



**EU/WHO SUPPORT FOR THE REFORM OF THE HEALTH
SYSTEM IN BOSNIA-HERZEGOVINA (BH)**

ACCREDITATION AND QUALITY ASSURANCE

STATEMENT

WORKING GROUPS – PATIENTS' RIGHTS

March, 2006



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STATEMENT about the need for the adoption of Charter of Patients' Rights in BH

The members of the working group for creating the draft of the Charter of Patients' Rights in Bosnia-Herzegovina, within the framework of the EU/WHO project "Support for the reform of the health system in BH", unanimously agree that: the rights of all patients/beneficiaries regardless of their age, disability, race, religion, gender and sexual orientation have to be acknowledged, respected and accepted by all key actors in the system of health care who are involved in their care or treatment, and health promotion, as well as the self-care of patients.

As citizens of BH, we do not accept that the rights can be affirmed in theory and then denied in practice because of financial limitations. Financial limitations, regardless of how justified they are, can not legitimize the denial and can not allow to compromise the patients' rights. We do not accept these rights to be only determined by law without this law later to be respected.

After a review of the current legislation and the European Charter of Patients' Right, basic document, Rome, November 2002, the members of the working group for creation of the draft of the Statement on patients' rights in Bosnia-Herzegovina, within the EU/WHO project "Support for the reform of the health system in BH", are declaring:

STATEMENT About the need for the adoption of the CHARTER OF PATIENTS' RIGHT IN BOSNIA-HERZEGOVINA

I GENERAL PROVISIONS

Article 1.

Subject

(1) This Charter of Patients' Rights in Bosnia-Herzegovina (further in the text: Charter) defines the following patients' rights:

- a) right to preventive measures,
- b) right to access,
- c) right to information,
- d) right to consent,
- e) right to free choice,
- f) right to privacy and confidentiality,

- g) right to respect patients' time,
- h) right to observance of quality standards,
- i) right to safety,
- j) right to innovation,
- k) right to avoid unnecessary suffering and pain,
- l) right to personalized treatment,
- m) right to complain,
- n) right to compensation.

(1) By defining those rights, Charter's goal is to guarantee a high level of health protection and to provide a high quality of services, provided by various state institutions.

In relation to fourteen patients' rights, the following is meant:

- The definition of the right means that both the citizens and health care providers have to take over their responsibilities. All rights are linked to obligations and responsibilities of all participants in the process of health care.
- The Charter refers to all individuals, recognizing the fact that differences in age, gender, religion, socio-economic status, literacy etc. can influence individual needs for health protection.
- The Charter does not have the intention to put itself on any side in regard to ethnicity.
- The Charter defines the rights in the way they are currently valid in European health care systems. That is why they will be subjected to reviews and modifications that will allow their evolution and the development of science and technology.
- These fourteen rights represent the form of basic rights and, as such, they have to be recognized and respected regardless of financial, economic or political limitations, taking into consideration the appropriateness of care as a criterion.
- The respect of these rights implies the fulfillment of technical and organizational needs, as well as patterns of behavior and professionalism. That is why they require a global reform of the way state health systems work.
- Each article of the Charter refers to some right and defines and illustrates it without claiming that all possible situations have been foreseen.

II PATIENTS' RIGHTS

Article 2.

Right to Preventive Measures

- (1) Every individual has the right to a proper service in order to prevent illness.
- (2) The health services have the duty to pursue this end by raising people's awareness, guaranteeing health procedures at regular intervals free of charge for various groups of the population at risk, and making the results of scientific research and technological innovation available to all.

Article 3.

Right to Access

- (1) Every individual has the right of access to the health services that his or her health needs require.
The health services must guarantee equal access to everyone, without discriminating on the basis of financial resources, place of residence, kind of illness or time of access to services.
- (2) An individual requiring treatment, but unable to sustain the costs, has the right to be served free of charge.
- (3) Each individual has the right to adequate services, independently of whether he or she has been admitted to a small or large hospital or clinic.
- (4) Each individual, even without a required residence permit, has the right to urgent or essential outpatient and inpatient care.
- (5) An individual suffering from a rare disease has the same right to the necessary treatments and medication as someone with a more common disease.

Article 4.

Right to Information

- (1) Every individual has the right to access to all kind of information regarding their state of health, the health services and how to use them, and all that scientific research and technological innovation makes available.
- (2) Health care services, providers and professionals have to provide patient-tailored information, particularly taking into account the religious, ethnic or linguistic specificities of the patient.

(3) The health services have the duty to make all information easily accessible, removing bureaucratic obstacles, educating health care providers, preparing and distributing informational materials.

(4) A patient has the right of direct access to his or her clinical file and medical records, to photocopy them, to ask questions about their contents and to obtain the correction of any errors they might contain.

(5) A hospital patient has the right to information which is continuous and thorough; this might be guaranteed by a “tutor”.

(6) Every individual has the right of direct access to information on scientific research, pharmaceutical care and technological innovations. This information can come from either public or private sources, provided that it meets the criteria of accuracy, reliability and transparency .

Article 5.

Right to Consent

(1) Every individual has the right of access to all information that might enable him or her to actively participate in the decisions regarding his or her health; this information is a prerequisite for any procedure and treatment, including the participation in scientific research.

(2) Health care providers and professionals must give the patient all information relative to a treatment or an operation to be undergone, including the associated risks and discomforts, side-effects and alternatives. This information must be given with enough advance time (at least 24 hours notice) to enable the patient to actively participate in the therapeutic choices regarding his or her state of health.

(3) Health care providers and professionals must use a language known to the patient and communicate in a way that is comprehensible to persons without a technical background.

(4) In all circumstances which provide for a legal representative to give the informed consent, the patient, whether a minor or an adult unable to understand or to will, must still be as involved as possible in the decisions regarding him or her.

(5) The informed consent of a patient must be procured on this basis.

(6) A patient has the right to refuse a treatment or a medical intervention and to change his or her mind during the treatment, refusing its continuation. A patient has the right to refuse information about his or her health status.

Article 6.
Right to Free Choice

- (1) Each individual has the right to freely choose from among different treatment procedures and providers on the basis of adequate information.
- (2) The patient has the right to decide which diagnostic exams and therapies to undergo, and which primary care doctor, specialist or hospital to use.
- (3) The health services have the duty to guarantee this right, providing patients with information on the various centers and doctors able to provide a certain treatment, and on the results of their activity. They must remove any kind of obstacle limiting exercise of this right.
- (4) A patient who does not have trust in his or her doctor has the right to designate another one.

Article 7.
Right to Privacy and Confidentiality

- (1) Every individual has the right to the confidentiality of personal information, including information regarding his or her state of health and potential diagnostic or therapeutic procedures, as well as the protection of his or her privacy during the performance of diagnostic exams, specialist visits, and medical/surgical treatments in general.
- (2) All the data and information relative to an individual's state of health, and to the medical/surgical treatments to which he or she is subjected, must be considered private, and as such, adequately protected.
- (3) Personal privacy must be respected, even in the course of medical/surgical treatments (diagnostic exams, specialist visits, medications, etc.), which must take place in an appropriate environment and in the presence of only those who absolutely need to be there (unless the patient has explicitly given consent or made a request).

Article 8.
Right to Respect Patients' Time

- (1) Each individual has the right to receive necessary treatment within a swift and predetermined period of time. This right applies at each phase of the treatment.
- (2) The health services have the duty to fix waiting times within which certain services must be provided, on the basis of specific standards and depending on the degree of urgency of the case.

- (3) The health services must guarantee each individual access to services, ensuring immediate sign-up in the case of waiting lists.
- (4) Every individual that so requests has the right to consult the waiting lists, within the bounds of respect for privacy norms.
- (5) Whenever the health services are unable to provide services within the predetermined maximum times, the possibility to seek alternative services of comparable quality must be guaranteed, and any costs borne by the patient must be reimbursed within a reasonable time.
- (6) Doctors must devote adequate time to their patients, including the time dedicated to providing information.

Article 9

Right to the Observance of Quality Standards

- (1) Each individual has the right of access to high quality health services on the basis of the specification and observance of precise standards.
- (2) The right to quality health services requires that health care institutions and professionals provide satisfactory levels of technical performance, comfort and human relations. This implies the specification, and the observance, of precise quality standards, fixed by means of a public and consultative procedure and periodically reviewed and assessed.

Article 10.

Right to Safety

- (1) Each individual has the right to be free from harm caused by the poor functioning of health services, medical malpractice and errors, and the right of access to health services and treatments that meet high safety standards.
- (2) To guarantee this right, hospitals and health services must continuously monitor risk factors and ensure that electronic medical devices are properly maintained and operators are properly trained.
- (3) All health professionals must be fully responsible for the safety of all phases and elements of a medical treatment.
- (4) Medical doctors must be able to prevent the risk of errors by monitoring precedents and receiving continuous training.
- (5) Health care staff that report existing risks to their superiors and/or peers must be protected from possible adverse consequences.

Article 11.
Right to Innovation

- (1) Each individual has the right of access to innovative procedures, including diagnostic procedures, according to international standards and independently of economic or financial considerations.
- (2) The health services have the duty to promote and sustain research in the biomedical field, paying particular attention to rare diseases.
- (3) Research results must be adequately disseminated.

Article 12.
Right to Avoid Unnecessary Suffering and Pain

- (1) Each individual has the right to avoid as much suffering and pain as possible, in each phase of his or her illness.
- (2) The health services must commit themselves to taking all measures useful to this end, like providing palliative treatments and simplifying patients' access to them.

Article 13.
Right to Personalized Treatment

- (1) Each individual has the right to diagnostic or therapeutic programs tailored as much as possible to his or her personal needs.
- (2) The health services must guarantee, to this end, flexible programs, oriented as much as possible to the individual, making sure that the criteria of economic sustainability does not prevail over the right to health care.

Article 14.
Right to Complain

- (1) Each individual has the right to complain whenever he or she has suffered harm and the right to receive a response or other feedback.
- (2) The health services ought to guarantee the exercise of this right, providing (with the help of third parties) patients with information about their rights, enabling them to recognize violations and to formalize their complaint.
- (3) A complaint must be followed up by an exhaustive written response by the health service authorities within a fixed period of time.

(4) The complaints must be made through standard procedures and facilitated by independent bodies and/or citizens' organizations and cannot prejudice the patients' right to take legal action or pursue alternative dispute resolution.

Article 15.

Right to Compensation

(1) Each individual has the right to receive sufficient compensation within a reasonably short time whenever he or she has suffered physical or moral and psychological harm caused by a health service treatment.

(2) The health services must guarantee compensation, whatever the gravity of the harm and its cause (from an excessive wait to a case of malpractice), even when the ultimate responsibility cannot be absolutely determined.

III GUIDELINES FOR IMPLEMENTING THE CHARTER

Article 16.

Legislation

Ministries/health departments are expected to reaffirm the patients' rights, regulated already within the Law on health care in the Federation of BH, articles 26-34, in the RS by articles 9-13, District Brcko by articles 25-33, including innovations in chapters that refer to punishments for the violators of the provisions of the law, which refer to patients rights. Ministries/health departments are expected to adopt the Charter of Patients' Rights in BH in accordance to the reaffirmed rights of patients and the fourteen patients' rights from the European Charter.

Article 17.

Information and Education

It is expected that the Charter will be promoted in hospitals and other health institutions and organizations as a tool for informing and educating the citizens and health workers. It is expected that the Charter will be promoted in schools, universities and all other places. Special attention should be given to the education of patients, health professionals and other participants in health protection. It is expected that all media in BH play a special role in the process of informing the public about patients' rights in BH.

Article 18.

Support

It is expected that the Charter will be supported and accepted by all participants in the health protection and by citizens' organizations, and that it will define its obligations regarding the respect of patients' rights.

Article 19.
Monitoring

It is expected that civil organizations, informative media and independent authorities will use the Charter as a tool for monitoring the situation in the field of patients' rights. It is expected that the special role in the monitoring of the respect of patients' rights will be played by specialized organizations of civil society (Helsinki Committee, Transparency International and other), within which a special sections for the protection of patients' rights in BH should be created. They will be expected to publish periodical reports on the situation in the field of patients' rights in BH.

Article 20.
Dialogue

It is expected that Charter's content will open a dialogue between all actors in the society, in order to create the policy, program and plans for the protection of patients' rights. Such dialogue should be conducted between government institutions, public and private companies involved in health protection, as well as between professional associations and labor unions.

Article 21.
Budget

It is expected that ministries/health departments and health insurance funds, as well as other relevant organizations, will allocate a percentage of their budgets for the promotion of Charter, implementation of programs and plans that deal with patients' rights and for the solution of specific situations (for example, waiting lists) or for the protection of those who are in critical situations (such as mentally ill).

Article 22.
Protection

It is expected that agencies for quality and accreditation in the BH health system, on the base of accreditation standards and through the implementation of accreditation program, and within the frame of standards that deal with patients' rights, and based on the balanced approach and taking into account the work of all actors within the health protection system, contribute to a more comprehensive respect of patients' rights in BH, taking into account patients' complaints.

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