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<b>AUTHOR(S)</b>	Kryzyna N. P., Sukhanova Y. A.
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## **LEGISLATIVE AND REGULATORY GOVERNANCE OF DEPARTMENTAL MEDICINE IN UKRAINE**

*Kryzyna N. P., Doctor of Sciences at the state administration, professor, professor of the department of regional management, local self-employment and management, honors of the Likar of Ukraine, National Academy of Public Administration under the President of Ukraine, Kyiv, Ukraine, ORCID ID: <https://orcid.org/0000-0003-2074-961X>*

*Sukhanova Y. A., Postgraduate Student at the Department of Regional Management, Personal Learning and Management National Academy of Public Administration under the President of Ukraine, Kyiv, Ukraine, ORCID ID: <https://orcid.org/0000-0002-9652-7223>*

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### **ABSTRACT**

The need for effective reform of the health care system and departmental medicine is due to Ukraine's integration into the community of European states and its accession to NATO's International Alliance. This is possible through the development and implementation of effective management mechanisms. The study highlights the causes, features of the formation and functioning of departmental medicine in Ukraine, identifies mechanisms and problems of public administration in this area, their causes and possible solutions using methods of abstraction, systems analysis and structural modeling. The civil and military sectors of departmental medicine are defined and the scheme of subordination of divisions is described, achievements of reform of departmental medicine in the context of reforming of the Ukrainian health care system are investigated. Based on the analysis of the contradictions of research on this problem in the articles of foreign and domestic scientists in various fields and comparative analysis of the existing legal framework identified trends in reforming military and civilian departmental medicine in Ukraine and achieving their reform in other countries. Ways to improve the mechanisms of public administration, structural models of organization and prospects for further development of this medical field are proposed.

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**Introduction.** The health care system of Ukraine in the current conditions of reform requires radical changes in management and regulation, the formation of new scientific approaches to solving the problem and making grounded decisions. In the context of transformational changes for the health care system, it is important to introduce modern effective management mechanisms and management tools of the national health care system, including state regulation of legislative and regulatory support for providing medical care to the population in departmental medical institutions. At different times of construction and functioning of the state, in parallel with the health care system, industry medical services of separate departments were created, which over time were formed as institutions of the departmental health care system, subordinated to various ministries, law enforcement agencies, government agencies.

In the conditions of the course of European integration chosen by Ukraine, various spheres of public life are being reformed. One of the important directions of reforms is the health care system. Currently, the stage of reforming primary health care has been introduced, which is closely related to the administrative-territorial reform, which is balanced in the country's development strategy [1]. As a result, there are significant changes in the structures of various departments, which has led to the need to reform their medical units.

At different times of development and functioning of the state, in parallel with the health care system, branch medical services of separate departments were created, which over time were formed as institutions of the departmental health care system, subordinated to various ministries, law enforcement agencies, government agencies.

It has been urgent for several years to solve a number of problems in the field of the national health care system and departmental medicine.

**Analysis of research problems.** Various approaches to public administration of the health care system and its reform in Ukraine were in the circle of scientific interests of many Ukrainian scientists, namely: Ya.F. Radisha, I.V. Rozhkova, I.M. Solonenko, S. Paka, M.G. Prodanchuca, V.L. Koretsky, N.P. Crizina, V.V. Utvenko, V.M. Lehan, K.M. Manshilina, V.M. Rudogo, G.O. Slabcogo, M.B. Shevchenko, A. Mokrytska, O.O. Doroshenko and other scientists.

However, the lack of research of the regulation problems of departmental medicine does not allow to make effective recommendations for its effective implementation in the health care system reforming during the transformation processes of administrative-territorial reform in Ukraine.

**The article purpose** is analyze the legislative and regulatory acts of public administration of departmental medicine in Ukraine, and to suggest ways to improve the mechanisms of public administration of departmental medicine in Ukraine.

**Objectives of the study:**

- to investigate and analyze the state of legislative and regulatory acts of Ukraine on public administration of departmental medicine;
- to study the structure and subordination of departmental medicine in Ukraine.

**Presenting main material.** One of the priorities of the state, as proclaimed by Article 49 of the Constitution of Ukraine, is the health of its citizens [2]. The health care system is associated with different sectors of the economy and different activities of citizens.

At the time of Ukraine's declaration of independence, several separate parts of the health care system had already been formed and were functioning, differing in the scheme of subordination. It should be noted that the medical structures of the departments, indirectly subordinated to the Ministry of Health of Ukraine and financed from the state budget within the allocated funding of these departments.

Thus, every year, this branch of the national economy becomes even more burdensome for the state budget and to a greater extent it concerns the financing of departmental medicine, which, logically, requires a revision of the financing system of the departmental medicine.

There are issues of health care management reform and the subordination of departmental medicine no less relevant.

It is also necessary to solve the problem of improving the regulatory and legislative framework of the health care system of Ukraine include departmental medicine.

**Research of the legal framework of health care systems in Ukraine.**

Effective functioning of any industry - is carried out through public administration. One of the mechanisms of which is administrative and legal regulation. This is the priority of effective reform of the industry.

The problem is that medical legislation and regulations legal acts may be contained in different sections of commercial, civil, criminal or other law. They come in the form of laws or regulations acts to health care departmental structures and serve as a basis for the creation of orders, instructions and directives, which in turn are the basis for approval of staffing standards, functional responsibilities, wages, pensions, etc.

Regulations legal acts for departmental medical structures serve as a basis for the formation of their own orders, instructions, directives. It should be noted that the peculiarities of the work of the industry and the different tasks of the departments lead not to just duplicate the regulations legal acts but cause distortions and partial changes of the content original documents.

**Contradictions and problems of the regulatory framework of this industry in Ukraine.**

During the analysis, we found the following inconsistencies:

- orderliness of structures and management units;
- standardization of medical care;
- harmonization of standards of various industries;
- harmonization of standards and protocols of medical care with the standards and protocols of medical care of the World Health Organization and the North Atlantic Treaty Organization, due to the processes of integration into the community of the European Union and the Euro-Atlantic Alliance.

Three main problems of the administrative and legal state administration of medicine have been clearly identified:

- the location of regulations relating to the regulation of various relations in medicine in different sections of law.
- duplication of laws and bylaws in different departments.
- distortion of the content of the original Normative Legal Acts in sectoral, departmental orders.

All these problems can be solved by streamlining the legal framework of departmental medicine.

During the years of Ukrainian independence, there has been no clear restructuring of the regulatory framework in the health care system, which significantly complicates the functioning of the health care system in general and departmental medicine in particular, as well as complicates the public administration of departmental medicine.

For instance, a number of sectoral laws are formed on the basis of one regulations legal acts, which has led to the appearance of such a phenomenon as the departmental regulatory framework. There is also a functioning of medical services according to the old standards of medical care. It is still practiced to issue orders to the department with adjustments and clarifications. Most departmental orders are not covered in the press, and in some cases are not approved by the Ministry of Justice.

#### **Analysis of research on this problem by scientists in various fields.**

Thus, the candidate of legal sciences O.V. Klimenko in his article argues that "rule-making activity in the field of health care is carried out quite actively, but annually lose about 25% of documents, which indicates the unstable nature of health care system reforms." (2013. Page 2).

This situation complicates the work, financing of projects and realisation of government programs, which are aspects of the health care system public administration of, including departmental medicine, as highlighted in the conclusions of government agencies.

According to the conclusion of the Accounting state Office on the procedure for using budget funds for 2005 in the field of departmental medicine, numerous miscalculations were identified and analyzed. One of the reasons for which was the unsatisfactory level of management of the ministries and departments to which these medical institutions belong, as well as the lack of state control in this area [3].

Item 3. of the Analytical Note of the Institute for Strategic Studies "About the priority ways for improving the domestic health care sector" identifies duplication of medical services problem in the departmental sphere (2018) [4]. These issues have been repeatedly highlighted by scientists of medicine, law and finance.

Candidate of Law, OV Klimenko identified the need to regulate departmental medicine by a system of direct orders to strengthen the direct regulatory effect of laws in the health care system with the replacement of administrative law by civil law (2013) [5].

The need to create a Medical Code has been repeatedly mentioned in the speeches of the Doctor of Law Iryna Senyuta. Doctor of Law, Professor, Ruslan Stefanchuk in 2016 in his work noted the need for codification of medical legislation [6].

#### **Achievements in the reform of departmental medicine in other countries.**

##### **Causes of the phenomenon of departmental medicine.**

Analyzing periodicals and works of researchers in the field of health care reform in the Republic of Belarus, Georgia, Russia, Lithuania, Poland and other countries, we found several regularity.

First of all, the phenomenon of departmental medicine as a parallel health care system can be traced in the countries with the previously introduced Semashko system in the post-Soviet space. Which is the result of declarative affordable quality medicine and the actual difference of social and economic status, the so-called stratification of society. This process became the basis for the establishment of several health care systems in one country with different goals, objectives, unequal access to health care and funding. Moreover, the sources of funding have always been budgetary in nature.

Secondly, when the political and economic model of the post-Soviet states changed, they were forced to start reforming the medical field. Everyone considered it burdensome to have parallel health care systems for the budget. They are united in their intention to change partially or completely the system of financing medicine. But everyone recognized the need to integrate departmental medicine into the structure of the national health care system.

##### **Experience of reform in the post-Soviet space.**

Approaches to solving this problem are different. Thus, Russia and Belarus have recognized the need not to determine the expediency, not to reorient and not to reorient the Ministry of Health directly to departmental health care facilities, but only to provide free access to services to all categories of citizens and introduce mandatory social insurance from citizens' taxes. But Georgia and Lithuania have expanded

the types of health insurance for citizens and revised the number, feasibility of treatment and prevention facilities and their subordination. They also provided access to investors in the medical service.

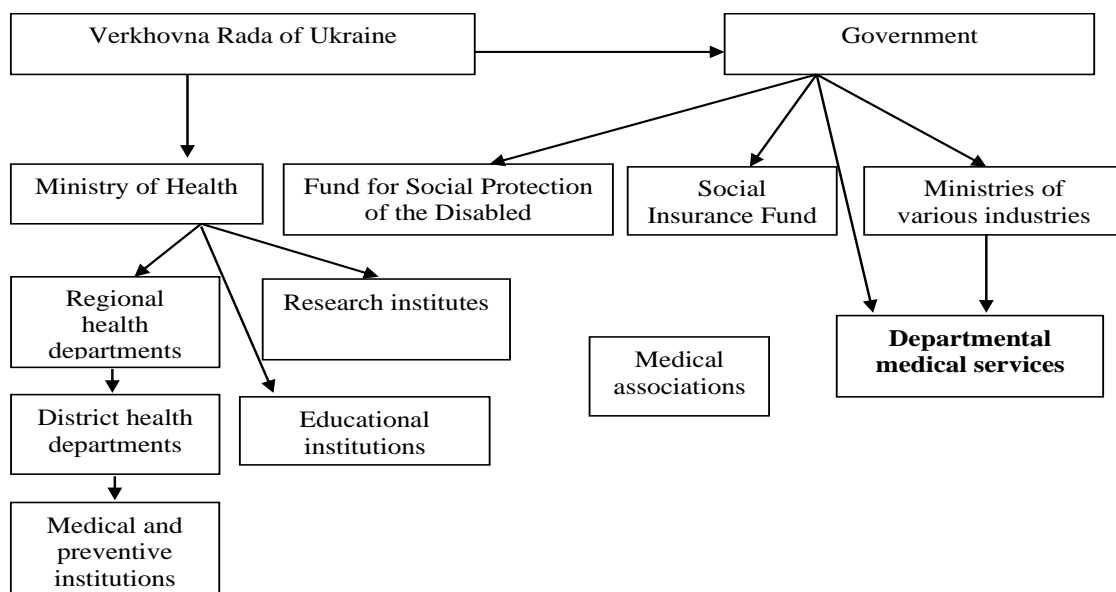
**Health care system in European countries.**

The experience of European countries shows the existence of departmental medicine, as medicine of territorial districts or lands, which is part of the health care system with a common system of subordination, regulated by the state and controlled by the funds and administrations of territorial districts.

The sector of military medicine of the whole defense sector need to describe separately. This health care system is unique to any country in the world. The medicine of law enforcement agencies of different countries is partially integrated into the national system and has relations with the Ministry of Health, financial institutions of the state and insurance funds and cooperates with civilian medicine.

**The mechanism of public administration of medicine in Ukraine.**

The mechanism of administrative and legal regulation of public administration of departmental medicine includes subjects and objects and is carried out through the introduction and providing of administrative and legal norms as regulators of public relations. Their content determines the uniqueness of the state of subjects and objects of management, the first are represented by legal authority, and the second - the need to obey them and apply their decisions - instructions, orders, instructions, etc. [7].



*Fig.1. Scheme of the structural and organizational mechanism of public administration of the health care system of Ukraine and subordination of departmental medicine*

**Place, structural and organizational mechanism of public administration of departmental medicine in Ukraine.**

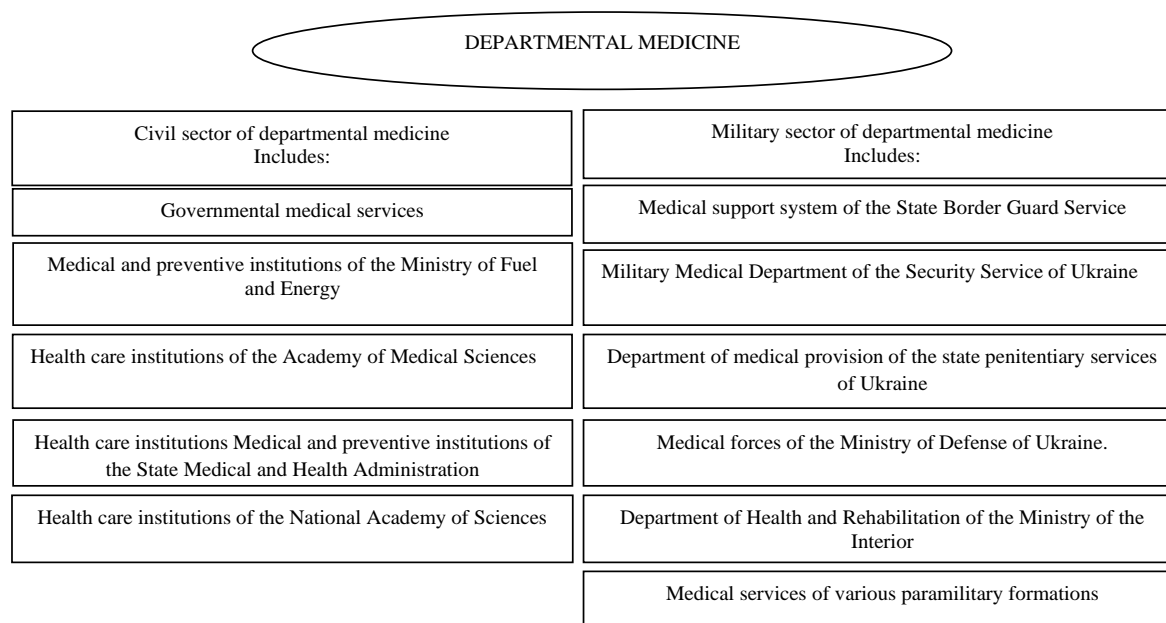
Based on this scheme, departmental medicine is a separate department of the health care system. It is subordinated only to the central authorities - the subjects of public administration (to the relevant Ministry, the Cabinet of Ministers of Ukraine, the Verkhovna Rada of Ukraine, and is object of public administration.

The influence of the Ministry of Health on the departmental health care system is possible only in the form of recommendations that are approved, duplicated or adjusted by departmental organizations in accordance with the specifics of their goals and objectives, or by concluding interagency agreements.

**Structure of departmental medicine in Ukraine.**

There are more than a dozen departmental medical services in Ukraine. These are medical and preventive institutions owned by the Ministries of Transport, Interior, Education and Science, Labor, Fuel and Energy, the Security Service of Ukraine, the State Medical and Health Department, the National Academy of Sciences, the Academy of Medical Sciences, the State Administration, the Verkhovna Rada of Ukraine.

It is possible to conditionally divide departmental health care system into medicine of military and civil departments (figure 2).



*Fig. 2. Structural model of the existing departmental health care system of Ukraine.*

The health care system of the departmental medicine of the civil sector includes medical services of the Ministry of Infrastructure, Penetration Service, Veterinary Service, Ministry of Education and Science, Ministry of Labor, Ministry of Fuel and Energy, State Medical and Health Administration, National Academy of Sciences, Academy of Medical Sciences, State case management, Department of Affairs of the Verkhovna Rada of Ukraine.

The health care systems of military departments include medical services of the Ministry of Defense of Ukraine, the State Border Guard Service of Ukraine, the Security Service of Ukraine, the Ministry of Internal Affairs of Ukraine and other paramilitary organizations of the state.

**Achievements of reforming the department of departmental medicine of Ukraine.**

Given the fact that the reorganization process has already begun, it is important to assess the achievements.

The Law of Ukraine “On the State Budget of Ukraine for 2015” defines a list of all railway medical institutions that are transferred to the balance of local governments. As a result of the reorganization, Ukrzaliznytsia has 11 main medical institutions that belong to the tertiary care unit [9].

There is also a reform of penitentiary medicine by re-subordination within the reform of the entire branch of the penitentiary service of Ukraine in accordance with the Order of the Cabinet of Ministers of Ukraine on the approval of the Concept of reforming (development) of the penitentiary system of Ukraine from September 13, 2017 № 654-r. [10.11].

The direction of the reform of the civil branch of departmental medicine by partial or complete reorganization of the Ministry of Health and financing of the National Health Service of Ukraine (NHSU) as a state insurer is clearly visible.

**Changes in the military branch of departmental medicine of Ukraine.**

Reforming military medicine is taking a parallel path. There is a reformatting of the medical service themselves. Thus, the Resolution of the Cabinet of Ministers of October 31, 2018 № 910 finally formed the Military Medical Doctrine of Ukraine. According to this document, the main department was formed - the Command of the Medical Armed Forces of Ukraine and staffed medical units by troops. This legal act clearly defined the concept of "security forces - state law enforcement and intelligence agencies, civil defense forces and bodies of general competence, which are assigned by the Constitution and laws of Ukraine to ensure the national security of Ukraine; Defense Forces - Armed Forces of Ukraine, State Service for Special Communications and Information Protection of Ukraine, State Special Transport Service, other military formations formed in accordance with the laws of Ukraine, as well as law enforcement and intelligence agencies, in terms of involving them in state defense tasks" which are members of the defense sector of our state [12].

Medical support of the Security Service of Ukraine (SSU) is determined by the law "On the Security Service of Ukraine" of March 25, 1992 (by the way, in its latest version 03.07.2020 medical support is not prescribed) [13].

Regulations on medical care for employees of the SCU are prescribed by the current order of the Central Department of the SBU № 740 dated 21.12.2017. "On approval of the Instruction on the organization of medical care in the Security Service of Ukraine" [14].

At the moment, the draft law №3196-d dated 26.10.2020 is being finalized. "On Amendments to the Law of Ukraine" On the Security Service of Ukraine "to improve the organizational and legal framework of the Security Service of Ukraine" which draws attention to the preservation of the medical service within the SBU [15].

The reform of the medical service of the border troops within the framework of the strategy of development of this branch was also approved [16]. Currently, the activity of the medical service of the border troops is regulated by the order of the Administration of the State Border Guard Service of Ukraine dated 11.12.2012 № 1065 "On approval of the Instruction on medical care in health care facilities of the State Border Guard Service of Ukraine" [17].

### **Administrative and legal mechanism of state management of departmental medicine of Ukraine.**

The administrative and legal mechanism of the state administration of departmental medicine is carried out by a system of laws and bylaws, on the basis of which sectoral orders of any health care system are developed.

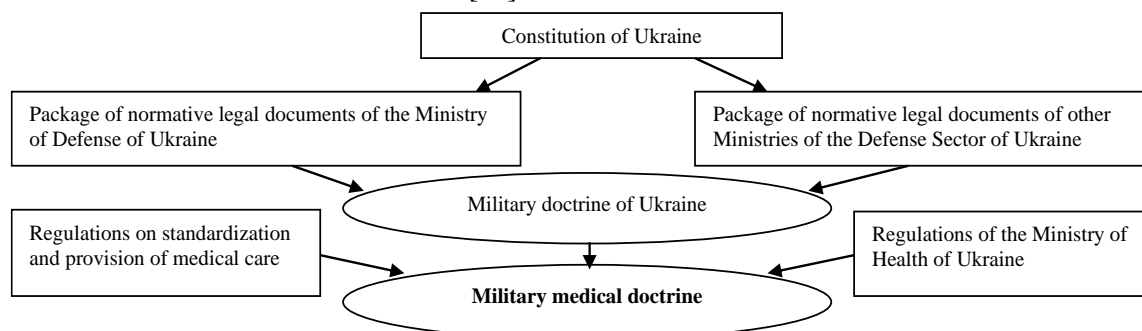
Since the medical services of civilian departments are partially or completely integrated into the general public POPs, it is more important to understand the principles of public administration of departmental medicine in the military sector.

### **Implementation of the administrative and legal mechanism of state management of the military branch of departmental medicine of Ukraine.**

Such normative legal acts as: the Constitution of Ukraine, the Defense Bulletin, the Fundamentals of Health Care Legislation formed the basis for the development and adoption of the Military Doctrine of Ukraine and became the basis for the adoption of the Military Medical Doctrine, which was approved in 2018 and became the main normative legal act of health protection of servicemen of all components of the Defense Forces. This document has become a long-awaited lever of state regulation of the medical field of military formations in peacetime and wartime and a basis for building the structure and approval of sectoral orders for the implementation of state health programs for the military.

The activity of the medical service of military formations of the Ministry of Internal Affairs (MIA) of Ukraine is regulated by the Order of the Ministry of Internal Affairs of October 16, 2014 № 1084 "On approval of the Regulations on the Department of Medical Support and Rehabilitation of the Ministry of Internal Affairs of Ukraine" [18].

According to which, the Department of Medical Support and Rehabilitation of the Ministry of Internal Affairs of Ukraine was reformed [19].



*Fig. 3. The structure of the legislative and regulatory framework for medical support of the Armed Forces of Ukraine and other military formations.*

The figure shows that the mechanism of state management of the departmental medicine military sector is carried out through the formation and implementation the basic package Of National Licensing Agency of all structures of the military sector by government agencies, taking into account some recommendations of the Health Ministry of Ukraine.

Currently, there is only a discussion and adoption of basic regulations governing the activities of all law enforcement agencies that ensure the security of the state. Thus, the Cabinet Ministers of Ukrainian is considering a project of a new National Security Strategy, which will become the basis for a new defense bulletin, and has a broader task, as well as include regulatory mechanisms for all military units of the Ministry of defence and medical services of other law military formations.

**Medical forces are a separate type of troops of the Ministry of Defense of Ukraine.**

Establishment of the Medical Forces, as a separate structure within the Ministry of Defense, is defined by the Order of the Ministry of Defense of Ukraine № 624 of 10.12.2019 [20].

As a result of government influence, by agreeing on the provisions of the legal acts of the Ministry of Defense and the regulative-legal acts of other ministries of the defense sector, a single mechanism of public administration of the defense sector as a whole was created - the Military Doctrine.

This document identifies the focus on international standards and methods of providing medical care to the military of various government agencies and paramilitaries in accordance with WHO and NATO requirements, as well as provides for the provision and provision of medical care in accordance with the legal acts of the Ministry of Health of Ukraine.

**The legal framework of the military sector of departmental medicine provides opportunities for functioning and provides prospects.**

The Military Medical Doctrine provides the basis and creates a legislative basis for the functioning of medical units of all military structures and paramilitary formations in a single medical space, contains regulatory mechanisms for interaction of medical units of all defense sectors, military and civilian medicine.

The possibility of functioning of medical services of the defense sector in a single legal field will take place under the conditions of technical re-equipment and unification of medical care standards with the standards of the Ministry of Health and international organizations of World Health Organization and North Atlantic Treaty Organization. The roadmap for the development of standards of medical care for servicemen according to international protocols in 2017 was developed and proposed by a group of researchers of the Ukrainian Military Medical Academy Badyuk MI Kovida DV Mikita OO One of the aspects of this methodology is the comparison and establishment of compliance with similar protocols of the Ministry of Health [21].

**Problems of synchronization of activity of branches of departmental medicine and the general state health care system.**

It should be noted that there are numerous gaps in the health care system of Ukraine in the standards of medical care. Partly because they are outdated and sometimes the relevant standards have not yet been approved.

According to Doctor of Law, Iryna Senyuta: "For example, today medical workers perform caesarean section without a standard, because the Order of the Ministry of Health of 27.12.2011 № 977 expired on 08.05.2014 [22].

If the Ministry of Health does not develop standards by March 1, 2021, the health care system will lose 90 acts, i.e. we will be left without standards, because on February 28, 2020 the Order of the Ministry of Health № 590 was adopted, which will come into force on March 1, 2021 and abolishes numerous standards" [23].

**Mechanisms of public administration of military medicine of North Atlantic Treaty Organization member states and the United States of America.**

As it known, we are not the first to follow this path. We have analyzed the experience of reforming military medicine in Europe and the United States, which is a field to search reform opportunities of our departmental medicine, namely its military medical services.

The administrative and legal mechanism for the operation of military medical units in North Atlantic Treaty Organization member states is set out in such regulations as the Naval Medical Corps Act of 1947. In France, it is the Defense Code, which sets out general provisions for the functioning of the medical forces. In Germany, it is the Law on the Legal Status of Soldiers, which regulates the legal status of Bundeswehr servicemen, including the medical service. The Military Disciplinary Code, which contains provisions on disciplinary liability of servicemen, including the medical service, sets requirements for the employment of soldiers, professional requirements, conditions of promotion and transfer. In the United States, the activities of the service are regulated by the Law on Land, Naval Medical Services [24].

According to the European Informational- Researcher Center, in most European countries, the military medical forces as a separate type of troops. In France, for example, the medical service of the gendarmerie (police) is also included in this structure, and in Germany in 1990 the medical forces of the National People's Army were accepted into the military medical forces. Until 2002, military medics were assigned to a military unit that had its own medical service. Only in 2000 was the Joint / Central Medical Service formed. In the United States, certain types of troops contain separate military medical services. All these units are managed by a single body - the Medical Department [24].



Thus, the uniform medical standards for military medics of all North Atlantic Treaty Organization member states STANGE were developed in coordination with the standards of medical care of the World Health Organization and the ministries of health of these states.

The structural and organizational mechanism of the state management of North Atlantic Treaty Organization medical forces has been implemented in the establishment of the Coordination Medical Center.

As it turns out, both the structural-organizational and administrative-legal mechanisms of state management of medical forces in European countries are such that it is possible to integrate the structure of the military-medical organization of any of the North Atlantic Treaty Organization member countries.

These mechanisms are designed to fulfill the tasks of the military, which are spelled out in the constituent documents of the armies of all states, one of them - to help the civilian population in global disasters. In order to intensify the multinational cooperation of military medical services, the unification of the medical forces of European countries into the Multinational Military Medical Coordination Center was initiated. According to the pan-European program "Permanent Structured Cooperation (PESCO)", in which Germany, as a leading country, is responsible for five projects. One of them is the European Medical Command project. [25].

The process began in 2017, with the signing of a joint declaration of intent by the inspectors of eight European medical services to establish a Multinational Medical Coordination Center, for which the German Medical Service has assumed responsibility.

The practical implementation began in mid-2018 with the commissioning ceremony. Already in 2020, a clear structure of the organization was written. And also training exercises were conducted. [26].

**Conclusions.** In this study, we analyze the state of legislative and regulatory support of the health care system in general and departmental medicine in particular. We have clearly defined the scheme of structural-organizational and administrative-legal mechanisms of state management of departmental medicine of the military sector, the main aspects of formation, development and reform of military medical forces of Europe, the United States and their regulatory support.

After analyzing laws and regulations, articles of domestic scientists, militarists and lawyers and foreign research in this area as well, we came to the following conclusions that:

- the state of the legal framework needs to be improved with the formation of a single set of laws in the form of the Medical Code, which contains a section of the laws of departmental medicine, including the medical forces of the defense sector.

- laws and bylaws should be laws of direct action, and therefore addressed to all objects in the original form, indicating in the text the very features of all departments to prevent the formation of departmental regulations and distort the content of the derived text of the law.

- It is necessary to develop and harmonize the standards of medical care with the standards of World Health Organization and North Atlantic Treaty Organization.

- Taking into account the experience of European countries, create a single military medical coordination center that will regulate and coordinate the work of medical services of all law enforcement agencies.

Prospects for further development. In the future, it is necessary to focus on the implementation of standards of medical care in the health care system of Ukraine, including departmental medicine. It is also necessary to continue research on departmental medicine in the world and in Ukraine, in order to improve the mechanisms of public administration of this branch of medicine.

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