

PERM TERRITORIAL COURT

JUDGMENT

3 June 2009 in case No. АДМ-7-230/09

Judge of the Perm territorial court Shvezov K.I., having considered on 3 June 2009 the application of the legal entity which was penalized under administrative law under a court judgment in the case of administrative offence, as envisioned by paragraph 3 Article 19.20 of the Code of Administrative Offences of the Russian Federation (hereinafter - CAO RF), against the State healthcare institution, established:

by the judgment of judge of the Sverdlovsk district court of the city Perm, dated 15.05.2009, an administrative fine in the amount of 10 000 rubles was imposed on the State healthcare institution (hereinafter – SHI) for the guilty commitment of administrative offence, as envisioned by paragraph 3 Article 19.20 of CAO RF.

As it was established by the court on 20.04.2009, SHI, while having exercised medical activities, seriously violated the conditions of the license No. 59-01-000671, dated 10.04.2007, issued by the Federal Service on Surveillance in Healthcare and Social Development, which was valid until 09.06.2010, namely:

- it is allowed to use medical devices (adhesive plaster for catheter, surgical scalpels, surgical catheter, gastric tube) in the treatment process which are expired;
- the temperature rate for storage of medicines (ethyl alcohol, hydrogen peroxide, sodium sulfatsil, motherwort and valerian tincture) in the room for drugs and other medicine storage is disturbed.

It submitted an application to the Perm territorial court SHI requests to void this judgment, referring to the absence on the side of the aforementioned state institution actions which violate the license requirements while exercising medical activities. The surgical catheter, adhesive plaster, ethyl alcohol are for external use, therefore, they do not harm the patient's body and the quality of provided medical works (services). Due to absence of a central heating in room for drugs and other medicine storage it is impossible to maintain required temperature rate for medicine storage. The gastric tube is not used for providing medical help to the patients and it is kept in the warehouse as an auxiliary device material.

Having reviewed the arguments of the application and having checked the case materials judge of the Perm territorial court, we find the appealed court's judgment in case of the administrative offence to be left without satisfaction.

According to paragraph 2 Article 19.20 of CAO RF, conducting activities, which are not connected with deriving profits, in violation of the terms and conditions of a special permit (license), where such permit (license) is obligatory, shall entail the imposition of an administrative fine on legal entities in the amount of ten to fifteen thousand rubles or administrative suspension of activity for up to ninety days.

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The existence of SHI's actions while exercising medical activities constitutes serious violations of the conditions of the license No. 59-01-000671, dated 10.04.2007, issued by the Federal Service on Surveillance in Healthcare and Social Development regulated by the Regulation on Licensing of Medical Practice approved by the Degree of the Government of RF, dated 22.01.2007. No. 30 is confirmed by evidence collected in the case, to which the court of first instance made a reference in the judgment in case of an administrative offence giving them the correct assessment in accordance with requirements of Article 26.11 CAO RF.

Relevant conclusions of the judge of the district court are in detail confirmed, based on correct application of substantive and procedural norms of law, on the definition of the relevant circumstances for the case, which second presentation is unnecessary.

In this case SHI committed an administrative offence envisioned by paragraph 3 Article 19.20 CAO of RF, as the unlawful actions of state healthcare institution have guilt which is characterized by the failure to take all measures in its power to prevent the noted deficiencies while exercising medical activities.

The administrative penalty for legal entity is ordered in accordance with requirements of Article 4.1. of CAO RF.

Arguments stated in the application do not exclude commitment of the considered offence, therefore, they cannot be taken into consideration by the court.

Guided by point 1 paragraph 1 Article 30.9 of the Code of the Russian Federation on administrative offences, judge of the territorial court

held:

judgment of the judge of the Sverdlovsk district court of the city Perm dated 15.05.2009 is to be left unsatisfied, the application of the State healthcare institution – without satisfaction.

Judge Shvezov K.I.