

Summary of the hospital patients' charter to be the object of a poster

The hospital patients' charter attached to the ministerial circular no. 95-22 dated 6 May 1995 regarding the rights of hospitalized patients

General Principles

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| Public hospital services are available to everyone and particularly to the most disadvantaged people. They are adapted for disabled people. | 1 6 | The hospitalized patient can, at any moment, leave the establishment, except for exceptions foreseen by the law, after having been informed of the possible risks. |
| Healthcare establishments guarantee the quality of treatment, care and reception. They are attentive to relieving pain. | 2 7 | The hospitalized person is treated with consideration. His or her beliefs are respected. His or her intimacy is preserved as is his or her tranquility. |
| The information given to the patient must be accessible and loyal. The patient participates in the choice of his or her treatments. | 3 8 | The respect of privacy is guaranteed for all hospital patients as is confidentiality of personal, medical and social information concerning the patient. |
| A medical act cannot be practiced without the free and informed consent of the patient. | 4 9 | The patient has access to the information contained in his or her record, notably medical information, through the intermediary of a practitioner who the patient is free to choose. |
| Specific consent is foreseen notably for patients participating in biomedical research, for donations and use of elements and products of the human body and for screening. | 5 10 | The hospitalized patient can express his or her observations concerning the care and reception received and has the right to demand compensation for prejudice he or she considers having been subject to. |

Charte du patient hospitalisé

Annexée à la circulaire ministérielle n° 95-22
du 6 mai 1995

Hospital patient charter

Langue anglaise

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Everyone admitted to a healthcare establishment or followed in a home-care hospitalization program – sick or wounded people and pregnant women as well as admitted senior citizens – is a person with rights and responsibilities. As such, he or she cannot be considered uniquely – or even principally – on the basis of his or her pathology, disability or age.

In addition to the health-related regulations that healthcare establishments adhere to, they have the responsibility of ensuring the respect of universally recognized human and citizen rights, as well as the respect of the general principles outlined by French law : nondiscrimination, respect of the individual and his or her freedom, private life, and autonomy. The establishments must, among other things, take all necessary measures in order to apply the principles stemming from the law and those regarding the respect of the human body. In this regard, it is necessary to ensure the primacy of the person and to forbid anything that would impinge upon that person's dignity. Similarly, these establishments must ensure the full application of the rules determined by medical and paramedical ethics. Finally, they must ensure that the patients have the possibility to assert their rights.

The goal of this charter is to concretely communicate the basic rights of patients who are hospitalized in healthcare establishments, as they are described by the laws, decrees, and circulars, a list of which is attached to the above-mentioned circular.

The hospital patient charter is to be interpreted in its application as a set of obligations required for the smooth operation of the institution and to which both personnel and patients are subject. The patient must be able to know the in-house rules which specify these obligations. The measures applying to the patient and, in particular, the obligations that apply to the establishment, to the staff and to patients, should be detailed in a welcome booklet if possible.

This Charter is to be given to each patient when he or she enters the establishment, along with a questionnaire to be filled out upon checking out, both attached to the welcome booklet.

1 - Access to public hospital services

The healthcare establishments that ensure public hospital services receive all people, regardless of their origins, sex, family situation, age, state of health, disability, or political, union, philosophical or religious opinions. They receive them day and night, and in cases of emergency. If for some reason this is impossible, they must do everything possible to ensure the patient's admission to another establishment.

The establishment must be made accessible to individuals suffering from physical, mental or sensorial disabilities. They must take the measures needed to take into consideration any comprehension or communications difficulties that their patients or the patients' representatives may have.

With regards to language differences, the establishments will have recourse to interpreters or to associations specialized in the accompaniment of immigrant populations.

Access to public hospital services is guaranteed to all, and particularly to the most disadvantaged even if they cannot justify health insurance or medical aid coverage. In emergency situations, when their state justifies it, they will be admitted to the hospital.

When hospitalization is not justified, it is important that these people be examined and that the appropriate care be prescribed. The hospital is a privileged reception space where the most disadvantaged people must be able to assert their rights. With this goal in mind, care and reception must be accompanied by assistance in administrative and social procedures, as described by the circulars. ¹

The social worker, or by default, the head nurse on duty will be available to patients and their families in order to assist them in resolving the personal, family, administrative or material difficulties linked to the hospitalization.

In the spirit of the Hospital Volunteer Associations Charter dated 29 May 1991, the director can conclude agreements with patients' associations specifying the conditions for intervention in the establishment. Their mission is to provide assistance and support to any person who wants it or to respond to specific requests. The list of associations concerned should preferably be found in the welcome booklet. By default, any patient should be able to request it.

1 Notably circular DH/DAS no. 93-33 dated 17 September 1993 and circular no. 95-08 dated 21 March 1995 regarding access to care for the disadvantaged.

2 - Treatment

Health-care establishments ensure examinations for diagnosis, follow-up and treatment of the ill, of the wounded and of pregnant women taking into consideration the patient's psychological dimension. They provide preventive, curative and palliative treatment required by the patient's state and make sure there is a continuity of treatment following their admission or their stay in the establishment.

During treatment or care, all those who intervene must take into consideration the dimension of pain and the physical and psychological dimensions of the person, and relieving suffering must be a constant preoccupation. All establishments must ensure they have the means necessary for handling patients' pain and must integrate these means in their establishing projects, in application of law no. 95-116 dated 4 February 1995. Scientific and technical progress allows one to provide, in almost all cases, a response to pain, whether that pain be chronic or not, whether it be experienced by children, adults or people at the end of their lives.

When people reach the end of their life, they receive accompaniment care that responds to their specific needs. If they wish, they

can be accompanied by those close to them and the people of their choice, and, of course, by the establishment staff. The General Health Department circular dated 26 August 1986 constitutes a reference concerning the organization of accompaniment care.

3 - Informing patients and those close to them

The establishments must ensure that medical and social information be provided to patients and that the means implemented be adapted to possible difficulties in communication and comprehension of patients, in order to guarantee that everyone has equal access to information.

Medical secret is not applicable to the patient.

The doctor must provide simple, accessible, intelligible and loyal information to all patients. He or she must respond with tact and in an adapted manner to all questions asked.

In order for the patient to participate fully, notably in the therapeutic choices and their daily implementation, the doctors and paramedical staff will participate in providing information to the patient, each in their area of competence.

As suggested by article 4 of the hospitalized children Charter², minors will be informed of the acts and examinations required by their state of health, based on their age and their ability to understand, as is possible, and independently of the indispensable information provided to their legal representatives.

Protected adults benefit from appropriate information.

Family and those close to the patient must be allowed sufficient time to be able to have a dialogue with the doctors in charge.

For legitimate reasons, which must remain exceptional, a patient can be left without knowledge of a prognosis or of a serious diagnosis. A fatal prognosis must be revealed with circumspection, but unless the patient has previously forbidden such a revelation, notably in interviews with the doctor, or designated the third party to whom this revelation must be made, those close to the patient must generally be informed. Similarly, the will of a patient not to be informed of his or her state of health must be respected.

2 Written in Leiden (the Netherlands) in 1988 during the first European Conference of "Children in the hospital" associations.

4 - The general principle of prior consent

The inviolability of the corporal integrity of each individual and the unavailability of the human body are fundamental principles which cannot be departed from except for therapeutic reasons and with the patient's prior consent. For this reason, no medical act can be practiced without consent of the patient, unless his or her state renders this act necessary when he or she is in no state to consent to it.

This consent must be made from free choice and must be renewed for any ulterior medical act. It must be an informed decision, which means that the patient must have information concerning the acts he/she will undergo, the normally foreseeable risks and the consequences the act could incur.

Any patient informed by a practitioner of the risks run can refuse a diagnosis or a treatment and can interrupt it at any moment at his or her own risk. He or she can also consider that the information provided is not sufficient, can choose to wait in order to consider the choice, or can obtain another professional opinion.

A minor cannot make serious decisions concerning himself or herself; it is up to the holders of parental authority to express their consent. Nevertheless, when the

health or integrity of the body of a minor risk to be compromised by the refusal of the legal representative or the impossibility of obtaining consent by the latter, the doctor in charge can call on the Public Attorney in order to obtain educational assistance measures allowing the needed care to be given. The hospitalized children Charter suggests that if the opinion of a minor can be obtained, the doctor must take it into consideration as much as is possible.

The doctor must take into consideration the opinion of an incapable adult. Nevertheless, attention is drawn to the fact that in certain cases, specified by a judge, it is also necessary to obtain the consent of the legal representatives of that adult. The doctor in charge has the ability to call upon the Public Attorney if the health or bodily integrity of the protected adult risks being compromised by the refusal of the legal representative or by the impossibility of obtaining consent by the latter.

5 - Specific consent for certain acts

In addition to the general principle of prior consent, specific measures apply to certain acts, notably those that follow.

Prior to carrying out biomedical research on a person, free, informed and express consent must

be obtained in strict respect of law no. 88-1138 dated 20 December 1988 and modified. Specific measures are applicable respectively to pregnant or nursing women, to people deprived of their liberty by a legal or administrative decision, to minors, to adults under guardianship, to people interned in a healthcare or social establishment, and to patients in emergency situations.

The processing of nominative data in view of research must take place under the conditions foreseen by law no. 94-548 dated 1 July 1994.

Consent concerning donations and use of human body parts and products, from medical assistance to procreation and prenatal diagnosis, must be obtained under the conditions foreseen by law no. 94-654 dated 29 July 1994. Removing elements of the human body or collecting its products cannot be practiced without prior consent of the donor. The consent can be revoked at any time.

Consent of a living person upon which removal of an organ could be practiced in view of donations is to be formalized before the High Court or obtained, in emergency cases, by the Public Attorney under the conditions defined by the law. This consent is revocable at any moment and without formal conditions.

No removal of an organ, of tissues, cells or any collection of human body products in view of donations can take place on a living minor or a living adult under legal protection. Nevertheless, a donation of bone marrow can be made on a minor to benefit his or her brother or sister with the guarantees and under the conditions defined by the law.

Removal of an organ for therapeutic purposes from a deceased person can only occur if the person did not make his or her refusal of such a removal known during his or her lifetime under the conditions foreseen by the law. If the doctor does not know the will of the deceased person, he or she must seek testimony from members of the family.

If the deceased person was a minor or an adult under a measure of legal protection, removal in view of donation cannot take place except under the condition that all of the holders of parental authority or all legal representatives expressly consent to it in writing.

No removal for scientific reasons other than those concerning the research of the causes of death can be carried out without the consent of the deceased, expressed directly or through testimony of his / her family. Nevertheless, for a deceased minor,

this consent is to be expressed by the holders of parental authority.

The family and those close to the deceased must be informed of removal in view of seeking the causes of death.

Prior consent of persons upon which are carried out studies of their genetic characteristics is to be obtained in writing under the conditions set by law no. 4-653 dated 29 July 1994 regarding respect of the human body.

Screening, notably for human immunodeficiency virus (HIV) is only compulsory in certain cases (blood, organ or cell - notably sperm and milk - donations). In all other cases, all screening for which prior consent is not obtained is forbidden. No screening can be done without the patient being informed. Such screening can be punishable as a non-respect of privacy. Voluntary screening can be proposed to the patient, in the respect of the rules reiterated in the Public Health Department circular dated 28 October 1987, including that of freely given consent, after delivery of personalized information.

6 - Individual liberty

A person can, at any moment, leave the establishment after having been informed of the possible risks for his / her health and after having signed a release form. Without this release, an internal document must be written.

The patient cannot be held in an establishment with the exception of cases of persons requiring detention for reasons of mental troubles, a hospitalization upon the request of a third party or office³ and under the reserve of measures applicable to minors, and under certain conditions for adults under a measure of legal protection.

Any person hospitalized with his / her own consent for mental troubles has the same rights linked to the exercise of individual liberty as those recognized for other patients. The law dated 27 June 1990 foresees restrictions of individual liberties for people hospitalized without their consent for mental troubles, limited to those necessitated by their state of health and implementation of their treatment. These people must be informed of their admission and, upon their request, of their legal situation and their rights.

³ Law no. 90-527 dated 27 June 1990 regarding the rights of persons hospitalized for mental troubles.

Persons under police custody and hospitalized prisoners⁴ have the same rights as other hospitalized patients, within the limits foreseen by the legislation concerning, in particular, communications with the exterior and the possibility of mobility within the establishment. When a prisoner or a person in police custody requests to leave the healthcare establishment, measures must be taken for that person to be handed over to the authorities in charge.

7 - Respect of the person and his / her intimacy

Respect of a person's intimacy must be preserved during care, cleaning, consultations and medical visits, pre- and post-operative treatment, radiography, while transported on a stretcher and at all times during their stay in the hospital. The hospitalized person is to be treated with consideration and must not suffer from words or attitude of the personnel.

Patients hospitalized in establishments that are also teaching establishments must give their prior consent before being the object of teaching study during the presentation of these cases to medical students. One cannot override

⁴ Whose coverage is ensured by the public hospital in application of article 2 of law no. 94-43 dated 18 January 1994.

a patient's refusal. The same prescriptions must be respected in that which concerns initial and continuing training of medical and paramedical personnel when it occurs with the patients.

The healthcare establishment must respect the beliefs and convictions of the people they receive. A patient must be able, whenever possible, to follow the precepts of his or her religion (contemplation, presence of a minister of his or her religion, liberty of action and freedom of expression, etc.). These rights are to be exercised within the limits of respect for the freedom of others. Proselytism is forbidden, be it done by a person received in the establishment, by a volunteer worker, a visitor or a member of the staff.

The establishments must take measures ensuring the tranquility of the patient and reducing as much as possible any nuisances linked notably to noise and lighting, particularly during the patients' rest and sleeping hours.

The establishments must organize the operation of walk-in consultations and the accomplishment of administrative formalities linked to hospitalization in such a way that displacements and waiting be reduced as much as possible.

8 - The right to privacy and confidentiality

All hospitalized patients have the right to privacy as foreseen by article 9 of the civil code and the European convention for human rights.

The hospital personnel is held to professional secret as defined by articles 226-13 and 226-14 of the Criminal Code and to professional discretion as defined by article 26 of law no. 83-634 dated 13 July 1983 and modified regarding the rights and obligations of civil servants.

A hospitalized person can request that his or her presence not be disclosed. A public healthcare establishment guarantees the confidentiality of the information it holds concerning hospitalized persons (medical, civil, administrative and financial information). No person not authorized by the patient himself can have access to this information, except in the case of legal procedures executed under the foreseen forms. Nevertheless, these legal procedures must not be of such a nature as to lead to the lifting of anonymity guaranteed by the law⁵.

⁵ Drug addiction cases in application of article L 355-21 of the public health code and safeguarding of the secret of pregnancy and birth in application of article 341-1 of the civil code and article 47 of the family and social welfare code.

The hospitalized person can receive visits in his or her room of people of his or her own choice in respecting the intimacy and the rest of the other patients. The patient has the right to confidentiality of any correspondence, telephone communications, interviews with visitors or with healthcare professionals.

Access to journalists, photographers, canvassers and sales representatives cannot take place without express agreement from the patients and under the reserve of a written authorization from the director of the establishment. This access must be used with moderation in order to avoid abusing the rights of possibly vulnerable persons.

The hospitalized person can, in the limit of respect of other patients and of his or her room, bring personal effects. The regime of responsibility, in case of loss, theft or deterioration of these objects, as well as of those objects authorized for deposit, is defined by law no. 92-614 dated 6 July 1992 and its applying texts.

9 - Access to information in administrative and medical files

Measures are to be taken in every establishment to ensure the application of the principles and modalities of the law dated 31 July

1991 and the application decree dated 30 March 1992 regarding the communication of medical information contained in the medical file through the intermediary of a practitioner to people who request it. This practitioner must communicate, in a dialogue framework, the medical information to the patient or to his or her legal representative in the respect of ethical rules and to those who have a right to it in the respect of medical secret. The doctor who sent a patient to an establishment has access to the patient's medical file, with the consent of the latter. He or she should be kept informed of the patient's state of health by a hospital practitioner in as short a time period as possible.

In healthcare establishments, the conditions for communication between doctors, healthcare establishments and patients, of the medical follow-up file and the medical record, apply in accordance with the law dated 18 January 1994 and decree no. 95-234 dated 1 March 1995.

All people received have access, upon their request, to the information concerning them contained in the establishment's computer files in application of law no. 78-17 dated 6 January 1978.

The user has a right to access administrative documents under the conditions foreseen by the law dated 17 July 1978 and modified.

He or she must file a request with the hospital director. In the case of an express or tacit refusal of the latter, the former can solicit the opinion of the CADA (Commission for the Access to Administrative Documents - 64 Rue de Varenne, 75 700 Paris).

10 - Recourse

Independent of the possibility of responding to the exit questionnaire provided with the welcome booklet, a hospitalized person can inform the director of the establishment personally of his or her observations. Each establishment is invited to organize a follow-up on the quality of care provided and of the reception notably through the examination and processing of the questionnaires, of the claims made to the director or his/her representative and of any ulterior complaints.

If the hospitalized person or his or her entitled parties consider they have been subject to a prejudice during their stay in the establishment, they can file a first complaint with the hospital director in order to obtain compensation.

If this complaint does not produce the desired results, either because the request is rejected or because the hospital does not respond for more than four months, the author of the complaint has the

right to file for a legal settlement. The director must set up mediation between the establishment and the patients in order to examine in the shortest possible time period the demands for compensation for prejudice and to provide the authors of these complaints with the necessary explanations.