

# PATIENTS RIGHTS

A patient comes to a doctor, at their most vulnerable state. It becomes the duty of a health care worker to comfort them, tend to their ails and provide them with the primary treatment.

Whether the patient is mentally competent or in a compromised capacity they have rights. Rights which most patients are unaware of.

In India, there are various legal provisions related to Patient's Rights which are scattered across different legal documents e.g. The Constitution of India, Article 21, Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations 2002; The Consumer Protection Act 1986; Drugs and Cosmetic Act 1940, Clinical Establishment Act 2010 and rules and standards framed therein.

Mentioned below are few of the Patients' Rights,

## 1. Right to Emergency Medical Care:

In case the patient needs emergency treatment, it is mandatory for a health care institution / worker to provide primary treatment. Primary treatment must be provided without any deposit or advance payments.

It is the duty of the hospital management to ensure provision of such emergency care through its doctors and staff, rendered promptly without compromising on the quality and safety of the patients.

## 2. Right to Privacy and Confidentiality:

All patients have a right to privacy. It is the Doctor's responsibility to keep any and all patient related information confidential. Under certain circumstances, this rule can be broken:

- ❖ When the patient waives this right in writing.
- ❖ When such disclosure will benefit public health and safety
- ❖ When it is legally required - when it is in the interest of justice and upon the order of a competent court.
- ❖ When it is needed for continued medical treatment or advancement of medical science, by not identifying the patient or maintaining the confidentiality for those who have access to the information.

Informing the 1<sup>st</sup> family of the patient is allowed. In case the patient is not of legal age or is mentally incapacitated, such information shall be given to the parents, legal guardian or his next of kin.

### **3. Right to Self-Determination:**

Patient also has the right to decline treatment. It is the responsibility of the hospital management / treating Doctor to explain in detail about the pros & cons of the treatment in native understandable language. Any person of legal age and sound mind has a right to make an advance written directive for Doctors to terminate treatment. The doctor / hospital management has

- ❖ To ensure his decision will not affect the public health and safety.
- ❖ informed the patient of the medical consequences of his choice;
- ❖ to ensure that the patient releases those involved in his care from any obligation relative to the consequences of his decision;

### **4. Right to Informed Consent:**

Detailed, clear & truthful explanation of the procedures, diagnostics, rehabilitative alternatives, along with possibilities of any serious side effects, & risks, probability of success, problems related to the procedures, is a patient's prerogative. This information should be explained in an easy and an understandable language of patient's choice. It is the duty of the primary treating Doctor, to get this written informed Consent from the patient.

Under certain situations taking a consent won't be possible:

- ❖ In emergency / time sensitive cases, where the patient is at immediate danger or serious physical injury or death - The doctor can perform any required procedures or treatments necessary.
- ❖ Disclosure of the procedure material may affect the success of the procedure - In this case, getting a consent from the patient's immediate family, or next of kin is advisable.
- ❖ When the patient is either minor or incompetent to make his own decisions - Legal guardians are the ones to turn to in such cases.
- ❖ When the health of the population is at risk.
- ❖ When the patient waives his rights.

In the end, it is the responsibility of the organization/ hospital management to see to it that the allotted Doctor is following the rules.

### **5. Right to be Information:**

Every person has a 'Right to Information', which include patients with compromised capacity. Unfortunately, in our country many people do not know the 'Rights of a Patient'. Hence, it is the responsibility of a health care institution or NGOs working under certain health care institutions to spread this knowledge.

The treating doctor has a responsibility to ensure that the information provided to the patient is simple and easy to understand.

Every patient has a right to know the nature of illness, diagnosis, treatment, in the language the patient is comfortable with. The patient has the right to know the identity of the Doctor/ Health care Provider. It becomes the responsibility of the Health care provider to keep the patient informed about the costs that may be needed for the treatment.

## **6. Right to Appropriate Medical Care and Humane Treatment:**

According to Article 15 from the Constitution of India,

*" No person shall be deprived of his life or personal liberty except according to procedure established by law, nor shall any person be denied equality before the law or the equal protection of the laws within the territory of India"*

Every person has a right to appropriate medical and health care of good quality, irrespective of their religion, race, beliefs or state of mind. No discrimination should be done whilst providing the care/treatment. It is understandable that the treatment provided will be within the limitation of resources and manpower available at the given time but the patient should be informed about the same.

If a patient cannot be provided with immediate treatment due to some unforeseeable reasons, depending on their state of health, the patient can be directed to wait for care, or be referred someplace else or transferred for treatment someplace else.

## **7. Right to Second Opinion:**

The patient also has the right to get a second or more opinions from another Doctor/s on their diagnosis and treatment.

The hospital management has a duty to respect the patient's right to second opinion and should provide to the patient's /caregivers all necessary records and information required for seeking such opinion without any extra cost or delay. Their decision for a second opinion should not be adversely influenced by the hospital management / primary healthcare personnel. Any kind of discriminatory practice adopted by the hospital or the service providers will be deemed as Human Rights' violation.

## **8. Right to proper referral and transfer:**

A patient has the right to receive care. When being transferred from one healthcare facility to another, the patient / caregiver must receive a complete explanation of the justification for the transfer, the alternative options for a transfer and it must be confirmed that the transfer is acceptable to the receiving facility. The patient and caregivers have the right to be informed by the hospital about any continuing

healthcare requirements following discharge from the hospital. The hospital management has a duty to ensure proper referral and transfer of patients regarding such a shift in care. In regard to all referrals of patients, including referrals to other hospitals, specialists, laboratories or imaging services, the decision regarding facility to which referral is made must be guided entirely by the best interest of the patient. The referral process must not be influenced by any commercial consideration such as commissions, incentives or other perverse business practices.

#### **9. Right to Choose Health Care Provider and Facility / alternative treatment:**

The patient is free to choose any Health Care provider / facility as per their liking/ requirement, except when the patient is under the care of a service facility or when his treatment may affect public health.

He also has the right to choose an alternative treatment.

#### **10. Right to Religious Belief:**

The patient has the right to refuse medical treatment or procedures which may be contrary to their religious beliefs, except when this decision is imposed by parents upon their underaged children, in a life-threatening situation as determined by the attending physician.

#### **11. Right to Correspondence:**

The patient has the right to communicate with relatives/ caregivers/ other persons and to receive visitors as per the the rules and regulations of the health care institution. This might change if the diagnosis of the patient might affect the safety of public health.

#### **12. Right to Refuse Participation in Medical Research:**

Every person approached to participate in the medical research has a right to refuse to be a part of it. Any doctor or hospital who is involved in a clinical trial has a duty to ensure that all these guidelines are followed in case of any persons / patients involved in such a trial.

#### **13. Right to Express Grievances:**

The patient has the right to express feedback, make comments or lodge complaints and grievances about the care and services received without fear of discrimination or reprisal and to know about the disposition of such complaints. This includes the right to be given information and advice on how to give feedback, make comments,

or make a complaint in a simple and user-friendly manner. They have the right to receive in writing the outcome of the complaint within 15 days from the date of the receipt of the complaint.

#### **14. Right to Medical Records:**

Every Patient/ Caregiver has the right to have access to the summary of their medical history, condition and records. He has the right to view the contents of his medical records except psychiatric notes and other incriminatory information obtained about third parties, with the attending physician explaining contents. The relatives / caregivers of the patient have a right to get discharge summary or in case of death, death summary along with original copies of investigations.

It becomes the hospital management's responsibility to provide these records and reports and to instruct the responsible hospital staff to ensure provision of the same.

National Human Rights Commission of India recommends that, all State Governments and Administration of all the Union Territories should seriously consider the adoption of the charter and incorporate this **Charter of Patients' Rights** under their jurisdiction.

Following the Charter of Patients' Rights will be an enabling document to ensure the protection and promotion of Human rights of those who are among some of the most vulnerable sections of society – ordinary patients and citizens seeking health care across India.