

By the Judgement of 13 January 2020 No.1-II the Constitutional Court of the Russian Federation appraised constitutionality of Article 13, Sections 2 and 3; Article 19, Section 5, para. 5; and Article 19, Section 1 of the Federal Law “On the Foundations of Healthcare in the Russian Federation”

The challenged provisions were subject to consideration to the extent that, on their basis, the issue of access to information on the health status of the deceased person, including his medical records, indicated in the informed voluntary consent of the patient to medical intervention as a person who in the interests of the patient, may receive information on the state of his health, as well as the spouse of the deceased, his close relatives, and in their absence, other relatives - may be transmitted.

The Constitutional Court recognised the challenged provisions inconsistent with the Constitution of the Russian Federation to the extent that in the current legal regulation the uncertainty of their normative content does not allow determining the conditions and procedure for access to medical records of the deceased patient to his spouse, close relatives (family members) and (or) other persons indicated in his informed voluntary consent to medical intervention.

Until appropriate legislative amendments are made, medical organisations should, upon request of the above-mentioned persons, provide them with medical documents of the deceased patient for review, with the possibility of making copies (photocopies) on their own, and if the relevant medical documents exist in electronic form – to submit the corresponding electronic documents. Moreover, the refusal in such an access can be recognised admissible only if, during his lifetime, the patient has expressed a ban on disclosing information about him which constitutes medical secret.