

# **The Act of 2 July 1999 No. 63 relating to Patients' Rights (the Patients' Rights Act)**

## **Chapter 1. General provisions**

### **Section 1-1. *Object of the Act***

The object of this Act is to help ensure that all citizens have equal access to good quality health care by granting patients rights in their relations with the health service. The provisions of this Act shall help to promote a relationship of trust between the patient and the health service and safeguard respect for the life, integrity and human dignity of each patient.

### **Section 1-2. *Scope of the Act***

This Act shall apply to all persons residing in the realm. The King may in regulations grant an exemption from Chapter 2 of the Act for persons who are not Norwegian nationals or who do not reside permanently in the realm.

The King will issue regulations on the application of this Act to Svalbard and Jan Mayen and may lay down special provisions to take account of local conditions. To the extent decided by the King in regulations, this Act shall apply to persons onboard Norwegian ships engaged in foreign trade, in Norwegian civilian aircraft in international traffic and on installations and vessels at work on the Norwegian continental shelf.

### **Section 1-3 *Definitions***

For the purposes of this Act, the following terms shall mean:

- a) patient: a person who contacts the health service requesting health care, or to whom the health service provides or offers health care as the case may be;
- b) patient's next of kin: the person whom the patient names as his or her kin or next of kin. If the patient is incapable of naming his or her next of kin, the next of kin shall be the person who to the greatest extent has had lasting and continuous contact with the patient, based however on the following order: spouse, registered partner, persons who live with the patient in a relationship resembling a marriage or partnership, children of full legal age and legal capacity, parents or other persons with parental responsibility, siblings of full legal age and legal capacity, grandparents, other family members who are close to the patient, guardian or provisional guardian;
- c) health care: acts which have a preventive, diagnostic, therapeutic, health-preserving or rehabilitating effect and are carried out by health personnel for the purposes of nursing and care;
- d) the health service: the primary health service, the specialist health service and the dental health service;
- e) health personnel: persons mentioned in section 3 of the Act relating to health personnel.

## **Chapter 2. The right to health care and transport**

Title amended by the Act of 28 November 2003 No. 96 (in force from 1 January 2004).

### **Section 2-1. *The right to necessary health care***

The patient is entitled to emergency care. The patient is entitled to receive necessary health care from the municipal health service.

The patient is entitled to receive necessary health care from the specialist health service. This right only applies if the patient can be expected to benefit from the health care, and the costs are reasonable in relation to the effect of the measure. The specialist health service shall set a time limit within which, when justified for medical reasons, a person with such a right shall receive necessary health care.

The health service shall give any person who applies for or requires health care the health and treatment-related information he or she requires in order to safeguard his or her right.

If the regional health enterprise has not ensured that a patient who is entitled to necessary health care from the specialist health service receives such care within the time limit fixed pursuant to the second paragraph, the patient has the right to receive necessary health care immediately, if necessary from a private service provider or service provider outside the realm.

If the regional health enterprise cannot provide health care for a patient who is entitled to necessary health care, because there are no adequate medical services in the realm, the patient has the right to receive necessary health care from a service provider outside Norway within the time limit fixed pursuant to the second paragraph.

The King may issue regulations regarding what is to be regarded as health care to which the patient may be entitled.

The Ministry may issue further regulations regarding the determination of and information concerning the time limit mentioned in the second paragraph, and regarding the organization of and payment for the services that the patient is entitled to receive from a private service provider or service provider outside the realm pursuant to the fourth paragraph.

Amended by the Act of 15 June 2001 No. 93 (in force from 1 January 2002 pursuant to the Decree of 14 December 2001 No. 1417), the Act of 12 December 2003 No. 110 (in force from 1 September 2004 pursuant to the Decree of 19 March 2004 No. 540).

### **Section 2-2.** *The right to an evaluation*

A patient who is referred to a hospital or specialist outpatient clinic that falls within the scope of section 2-4 is entitled to have his or her health condition evaluated within 30 working days of receipt of the referral. An evaluation shall be made of whether health care is necessary, and information shall be provided as to when treatment may be expected to be given.

An evaluation shall be made of whether the patient has a right in relation to the specialist health service of the nature mentioned in section 2-1, second paragraph, and, if appropriate, a time limit such as mentioned in the same paragraph, second sentence, shall be set. Patients who have such a right shall be notified of this and of the time limit. In the notification, the patient shall also be informed of his or her right to lodge a complaint, the time limit for lodging a complaint and further details concerning the complaint procedure. The referring physician shall also be notified.

The evaluation shall be carried out on the basis of the referral. If necessary, additional information shall be obtained or the patient shall be called in for an examination.

If there is any suspicion of a serious or life-threatening illness, the patient is entitled to a more rapid evaluation.

Amended by the Act of 12 December 2003 No. 110 (in force from 1 September 2004 pursuant to the Decree of 19 March 2004 No. 540).

### **Section 2-3.** *The right to a re-evaluation*

Upon referral from a general practitioner, the patient is entitled to have his or her health condition re-evaluated by the specialist health service. This right applies only once for the same condition.

**Section 2-4. *The right to choose hospitals***

The patient has the right to choose the hospital or district psychiatric centre, or treatment unit in such an institution, in which the treatment shall be carried out. It is a condition that the hospital or district psychiatric centre is owned by a regional health enterprise or has an agreement with a regional health enterprise that entitles the patient to make such a choice.

The patient may not choose the level of treatment.

The Ministry may issue further regulations regarding agreements such as are mentioned in the first paragraph.

Amended by the Act of 12 December 2003 No. 110 (in force from 1 September 2004 pursuant to the Decree of 19 March 2004 No. 540).

**Section 2-5. *The right to an individual plan***

Any patient who requires long-term, coordinated health services is entitled to have an individual plan drawn up in accordance with the provisions of the Municipal Health Service Act, the Specialist Health Service Act and the Act on the provision and implementation of mental health care.

In force from 1 July 2001 pursuant to the Decree of 8 June 2001 No. 595.

**Section 2-6. *The right to transportation***

The patient and the person accompanying him or her are entitled to have necessary expenses covered when the patient is required to travel in connection with a health service that falls within the scope of the Act of 2 July 1999 No. 61 on specialist health services, etc. and that is covered by an enterprise pursuant to the Act of 15 June 2001 No. 93 on health enterprises, etc. The same applies to health services that fall within the scope of Chapter 5 of the National Insurance Act of 28 February 1997 No. 19, including travel to a family welfare office and public health clinic.

A travel grant is only provided to cover travel expenses to the closest place where the health service can be provided.

When calculating the grant, it shall be based on the cost of the cheapest method of travel on a scheduled means of transport, unless the patient's health condition makes it necessary to use a more expensive means of transport, or if there is no scheduled transport service.

The right to have necessary expenses covered pursuant to this section ceases to apply to the extent that the expenses are covered pursuant to other legislation.

The Ministry may issue regulations regarding coverage of the costs of travel and board and lodging for patients and the expenses incurred by a necessary accompanying person, including coverage of expenses arising from the free choice of hospital and rules regarding the disbursement of refunds.

Added by the Act of 28 November 2003 No. 96 (in force from 1 January 2004).

**Section 2-7. *Application of the Public Administration Act***

The provisions of the Public Administration Act shall not apply to administrative decisions made pursuant to this chapter.

Added by the Act of 12 December 2003 No. 110 (in force from 1 September 2004 pursuant to the Decree of 19 March 2004 No. 540).

## **Chapter 3. The right to participation and information**

### **Section 3-1. *The patient's right to participation***

The patient is entitled to participate in the implementation of his or her health care. This includes the patient's right to participate in choosing between available and medically sound methods of examination and treatment. The form of participation shall be adapted to the individual patient's ability to give and receive information.

If the patient is not competent to give consent, the patient's next of kin is entitled to participate together with the patient.

If the patient wishes other persons to be present when health care is provided, his or her wishes shall be accommodated as far as possible.

### **Section 3-2. *The patient's right to information***

The patient shall have the information that is necessary to obtain an insight into his or her health condition and the content of the health care. The patient shall also be informed of possible risks and side effects.

Information shall not be given against the expressed will of the patient, unless it is necessary in order to prevent harmful effects caused by the health care, or it is prescribed by or pursuant to statute.

Information may be omitted if it is absolutely necessary in order to prevent endangering the patient's life or serious damage to the patient's health. Information may also be omitted if it is clearly inadvisable to provide such information out of consideration for persons who are close to the patient.

If injury or serious complications are inflicted upon the patient, the patient shall be informed of this. At the same time, the patient shall be made aware of his or her right to apply for compensation through the Norwegian System of Compensation to Patients.

If, after the treatment has been concluded, it is discovered that the patient may have suffered considerable injury as a result of the health care, the patient shall be informed of this if possible.

### **Section 3-3. *Information to the patient's next of kin***

If the patient consents thereto or circumstances justify it, the patient's next of kin shall receive information concerning the patient's health condition and the health care that is being provided.

If the patient is over 16 years of age and obviously incapable of safeguarding his or her own interests due to a physical or mental disorder, senile dementia or mental retardation, both the patient and his or her next of kin are entitled to information pursuant to the provisions of section 3-2.

### **Section 3-4. *Information when the patient is a minor***

If the patient is under 16 years of age, both the patient and his or her parents or other persons with parental responsibility shall be informed.

If the patient is between 12 and 16 years of age, information shall not be given to his or her parents or other persons with parental responsibility when the patient, for reasons that should be respected, does not wish them to receive such information.

However, information that is necessary to fulfil parental responsibility shall be given to parents or other persons with parental responsibility when the patient is under 18 years of age.

If the child welfare service has taken a child under 16 years of age into care pursuant to section 4-8 or 4-12 of the Child Welfare Act, the first, second and third paragraphs shall apply correspondingly to the child welfare service.

**Section 3-5.** *The form of information*

Information shall be adapted to the qualifications of the individual recipient, such as age, maturity, experience and cultural and linguistic background. The information shall be provided in a considerate manner.

As far as possible, health personnel shall ensure that the patient has understood the contents and significance of the information.

An entry concerning the information that has been provided shall be made in the patient's medical records.

**Section 3-6.** *The right to protection against the dissemination of information*

Medical and health-related information and other personal information shall be treated in accordance with the current provisions regarding confidentiality. The information shall be treated with caution and respect for the integrity of the person whom the information concerns.

The duty of confidentiality ceases to apply to the extent that the person entitled to confidentiality so consents.

If health personnel disclose information that is subject to a statutory duty of disclosure, the person whom the information concerns shall, insofar as is warranted by the circumstances, be informed that the information has been given and the nature of the of the information in question.

## **Chapter 4. Consent to health care**

**Section 4-1.** *General rule relating to consent*

Health care may only be provided with the patient's consent, unless legal authority exists or there are other valid legal grounds for providing health care without consent. In order for the consent to be valid, the patient must have received the necessary information concerning his health condition and the content of the health care.

The patient may withdraw his consent. If the patient withdraws consent, the health care provider shall give the necessary information regarding the consequences of not giving the health care.

**Section 4-2.** *Requirements regarding the form of consent*

Consent may be given explicitly or tacitly. Tacit consent is considered to have been given if it is probable, based on the patient's conduct and all other circumstances, that he or she accepts the health care.

The Ministry may issue regulations regarding a requirement of written consent or other formal requirements in connection with certain types of health care.

**Section 4-3.** *Who has competence to give consent*

The following persons have the right to consent to health care:

- a) persons of full legal age and legal capacity, unless special provisions dictate otherwise, and
- b) minors over 16 years of age, unless special provisions or the nature of the measure dictate otherwise.

Competence to give consent may cease to apply wholly or partly if the patient, on account of a physical or mental disorder, senile dementia or mental retardation, is clearly incapable of understanding what the consent entails.

The health care provider shall decide whether the patient lacks competence to give consent pursuant to the second paragraph. Based on the patient's age, mental state, maturity and experience, health personnel shall do their best to enable the patient himself or herself to consent to health care, cf. section 3-5.

A decision concerning lack of competence to give consent shall state the reasons for the decision and shall be given in writing, and if possible shall immediately be present to the patient and his or her next of kin. If the patient has no next of kin, the decision shall be present to health personnel as stated in section 4-8.

#### **Section 4-4.** *Consent on behalf of children*

The parents or other persons with parental responsibility are entitled to consent to health care for patients under 16 years of age.

If the child welfare service has taken a child under 16 years of age into care pursuant to section 4-8 or section 4-12 of the Child Welfare Act, the child welfare service has the right to consent to health care.

As the child develops and matures, the child's parents, other persons with parental responsibility or the child welfare service, cf. second paragraph, shall listen to what the child has to say before consent is given. When the child has reached 12 years of age, he or she shall be allowed to give his or her opinion on all questions concerning his or her own health. Increasing importance shall be attached to the child's opinion as he or she grows older and more mature.

#### **Section 4-5.** *Consent on behalf of young people who are not competent to give consent*

Parents or other persons with parental responsibility have the right to consent to health care for patients between 16 and 18 years of age who are not competent to give consent.

If the child welfare service has take a child between 16 and 18 years of age into care pursuant to section 4-8 or section 4-12 of the Child Welfare Act, the child welfare service has the right to consent to health care.

Health care may not be provided if the patient objects thereto, unless special statutory provisions dictate otherwise.

#### **Section 4-6.** *Consent on behalf of persons who are of full legal age and legal capacity and who are not competent to give consent*

If a patient who is of full legal age and legal capacity is not competent to give consent, the health care provider may make decisions concerning health care that is not of a highly invasive nature with regard to its extent and duration.

The patient's next of kin may consent to health care that is not covered by the first paragraph. Other health care may be provided if it is deemed to be in the patient's best interests, and it is likely that the patient would have given permission for such care. Information may be obtained from the patient's next of kin in order to determine what the patient would have wanted.

Health care pursuant to the first and second paragraphs may not be provided if the patient objects thereto, unless special statutory provisions dictate otherwise.

#### **Section 4-7.** *Patients who have been declared legally incapacitated*

A patient who has been declared legally incapacitated pursuant to the Act of 28 November 1898 shall, to the greatest possible extent, consent to health care himself or herself.

If this is not possible, the guardian may give consent on behalf of the legally incapacitated person.

**Section 4-8.** *Patients who are not competent to give consent and who have no next of kin*

A health care provider may, in consultation with other qualified health personnel, consent to health care for patients who are not competent to give consent and who have no next of kin.

**Section 4-9.** *The patient's right to refuse health care in special situations*

The patient is entitled, due to serious conviction, to refuse to receive blood or blood products and to refuse to break off an ongoing hunger strike.

A dying patient is entitled to object to life-prolonging treatment. If a dying patient is incapable of communicating his or her wishes as regards treatment, the health personnel shall refrain from providing health care if the patient's next of kin express similar wishes, and the health personnel, based on an independent assessment, find that this is also the patient's wish and that the wish should clearly be respected.

Health personnel must make sure that a patient as mentioned in the first and second paragraphs is of full legal age and legal capacity, and that he or she has been given adequate information and has understood the consequences of refusing treatment for his or her own health.

## **Chapter 5. Right of access to medical records**

**Section 5-1. Right of access to medical records**

The patient is entitled to have access to his or her medical records with enclosures and upon special request is entitled to a copy. Upon request, the patient is entitled to a brief and simple explanation of medical terms, etc.

The patient may be denied access to information in his or her medical records if this is absolutely necessary in order to avoid endangering the patient's life or serious damage to the patient's health, or if access is clearly inadvisable out of consideration for persons close to the patient.

A representative of the patient is entitled to have access to the information to which the patient is denied access, unless the representative is considered to be unfit for this. A physician or lawyer may not be denied access, unless special reasons so dictate.

The provisions of section 3-3 and section 3-4 concerning the right of other persons to receive information apply correspondingly to access to medical records.

The next of kin are entitled to have access to medical records after a patient's death, unless special reasons dictate otherwise.

The Ministry may in regulations lay down further provisions regarding the right of access to medical records, including provisions regarding payment for copies.

**Section 5-2.** *Correction and erasure of medical records*

The patient or the person whom the information concerns may demand that the information in the medical records be corrected or erased pursuant to the provisions of sections 42 to 44 of the Health Personnel Act.

**Section 5-3.** *Transfer and loan of medical records*

The patient is entitled to object to the disclosure of his or her medical records or information in the records. Furthermore, the information may not be disclosed if there is

reason to believe that the patient would have objected to this if asked. The information may nonetheless be disclosed if weighty grounds so dictate. The transfer or disclosure of medical records or information in the records shall take place in accordance with the provisions of the Act relating to health personnel.

## **Chapter 6. The special rights of children**

### **Section 6-1. *Children's right to health checks***

Children are entitled to necessary health care, also in the form of health checks in the municipality in which the child lives or is staying temporarily, cf. section 2-2 of the Municipal Health Service Act.

### **Section 6-2. *Children's right to be accompanied by their parents while staying in a health institution***

Children are entitled to be accompanied by at least one parent or other person with parental responsibility during their entire stay in a health institution, unless this is inadvisable out of consideration for the child, or the right of contact has ceased to apply pursuant to the provisions of the Children Act or the Child Welfare Act.

### **Section 6-3. *Children's right to activity while staying in a health institution***

Children are entitled to be kept active and stimulated during their stay in a health institution to the extent that this is justifiable in the light of the child's health condition.

### **Section 6-4. *Children's right to tuition while staying in a health institution***

Children of compulsory school age are entitled to tuition while staying in a health institution to the extent that this is in accordance with the Education Act.

Young people are entitled to tuition while staying in a health institution to the extent that this is in accordance with the Education Act.

Pre-school children are entitled to special educational assistance while staying in a health institution to the extent that this is in accordance with the Education Act.

Amended by the Act of 21 December 2000 No. 127 (in force from 1 January 2001 pursuant to the Decree of 21 December 2000 No. 1359).

## **Chapter 7. Complaints**

### **Section 7-1. *Request for fulfilment of rights***

A patient or a representative of the patient who is of the opinion that the provisions of chapters 2, 3 and 4, and sections 5-1, 6-2 and 6-3 have been breached may make a request to the health care provider that the right be fulfilled.

The first paragraph shall apply correspondingly to other persons who are of the opinion that their independent rights pursuant to chapters 3-6 have not been fulfilled.

The patient's representative pursuant to the first paragraph is the one who has authority to complain on behalf of the patient, or who is competent to give consent pursuant to chapter 4. Any person who is acting on behalf of the patient and is not a lawyer shall present written authorization.

### **Section 7-2. *Complaints***



If the health care provider rejects the request pursuant to section 7-1 or is of the opinion that the rights have been fulfilled, a complaint may be lodged with the county office of the Norwegian Board of Health. The complaint shall be sent to the county office of the Norwegian Board of Health.

The patient or a representative of the patient who is of the opinion that the provision in section 2-1, fifth paragraph, has not been complied with may lodge a complaint with a complaints board appointed by the Ministry. The complaints board shall consist of five members. The chairman shall be a lawyer. The Ministry shall appoint members and their personal deputies for two years at a time. Members and deputy members may be reappointed.

The provisions of section 7-1, second and third paragraphs, shall apply correspondingly to complaints pursuant to this section.

Amended by the Act of 29 August 2003 No. 87 (in force from 1 September 2003 pursuant to the Decree of 29 August 2003 No. 1092), the Act of 12 December 2003 No. 110 (in force from 1 September 2004 pursuant to the Decree of 19 March 2004 No. 540).

**Section 7-3. *The form and substance of the complaint***

A complaint to the county office of the Norwegian Board of Health must be submitted in writing. The complaint shall be signed by the patient or the person representing the patient. The complaint should state the matter that is the subject of the complaint and provide information that may be of significance for consideration of the complaint. If the complaint contains errors or deficiencies, the county office of the Norwegian Board of Health shall set a brief time limit for rectification or supplementation.

**Section 7-4. *Request for assessment of possible breach of duty***

The patient or other persons who are entitled to do so may, if they are of the opinion that provisions concerning duties laid down in or pursuant to the Health Personnel Act have been breached in his or her disfavour, request the supervisory authority to consider the matter. The supervisory authority may, if appropriate, impose an administrative sanction pursuant to chapter 11 of the Health Personnel Act. The provisions of this chapter shall not apply to such requests.

Amended by the Act of 21 December 2000 No. 127 (in force from 1 January 2001 pursuant to the Decree of 21 December 2000 No. 1359).

**Section 7-5. *Time limit for submitting requests and complaints***

The time limit for submitting requests pursuant to section 7-1 is four weeks from the time the person concerned received or should have received sufficient information to submit such a request. The time limit ceases to apply when the request has been submitted.

The time limit for lodging a complaint with the county office of the Norwegian Board of Health pursuant to section 7-2 is three weeks from the time the person concerned was or should have been informed of the outcome of the request.

Amended by the Act of 29 August 2003 No. 87 (in force from 1 September 2003 pursuant to the Decree of 29 August 2003 No. 1092).

**Section 7-6. *Application of the Public Administration Act***

The provisions of the Public Administration Act concerning the processing of cases relating to individual decisions and complaints shall apply insofar as they are applicable to the processing of complaints by the county office of the Norwegian Board of Health, with the special provisions laid down in this chapter.

The provisions of the Public Administration Act concerning the processing of complaints shall apply insofar as they are applicable to the complaint board's processing of complaints, with the special provisions laid down in this chapter. The Ministry may issue further regulations regarding the organization and procedure of the complaints board.

Amended by the Act of 29 August 2003 No. 87 (in force from 1 September 2003 pursuant to the Decree of 29 August 2003 No. 1092), the Act of 12 December 2003 No. 110 (in force from 1 September 2004 pursuant to the Decree of 19 March 2004 No. 540).

## **Chapter 8. The Patient Ombudsman**

### **Section 8-1. *Object***

The Patient Ombudsman shall work to meet patients' needs and protect their interests and legal rights in respect of the health service, and to improve the quality of the health service.

### **Section 8-2. *Functions of and responsibility for the ombudsman system***

The central government shall ensure that there is a Patient Ombudsman in every county. The functions of the Patient Ombudsman shall include public specialist health services.

The Patient Ombudsman shall perform his or her functions independently and autonomously.

Amended by the Act of 15 June 2001 No. 93 (in force from 1 January 2002 pursuant to the Decree of 14 December 2001 No. 1417).

### **Section 8-3. *Right to contact the Patient Ombudsman***

The Patient Ombudsman may take up for consideration cases concerning matters in the public specialist health service, either on the basis of an oral or written request or on his or her own initiative.

Any person may contact the Patient Ombudsman and request that a case be taken up for consideration. The person who contacts the Patient Ombudsman is entitled to be anonymous.

### **Section 8-4. *Consideration of requests***

The Patient Ombudsman himself or herself shall decide whether a request gives sufficient grounds for taking a case up for consideration. If the Patient Ombudsman does not take the case up for consideration, the person who made the request shall be notified and given a brief explanation for this decision.

### **Section 8-5. *The right of the Patient Ombudsman to receive information***

Public authorities and other bodies that perform services for the public administration shall give the Patient Ombudsman the information required for the Ombudsman to carry out his or her duties. The provisions of sections 204 to 209 of the Civil Procedure Act shall apply correspondingly to the Patient Ombudsman's right to demand information.

### **Section 8-6. *Access of the Patient Ombudsman to health service premises***

The Patient Ombudsman shall have free access to all premises in which public specialist health services are provided.

### **Section 8-7. *Responsibilities of the Patient Ombudsman***

The Patient Ombudsman shall, to a reasonable extent, give anyone who requests it information, advice and guidance in matters that lie within the Ombudsman's sphere of responsibility.

The Patient Ombudsman is entitled to state his or her opinion on matters that lie within the Ombudsman's sphere of responsibility, and to propose specific measures for

improvement. The Patient Ombudsman himself or herself decides to whom the statements are to be addressed. The statements are not binding.

The Patient Ombudsman shall notify any person who has contacted the Ombudsman of the outcome of his or her consideration of a case and give a brief explanation of the result.

The Patient Ombudsman shall notify the supervisory authorities of conditions which require follow-up by the authorities.

The Patient Ombudsman shall ensure that the ombudsman system is made known.

#### **Section 8-8. *Regulations***

The Ministry may issue regulations regarding the implementation and supplementation of the provisions concerning the Patient Ombudsman.

### **Chapter 9. Commencement and amendments to other Acts.**

#### **Section 9-1. *Entry into force***

This Act shall enter into force from such time as the King decides. The King may decide that the various provisions of the Act shall enter into force at different times.

In force from 1 January 2001 pursuant to the Decree of 1 December 2000 No. 1198 with the exception of section 2-5 which was brought into force on 1 July 2001 pursuant to the Decree of 8 June 2001 No. 595.

#### **Section 9-2. *Amendments to other Acts***

From the time of entry into force of this Act, the following amendments shall be made to other Acts: ...