods: historical and legal method; statistical analysis method; content analysis, etc. Among the methods used, the most significant were special legal research methods (normative and analytical, legal modeling method), which were patented for the formation of a unified, conceptual apparatus and the study of the essence of legal phenomena.

The purpose of the study. Based on the developed scientifically substantiated provisions, is to propose the author's concept of legal regulation of children's health protection in the Russian Federation.

The achieve set goal, the following **tasks** are set:

1) study the evolution of development and formation of legislation on children's health protection in Russia, determine legal models and principles of regulation of children's health care;

2) conduct a structural and substantive analysis of the concept of "children's health protection", formulate its author's legal interpretation;

3) analyze the content of the child's right to health protection in the Russian Federation;

4) analyze the current state of Russian legislation on children's health protection, propose its author's classification;

5) identify and analyze modern problems of legal regulation and law enforcement in the field of children's health protection in the Russian Federation, suggest ways to solve them;

6) formulate the main provisions of the Brief on legal regulation of children's health protection in the Russian Federation.

The theoretical basis of the study was formed by the works of legal scholars on the theory and history of state and law, on the law of social security and other branch sciences of jurisprudence: labor law, civil law, etc., works on history, medicine, pedagogy, psychology, sociology.

The normative basis of the study was formed by international normative legal acts, the Constitution of the Russian Federation, federal laws, and by-laws. The application of the historical and legal method required the study of some legal sources that had lost their legal force, including the Russian Empire, the USSR, and the RSFSR.

The empirical basis of the study was made up of: official statistical materials of the Federal State Statistics Service; materials of practical activities of government bodies (certificates, reports, memoranda, plans, instructions); national (federal and acts of the subjects of the Russian Federation) projects of the Russian Federation; documents of strategic planning and development of the Russian Federation; materials of judicial practice, in particular the Constitutional Court of the Russian

Federation, the Supreme Court of the Russian Federation, decisions on specific cases of courts of general jurisdiction.

The scientific novelty of the dissertation research is determined by the subject and purpose of the dissertation. Based on scientifically substantiated provisions, the author's concept of legal regulation of children's health protection in the Russian Federation has been developed. The analysis of legislation and scientific positions on children's health protection in the Russian Federation made it possible to solve the current scientifically trained classification group of legal institutions in the field of children's jurisprudence of the Russian Federation, combining them depending on the age, level of development of the child and conditions that objectively violate their vital activity. The science of Russian social security law has been replenished with new elements for it: conceptual apparatus; developed specific theoretical provisions and recommendations that can become the most suitable for the preparation of conceptual and other documents not only in the field of social security of children, but also in other branches of legal science containing issues of children's health.

Main provisions submitted for defense:

1. The historical research method applied in the dissertation allowed us to define and substantiate the periodization of domestic legal regulation of children's health care. For each of the periods identified by the author, legal models and principles for regulating children's health care in Russia are defined. The author made and substantiated the conclusion that before the state turned to a socially oriented approach to childhood protection, which was associated with the strengthening of preventive measures, for a long time in Russia the problems of child health protection were not singled out as a separate area of state policy and were considered in the general context of mercy, without stepping over the threshold of private interests, moving to the level of national care. At the end of the 20th century, despite the high degree of relevance, the problems of child health protection in Russia, although included in the sphere of state policy, never acquired the status of an independent subject of law-making initiative.

2. In order to improve the practice of law enforcement in the field of children's health protection in the Russian Federation, one of the results of this work is the development of a conceptual apparatus. In order to clarify the content of the concept of "children's health protection", as well as its further clarification and standardization in scientific activity, the author conducted a structural and substantive analysis of the definition of the concept of "children's health protection" in scientific works of leading domestic and foreign researchers whose scientific interests are in the field of children's health.

For the purposes of research and definition of the concept of "children's health protection", the dissertation author emphasizes that the Criteria for the health of an adult have a more limited value compared to the formation of similar views in relation to a child (as the child grows up, he himself becomes a participant in determining the development of the external environment, stimulating the creation and improvement of such an important component of its evolution). Moreover, the lack of a scientifically substantiated definition of the concept of "children's health protection" determines that in the Documents on childhood problems and in regulatory legal acts governing children's health issues, the content of the concept of "children's health protection" is not disclosed. In this case, as well as the author's fixation of the main attention on children, since special subjects of the right to health protection have identified the clarification of the concept of "health protection of citizens" and have identified "health protection of children" as an independent author's concept.

Health protection of children is an economic, social, legal and scientifically substantiated system of measures aimed at providing children with free medical care, providing for the improvement of children's health, prevention, diagnosis and treatment of diseases, including dispensary observation, medical rehabilitation of disabled children and children suffering from chronic diseases, and spa treatment of children.

Within the framework of the legislative initiative, such an approach can give a new meaning to the concept of "health protection of children" used, but not specified

in domestic regulatory legal acts, but fully included in the concept of "health protection of citizens".

3. The conclusion made and substantiated that a child is a special subject of law and a participant in legal relations in the field of healthcare, which is due to two factors: vulnerability and age individuality, therefore, not only medical but also legal approaches applied to him in the field of healthcare must correspond to the period of development in which he is.

4. The conclusion that modern Russian legislation in the field of children's health protection regulates a wide range of legal relations united by a single social focus is formulated and substantiated.

The dissertation author developed and substantiated a classification of regulatory legal acts governing children's healthcare:

1) legislation in the field of children's healthcare management in the Russian Federation (Federal Law "On the Fundamentals of Health Protection of Citizens in the Russian Federation" dated November 21, 2011 No. 323-FZ, etc.);

2) legislation regulating issues of medical insurance of the child population in the Russian Federation (Federal Law "On Compulsory Medical Insurance in the Russian Federation" dated 29.11.2010 No. 326-FZ, etc.)

3) legislation regulating issues of providing medical and preventive care Federal Law "On the Fundamentals of Health Protection of Citizens in the Russian Federation" dated 21.11.2011 No. 323-FZ; Federal Law "On Basic Guarantees of the Rights of the Child in the Russian Federation" dated 24.07.1998 No. 124-FZ, etc.);

4) legislation regulating the provision of children with medicines, medicines and medical products in the Russian Federation (Federal Law "On Provision of Children with Medicines" dated 12.04.2010 No. 61-FZ, etc.)

5) legislation regulating the provision of medical care to certain categories of children in the Russian Federation (Federal Law "On Additional Guarantees for Social Support for Orphans and Children Left without Parental Care" dated 21.12.1996 No. 159-FZ, etc.)

6) legislation regulating the execution (maintenance) of medical documentation when providing medical care to children in the Russian Federation (Federal Law "On Education in the Russian Federation" dated 29.12.2012 No. 273-FZ; Order of the Ministry of Health of the Russian Federation "On Approval of the "Medical Record of a Child for Educational Institutions" dated 03.07.2000 No. 241, etc.);

7) legislation regulating issues of sanitary and epidemiological well-being of the child population in the Russian Federation (Federal Law "On Immunoprophylaxis of Infectious Diseases" dated 17.09.1998 No. 157-FZ; Federal Law "On Sanitary and Epidemiological Welfare of the Population" dated 30.03.1999 No. 52-FZ, etc.);

8) legislation regulating issues of spa treatment of children in the Russian Federation (Federal Law "On the Basic Guarantees of the Rights of the Child in the Russian Federation" dated July 24, 1998 No. 124-FZ; Order of the Ministry of Health of the Russian Federation "On Approval of the Procedure for Organizing Spa Treatment" dated May 5, 2016 No. 279n, etc.).

The classification proposed by the author not only allows structuring and defining regulatory documents governing issues of children's healthcare, but is also a scientifically based approach to systematizing legal norms in the field of children's healthcare, which has significant scientific and methodological significance for the practice of law enforcement, which may become the most acceptable in the preparation of conceptual and other regulatory documents in the field of children's healthcare in the Russian Federation.

5. The author substantiates the conclusion that the insufficient effectiveness of the implementation of legislative norms in the field of children's health protection in the Russian Federation is largely a consequence of: aggravation of socio-economic problems; shortcomings in the practice of applying legislation in the field of crime, including in the activities of government bodies and organizations authorized to protect children's rights to health and medical care; lack of transparency and openness in the decision-making process; gaps and contradictions in legislation; uneven growth of the constituent entities of the Russian Federation (some constituent entities of the Russian Federation have a higher standard of living and access to quality services);

untimely implementation and inaccurate financing of regional and municipal programs (subprograms) in the field of children's health care; inadequate control over the implementation and targeted use of budget funds allocated for the creation of infrastructure for the provision of medical care to children and the purchase of medicines; the fact of refusal of executive authorities of the constituent entities of the Russian Federation to suppress children with drugs through the Circle of Kindness Support Fund.

The solutions to the identified problems of legal regulation and law enforcement in the field of children's health protection have been developed, such as:

- improving the activities of the neonatological service in the constituent entities of the Russian Federation by amending the regulatory framework (Order of the Ministry of Health of the Russian Federation "On approval of the Procedure for the provision of medical care in the profile of "obstetrics and gynecology" dated October 20, 2020 No. 1130n), regulating the organization of medical care for newborns, taking into account the natural, climatic and territorially special regions of Russia;

- improving the organization and conduct of medical examinations of the child population by developing and securing at the legislative level (Order of the Ministry of Health of the Russian Federation "On approval of the Procedure for minors undergoing dispensary observations, including during the period of training and upbringing in educational organizations" dated May 16, 2019 No. 302n) a conceptual and legal model that takes into account resource (personnel and financial) constraints;

- improving the mechanism for legal regulation of preschool and school medicine by abandoning the "medical worker of an educational organization" model and switching to the "medical worker in an educational organization" model, regardless of the place of education and the type of educational institution, by enshrining this provision at the legislative level (Order of the Ministry of Health of the Russian Federation "On the procedure for conducting preventive medical examinations of minors, approved" dated August 10, 2017 No. 514n);

– improving the mechanism for protecting the rights of disabled children and children with disabilities, through a legislatively enshrined (Order of the Government of the Russian Federation "On approval of the plan of the main events carried out within the framework of the "Decade of Childhood" for the period up to 2027" dated January 23, 2021 No. 122-r) scientifically developed mixed legal (a combination of public and private forms of protection of disabled children, with the participation of non-governmental organizations implementing various programs) model based on an assessment of the experience of foreign countries;

– improving the mechanism of legal regulation of the provision of medicines to children suffering from severe rare (orphan) diseases, as approved at the legislative level (RF Government Resolution No. 545 of 06.04.2021 "On the procedure for purchasing medicines, medical devices and technical rehabilitation equipment for a specific child with a severe life-threatening and chronic disease, including a rare (orphan) disease, or for groups of such children") the procedure for providing medicines and pharmaceuticals to this category of children at the expense of the Circle of Goodness Foundation.

6. Based on scientifically substantiated provisions, the author's concept of legal regulation of children's healthcare in the Russian Federation has been developed. Its main provisions have been formulated. The definitions are based on and set out modern principles of legal regulation of children's healthcare in the Russian Federation, such as: the principle of personalization; the principle of presumption of the legitimacy of the child's interests; the principle of the best interests of a minor. A model for systematizing legal norms has been constructed by combining them into legal institutions:

1) Depending on age periods:

a) from birth to 10 years - minors:

– neonatal period (0-10 days);

– infancy (10 days - up to 1 year);

– early childhood (1-3 years);

– preschool age (3-6 years);

- primary school age (7-10 years);
- b) from 11 to 18 years - adolescents:
 - senior school age (11-15 years);
 - adolescence (16-18 years);
- 2) Depending on the conditions that objectively disrupt life activity:
 - a) disability:
 - disabled children;
 - children with disabilities;
 - b) socially significant diseases:
 - children suffering from oncological diseases;
 - children suffering from HIV;
 - c) orphanhood: orphans; children left without parental care.

Mechanisms have been developed for the implementation of the Policy for the legal regulation of children's health protection in the Russian Federation by amending the current legislation of the Russian Federation on children's health issues:

- fill in Art. 1 of the Federal Law "On the Basic Guarantees of the Rights of the Child in the Russian Federation" dated July 24, 1998 No. 124-FZ, which enshrined the legal interpretation of the category "interests of children";
- supplement Part 2 of Art. 4 of the Federal Law "On Basic Guarantees of the Rights of the Child in the Russian Federation" dated 24.07.1998 No. 124-FZ, which enshrined the legal interpretation of the category "principle of presumption of the legitimacy of the child's interests";
- fill in Art. 1 of the Federal Law "On Social Protection of Disabled Persons in the Russian Federation" dated 24.11.1995 No. 181-FZ, which enshrined the legal interpretation of the categories "disabled child", "child with disabilities";
- supplement the provisions of the Resolution of the Government of the Russian Federation "On Approval of the List of Socially Significant Diseases and the List of Diseases Posing a Danger to Others" dated 01.12.2004 No. 715, having enshrined the legal interpretation of the category "socially significant diseases";

- fill in Art. 1 of the Federal Law "On Additional Guarantees for Social Support of Orphans and Children Left without Parental Care" dated 21.12.1996 No. 159-FZ, which established the legal interpretation of the category of "social orphanhood"; - fill in the provisions of the Order of the Ministry of Health of Russia "On Improving the System of the State Cancer Registry" dated 19.04.1999 No. 135 by establishing the system of recording childhood oncological diseases by forming a separate system - the cancer registry;

- include in the Federal Law "On Compulsory Medical Insurance" dated 29.11.2010 No. 326 tariffs guaranteeing recognition of the right of adolescents to undergo medical examinations free of charge as minors when applying for a job.

The implementation of the policy of legal regulation of children's health protection in the Russian Federation must be thought through by:

- inclusion of tasks and activities aimed at developing draft legislative acts or other strategic development documents (concepts, programs, legislation) in the field of children's health care in the Russian Federation in federal and regional programs of socio-economic development;

- constant and analysis of demographic processes and the level of morbidity, types of nosologies among the child population, adjustments based on them to the practical measures of the Policy of legal regulation of children's health protection in the Russian Federation;

- development of scientific research in the field of legal regulation of children's health protection issues in the Russian Federation.

The practical significance of the dissertation research lies in the fact that it contains conclusions, as well as practical recommendations and proposals that can be used both in the process of preparing new bills in the sphere of justice, and in the creation of other strategic development documents that act as normative legal acts regulating relations in the sphere of justice.

Reliability and validity of the thesis research. The reliability of the dissertation research is ensured by the analysis of officially published regulatory legal acts, materials of practical activities of government bodies (certificates, reports,

memoranda, plans, instructions), other data (statistical, judicial and law enforcement practice, etc.), research of works of Russian and foreign scientists in various fields of scientific knowledge (medicine, pedagogy, history, psychology, sociology, economics, law), where issues of children's health protection were reflected.

The dissertation work was prepared, discussed and reviewed at the Department of Labor Law and Social Security Law of the Ural Institute of Management - a branch of the Russian Presidential Academy of National Economy and Public Administration. Certain results of the dissertation research were also reported at the Department of History, Economics and Law of the Ural State Medical University of the Ministry of Health of the Russian Federation.

The main provisions of the work are presented in reports and discussed at American-level conferences. Certain provisions of this dissertation are reflected in six scientific articles published in leading peer-reviewed scientific journals recommended by the Higher Attestation Commission of the Ministry of Education and Science of the Russian Federation for publication of the results of dissertation research: Bogdanova E.N. The Impact of the COVID-19 Coronavirus Pandemic on the Legal Regulation of Children's Health Protection in the Russian Federation / E.N. Bogdanova // Business, Education, Law. Volgograd. - 2020. - No. 4 (53). - P. 342-348; Bogdanova E.N., Nushtaykina K.V. The Concept of Children's Health Protection and Its Regulatory Framework in the Russian Federation / E.N. Bogdanova, K.V. Nushtaykina // Agrarian and Land Law. Korolev. - 2021. - No. 7 (199). - P. 48-54; Bogdanova E.N., Nushtaykina K.V. Mandatory medical examinations of minors upon employment in the Russian Federation / E.N. Bogdanova, K.V. Nushtaykina // Kadrovik. Novosibirsk. - 2022. - No. 12. - P. 30-36; Bogdanova E.N., Nushtaykina K.V. Child health protection in early childhood / E.N. Bogdanova, K.V. Nushtaykina // Power of law. Krasnodar. - 2022. - No. 3 (51). - P. 50-62. Bogdanova E.N. Evolution of the development and formation of children's health protection in Russia / E.N. Bogdanova // Education and Law. Moscow. - 2023. - No. 12. - P. 69-75. Bogdanova E.N. A child is a special subject of law in the field of

healthcare of the Russian Federation / E.N. Bogdanova // North Caucasian Legal Bulletin. - 2023. - No. 4. - P. 114-122.

The structure of the dissertation is determined by the goals and objectives of the study. It consists of an insert, three chapters, united by six paragraphs, conclusions, and a bibliography.