

ORGANIZATIONAL AND STRUCTURE OF FORENSIC EXAMINATION IN UKRAINE

Lecturer

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Forensic medicine is the special medical discipline which studies and decides definite biological, medical and medico-criminalistic questions for requirements of law practice, legislation and health care.

Forensic Medical Examination is practical application of theoretical knowledge of forensic medicine, which is regulated by law and is used for the decision of concrete medical questions which come up during investigation. It means practical activity of an expert. It is only performed under an official written sanction of an investigator or judge.

Objects of forensic medical examination:

- 1) alive persons (the victims, the suffering, accused and other);
- 2) corpse (dead bodies);
- 3) material evidences of biological origin (blood, semen, saliva) and non-biological origin (traumatic instruments);
- 4) materials of civil, criminal cases, medical documents.

Forensic Medical Examination is conducted only on the basis of writing resolution of person, which conducts the inquiry – they are investigator, public prosecutor; or on the basis of court resolution.

Forensic medical expert the person with the rank of doctor who has received special training and holds an established post of medico-legal expert in medico-legal expert establishment.

Doctor-expert in the field of forensic medicine – the person involved by the legal investigator for the examination of corpse on the location where it has been detected; this person can be an established-post medico-legal expert or a doctor of any specialty.

Medico-legal examination is conducted due to the existing legislation, its content, order of setting and discharge is regulated by existing legislation – *by Criminal, Civil Codes, where there are proper articles.*

To the full extend work of medico-legal examination bureau is regulated by **Order №6 ratified by Ministry of health protection of Ukraine in 1995 «About development and improvement of medico-legal service of Ukraine».**

The possibility to enlist a service of a doctor as a person, which has the special knowledge and skills to participation in holding an inquest actions – examination, search or investigation experiment; to take part in the external review of dead body, examination of person, exhumation of dead body, revealing and withdrawal of material evidences of biological origin.

In Criminal Code is also regulated in the case of enlisting the service of specialists to the conduction of these inquest actions the resolution is not decided out and that is why a specialist does not take part in the role of medico-legal expert. He only helps an investigator, using his special knowledge and skills; with it all he draws no conclusions.

Duties of forensic medical expert:

- to be on call of the person making the inquiry (investigator, public prosecutor, judge);
- to perform a complete examination and to make an objective written conclusion;
- to explain the conclusion if an investigator requires it to consult an investigator;
- not to investigate an object when the expert is a relative of the victim or offender;
- to keep the investigator's secret etc.

Structure of forensic-medical service in Ukraine

Ministry of Health Care guides medico-legal service in Ukraine. Ukrainian forensic service is based on the instance principle and submitted by a great network of the special medico-legal establishments known as the Bureaus of Forensic-Medical Examination. There are 27 forensic bureaus in Ukraine in total.

Every Bureau of Forensic Medical Examination consists of the following basic departments:

- Department of examination of dead bodies;
- Department of examination of alive persons;
- Department of commission examination;
- Department of examination of material evidences (forensic medical laboratory);
- Department of duty forensic medical experts;
- Organizational and methodical department.

There are also the following sub departments in Forensic medical bureau: forensic-medical histological, forensic-medical cytological, forensic-medical immunological, forensic-medical toxicological and medico-criminal istic.

Types of medico-legal examination:

1. Individual:

- **Primary (initial) medico-legal examination** is the first examination of object. After its results the «Conclusion of expert» is formed.
- **Secondary (additional) medico-legal examination** is carried out in cases of incomplete initial examination, also with the appearance of new data of preliminary investigation.

3. Repeated medico-legal examination can be appointed in the cases when «Conclusion of expert» is doubtful, disagrees with the results of preliminary investigation or is groundless. The conduction of such examination is charged to other expert or a few experts.

4. Commission medico-legal examination takes place in difficult criminal cases with participation of several specialists in medical field (not only forensic-medical experts but doctors of different medical specialties can assist with the examination also). General conclusion is formed (in the condition of unanimity) or separate for every expert.

5. Complex medico-legal examination is carried out with the participation of experts of different branches of knowledge (criminalists, toxicologists, technicians etc.).

Research methods used in forensic medicine:

- General (materialistic)
- Morphological (autopsy, histological, cytological)
- Clinical (examination of victims)
- Immunological (investigation of biological fluids)
- Medico-criminalistic (X-ray examination, trassological, inspection of scene of death etc.)

Forensic-medical examination is a forensic autopsy which is performed by a doctor under the special resolution («decision») of an investigator or law-court. Performing the examination, the doctor, as a legal representative, is called as «expert», and has the definite expert's rights, duties and responsibility (mentioned above). The results of such an autopsy must be noted in the special document named «Expert conclusions» or «Testimony». As a rule, an investigator appoints an examination when a crime has occurred (in cases of violent death).

Forensic-medical investigation.

If a person did not die violently and a crime didn't occur, a forensic medical investigation should be appointed. The investigator gives a different official document for the autopsy which is termed as «direction». A forensic pathologist, in this case named as «specialist», does not have the expert's duties, rights and responsibilities. The document which is composed by the doctor is called a «Report of forensic medical investigation». In practice there are no differences between an examination of a corpse and its investigation, because all the methods and technique used during the autopsy are the same.

Medico-legal examination of the living persons is relatively divided into a few types:

I. Expert examination in the case of physical injury targets at establishment:

- 1) presence, features and heaviness of physical injury;
- 2) degree of loss of general and professional ability to work;
- 3) state of health, namely simulation, pathomimicry, dissimulation, artificial illnesses and self damage.

II. Expert examination in the cases of disputed sexual states targets at establishment of:

- 1) sex, puberty;
- 2) violation of hymen;
- 3) sexual reproduction function;
- 4) former pregnancy and delivers.

III. Expert examination in the cases of the sexual crimes targets at establishment of fact of:

- 1) violent sexual intercourse and character and mechanism of origin of the damages while its fulfillment;
- 2) violent sexual intercourse in the perverted form;
- 3) depraved actions regarding to minor ones;
- 4) sexual relations with persons which did not reach puberty;
- 5) intentional infection by venereal disease, Aids

IV. Expert examination of the civil cases targets at establishment of:

- 1) age, identity of person;

- 2) in the case of disputable paternity and exchange of children;
- 3) the fact of alcoholic intoxication.

Medico-legal examination of dead body takes second seat on frequency after examination of living persons. In accordance with the existent legislation of Ukraine medico-legal examination of dead body is obligatory.

The following types of dead bodies are subjected to medico-legal examination:

- 1) persons who died by violent death, regardless of place of the death;
- 2) persons, death of which is suspected to be violent regardless of place of death;
- 3) persons who died in medical establishments with not clear or not set diagnosis;
- 4) persons who died with the set diagnosis in a hospital, but when there are complaints from the side of relatives of the dead person to a medical personnel (on the basis of decision of public office of prosecutor);
- 5) unidentified dead person regardless of place of death;
- 6) partitioned troupes and their parts;
- 7) new-born, which were born at home and in cases of suspicion on violent death;
- 8) exhumed.

Material evidences are examined with different aims. To material evidences belong:

- 1) objects of biological origin (tissues, blood, sperm, saliva, urine, sweat, tear liquid, hair, nails etc.);
- 2) clothes in the presence of blood, deposits and objects which could serve as crime instruments.

Medico-legal document:

1 The results of the appointed examination of the proper object, when the criminal case is instituted, are drawn up as «Conclusion of expert», which has introductory, descriptive (research), final (result) parts. Conclusions must answer to all presented questions, to be full and well-grounded.

2 On the basis of writing direction or resolution of judicial and investigation bodies, when the criminal case is not instituted, not expert examination but medico-legal examination of the necessary object is conducted. The results of this examination are formed as a document under the name «Act of medico-legal research» or «Act of medico-legal examination». This document consists of the (1) Prologue including a summary of circumstances of case, (2) Research Part and (3) Diagnosis and Conclusions. Conclusions must answer to all presented questions, to be full and well-grounded.

3 «**Medical death certificate**»

The Medical Death Certificate is divided into two parts, the first (Part I) being the condition which led directly to the death and the second (Part II) being other conditions, not related to Part I, but which also contributed to the death.

Part (I) is further divided into three subsections a), b) and c), which are causally related to one another, in that a) is due to b) which is due to c). Though only these three letters are printed on the death certificates, the doctor can add d), e), etc., if he so wishes, though it is unusual for this to be necessary.

It should be clearly understood that it is the last letter of Part (I) which is the primary pathological cause of death, and the one which is usually used for statistical purposes in compiling national and international mortality statistics, so it is important for the doctor to make sure that this lowest entry of Part (I) is the underlying pathological disease and not just a mode of death.