

## **PATIENT'S RIGHTS ACT, 1996.**

### **Chapter 1: The Aim of the Act**

1. This Act aims to establish the rights of every person who requests medical care or who is in receipt of medical care, and to protect his dignity and privacy.

### **Chapter 2: Interpretation**

#### **Definitions**

2. In this Act –

“hospital” – is defined as in Clause 24 of the Public Health Ordinance, 1940;

“Ethics Committee” – is a committee established under Clause 24 of this Act;

“Emergency Dept.” – a place intended for the provision of emergency medical care, manned by at least one physician, and recognized by the Director-General as an Emergency Dept. for the purposes of this Act.

“medical care” or “medical treatment” – includes medical diagnostic procedures, preventive medical care, psychological care, and nursing;

“medical facility” – hospital or clinic;

“patient” – a sick person or any person requesting or receiving medical care;

“clinician” – a physician, dentist, intern, nurse, midwife, psychologist, or any other professional recognized by the Director-General, and so published in the Official Gazette, as a health care clinician;

“medical information” – information that refers directly to a patient's state of physical or mental health, or to the medical treatment of it;

“midwife” – a person licensed to practice midwifery by the Midwifery Ordinance;

“the Director-General” – the Director-General of the Ministry of Health;

“director of a medical facility” – includes an acting director;

“medical emergency” – a situation threatening immediate danger to life or severe, irreversible disability, if medical care is not given urgently;

“clinic” – as defined in Clause 34 of the Public Health Ordinance, 1940, in which medical care is given by at least five clinicians;

“intern” – as defined in Chapter B.1 of the Physicians Ordinance (New Version), 1976;

“grave danger” – a situation threatening danger to life or severe, irreversible disability, if medical care is not given;

“social worker” – as defined in the Social Workers Act, 1996;

“psychologist” – a person registered in the Register of Psychologists in accordance with the Psychologists Act of 1977;

“Sick Fund” - as defined in National Health Insurance Act, 1994;

“physician” – a person licensed to practice medicine under the Physicians Ordinance [New Version], 1976;

“dentist” – a person licensed to practice dentistry under the Dentists Ordinance [New Version] 1979;

“medical records” – information in accordance with Clause 17 of this Act, recorded in writing or by photocopying, or in any other way, including the patient's personal medical records, containing medical documents concerning him;

“the Minister” – the Minister of Health.

### **Chapter 3: The Right to Medical Care**

#### **The Right to Medical Care**

**3. (a)** Every person in need of medical care is entitled to receive it in accordance with all laws and regulations and the conditions and arrangements obtaining at any given time in the Israeli health care system.

**(b)** In a medical emergency, a person is entitled to receive emergency medical care unconditionally.

#### **Prohibition of Discrimination**

**4.** No medical facility or clinician shall discriminate between patients on grounds of religion, race, sex, nationality, country of birth, or other such grounds.

#### **Proper Medical Care**

**5.** A patient shall be entitled to proper medical care, having regard both to its professionalism and quality, and to the personal relations incorporated in it.

#### **Information on Clinician Identity**

**6. (A)** A patient is entitled to be informed of the identity and position of every person treating him.

**(B)** The Director-General shall issue directions as to the way clinicians and every worker in a medical facility shall be identified.

#### **A Second Opinion**

**7.** The patient is entitled to obtain, at his own initiative, a second opinion as to his medical care; the clinician and the medical facility shall give the patient all the assistance he requires to fulfill this right.

### **Right to Continuity of Proper Care**

**8.** Should a patient have transferred from one clinician facility to another, he shall be entitled, at his request, to the cooperation of ensure proper continuity of care.

### **Receiving Visitors**

**9.** A patient hospitalized in a medical facility is entitled to receive visitors at the times, and according to the arrangements, determined by the facility director.

### **Maintaining the Dignity and Privacy of the Patient**

**10. (A)** The clinician, all those working under his direction, and all other workers in the medical facility, shall maintain the dignity and privacy of the patient at all stages of his treatment.

**(B)** The facility director shall issue directions for maintaining the dignity and privacy of patients in his facility.

### **Medical Care in Medical Emergencies or in Situations of Grave Danger**

**11. (A)** Should a clinician or a medical facility be requested to give medical treatment to a person in circumstances indicating, *prima facie*, a medical emergency or grave danger, the clinician shall examine and treat the person to the best of his ability.

**(B)** Should the clinician or medical facility be unable to provide treatment to the patient, they shall, to the best of their ability, refer him to a place where he can receive appropriate treatment.

**(C)** The facility director shall make appropriate arrangements for the implementation of the provisions of this clause.

### **Medical Examination in Emergency Dept.**

**12. (A)** All patients applying to an Emergency Dept. are entitled to medical examination by a physician.

**(B)** Should the examining physician find that the patient requires urgent medical treatment, he shall give the patient that treatment; however, if the patient requires treatment that cannot be given at that place, the Emergency Dept. physician shall refer the patient to an appropriate medical facility, and shall ensure, to the best of

his ability, that the patient is transferred to that facility.

**(C)** The director of a medical facility containing an Emergency Dept. shall make appropriate arrangements for the implementation of the provisions of this Clause.

## **Chapter 4: Informed Consent to Medical Care**

### **Informed Consent to Medical Care**

**13. (A)** No medical care shall be given unless and until the patient has given his informed consent to it, in accordance with the provisions of this chapter.

**(B)** In order to obtain informed consent, the clinician shall supply the patient medical information to a reasonable extent, such as to enable the patient to decide whether to agree to the treatment proposed; for this purpose, "medical information" includes:

- (1)** The diagnosis of the patient's medical condition and its prognosis;
- (2)** A description of the essence, course, goal, anticipated benefit, and likelihood of success of the treatment proposed;
- (3)** The risks entailed in the proposed treatment, including side effects, pain, and discomfort;
- (4)** The likelihood of success and the risks of alternative forms of treatment, and of non-treatment;
- (5)** Where the treatment is innovatory, the patient shall be so informed.

**(C)** The clinician shall furnish the medical information to the patient at the earliest possible stage and in a manner that maximizes the ability of the patient to understand the information and to make a free and independent choice.

**(D)** The provisions of Sub-Clause 13(b) notwithstanding, the clinician may withhold medical information from the patient concerning his medical condition if an Ethics Committee has confirmed that giving this information is likely to cause severe harm to the patient's mental or physical health.

### **The Way in which Informed Consent May Be Given**

**14. (A)** Informed consent may be given verbally, in writing, or demonstrated by the patient's behavior.

**(B)** Informed consent to one of the treatments enumerated in the Supplement to this Act shall be given by means of a written document, that shall include a summary of the explanation given the patient.

**(C)** Should a patient require one of the treatments enumerated in the Supplement to this Act and be unable to give his informed consent in writing, his shall give his consent before two witnesses, provided that the consent and the evidence of the witnesses be put in writing as soon as possible aft.

**(D)** In a medical emergency, informed consent to one of the treatments enumerated in the Supplement to this Act may be given verbally, provided that the consent be put into writing as soon as possible afterwards.

### **Medical Care Without Consent**

**15.** The provisions of Clause 13 notwithstanding –

**(1)** A clinician may give medical treatment that is not one of the treatments enumerated in the Supplement to this Act without the informed consent of the patient, if all the following conditions are met:

**(A)** The patient's physical or mental state does not permit obtaining his informed consent;

**(B)** The clinician has not been made aware that the patient or his legal guardian objects to his receiving medical treatment;

**(C)** It is impossible to obtain the consent of the patient's representative, should such a representative have been appointed under Clause 16 of this Act, or of the patient's legal guardian, where the patient is a minor or an incapacitated person.

**(2)** Should the patient be deemed to be in grave danger but reject medical treatment, which in the circumstances must be given soon, the clinician may preform the treatment against the patient's will, if an Ethics Committee has confirmed that all the following conditions obtain:

**(A)** The patient has received information as required to make an informed choice;

**(B)** The treatment is anticipated to significantly improve the patient's medical condition;

**(C)** There are reasonable grounds to suppose that, after receiving treatment, the patient will give his retroactive consent.

**(3)** In a medical emergency a clinician may give urgent medical treatment without the patient's informed consent if, because of the emergency circumstances, including the patient's physical or mental state, it is not possible to obtain his informed consent; a treatment cited in the Supplement to this Act shall be given with the consent of three physicians, unless the emergency circumstances do not permit this.

### **Appointment of a Patient's Representative**

**16. (A)** A patient may appoint an official representative who shall have the authority to consent in his place to medical treatment; the power of attorney shall detail the circumstances and conditions in which the representative shall have the authority to consent in place of the patient to medical treatment.

**(B)** The Minister may issue directions as to the manner in which a power of attorney may be given under this Clause.

## **Chapter 5: Medical Records and Medical Information**

### **The Obligation to Keep Medical Records**

**17. (A)** a clinician shall keep medical records of the course of a treatment; these records shall include details identifying the patient and the clinician, and medical information on the treatment received by the patient, his previous medical record as far as known, the diagnosis of his current medical condition and the treatment instructions issued; however, the clinician's personal notes shall not form part of the medical record.

**(B)** The clinician or, in a medical facility, the director shall bear responsibility for the maintenance and preservation of regular and updated medical records, in accordance with all pertinent laws and regulations.

**(C)** Should medical records be given into the patient's safekeeping, this fact shall be recorded by the clinician or the medical facility.

### **The Patient's Right to Medical Information**

**18. (A)** The patient shall be entitled to obtain from the clinician or the medical facility medical information concerning himself, including a copy of his medical records.

**(B)** A member of a clinical team may pass on to the patient medical information from within his own specialization only and in coordination with the head of the team.

**(C)** The provisions of Sub-Clauses 18(a) and 18(b) notwithstanding, a clinician may decline to pass on to the patient part or all of the medical information concerning him, if the information is liable to cause serious harm to the patient's physical or mental health or endanger his life; should a clinician decide not to pass certain information to the patient, as aforesaid in this sub-clause, he shall immediately so inform the Ethics Committee and shall submit to it the withheld information and his arguments for withholding it.

**(D)** The Ethics Committee may endorse, rescind, or modify the clinician's decision.

**(E)** Before issuing its decision, the Ethics Committee may hear the patient or any other person.

### **Maintaining Medical Confidentiality**

**19. (A)** A clinician or any worker in a medical facility shall not disclose any information regarding a patient, which is brought to their knowledge in the course of their duties or their work.

**(B)** The clinician and, in a medical facility, the director of the facility shall make arrangements to ensure that workers under their direction shall not disclose any matters brought to their knowledge in the course of their duties or their work.

### **Disclosing Medical Data to a Third Person**

**20. (A)** A clinician or medical facility may pass on medical information to a third person in any of the following cases:

**(1)** The patient has consented to the disclosure of the medical information.

**(2)** The clinician or medical facility are legally obliged to pass on the information;

**(3)** The disclosure is for the purpose of the patient's treatment by another clinician;

**(4)** Under the provisions of Sub-Clause 18(c) the medical information has not been passed on to the patient and an Ethics Committee has approved its disclosure to a third person;

- (5) An Ethics Committee has decided, after giving the patient an opportunity to voice his opinion, that disclosure of the medical information is vital for the protection of the health of others or the public, and that the need for disclosure overrides the interest in the information's non-disclosure;
- (6) The medical information is disclosed to the medical facility treating the patient or to a member of its staff, and is for the purpose of processing or filing the information, or for notification required by law.
- (7) Disclosure is for the purpose of publication in a medical journal, or for research or teaching purposes, in accordance with the Minister's directions on this matter, and all details identifying the patient have been suppressed;
- (B) Data shall be disclosed under the provisions of Sub-Clause 20(a) only to the extent that the case requires, making every effort to suppress the identity of the patient.
- (C) A person receiving medical information under the provisions of Sub-Clause 20(a) shall be subject to the provisions of Clause 19 and the provisions of this clause, *mutatis mutandis*.

## Chapter 6: Committees

### Section 1: Investigative Committee

21. (A) In this Act, an "Investigative Committee" is a committee appointed to enquire into a complaint from a patient or his representative, or into an exceptional incident involving the giving of medical treatment, by one of the following:
- (1) The director of a medical facility with respect to medical treatment given under the auspices of that facility;
  - (2) The managing-director of a Sick Fund with respect to medical treatment given in one of the Sick Fund's facilities;
  - (3) The Director-General or a person authorized by him.
- (B) The findings of an Investigative Committee shall be submitted to the appointer of the Committee and to the patient concerned, the provisions of Clause 18 applying, *mutatis mutandis*; the findings and conclusions shall also be passed on to any clinician who is liable to be injured by the Committee's conclusions.
- (C) The minutes of an Investigative Committee's discussions shall be disclosed only to its appointer and to the Director-General.
- (D) A court of law may direct that the minutes be passed to a patient or his representative, or to a clinician, and may direct, the provisions of Clause 18(c) notwithstanding, that the

findings and conclusions be passed to the patient if it finds that the need for disclosure for the sake of doing justice outweighs the interest in non-disclosure; such a direction may be given in the context of a judicial process in a court of law or in response to a request made to a Magistrate's Court.

**(E)** Should the Director-General decide to institute disciplinary proceedings by law or to submit a complaint against a person suspected of a crime, he may direct that the minutes be passed to an authorized person for the purposes of conducting an investigation or for the purposes of the said proceedings, and also to the clinician against whom proceedings have been opened or the complaint submitted.

## **Section 2: Control and Quality Committee**

### **Control and Quality Committee**

**22. (A)** In this Act, a "Control and Quality Committee" is any one of the following:

**(1)** An internal committee of a medical facility appointed by the facility director to evaluate medical activity and improve the Quality of the medical care;

**(2)** A committee set up by the managing-director of a Sick Fund to improve the quality of health care services in the Sick Fund's facilities;

**(3)** A committee set up by the Director-General to improve the quality of health care services.

**(B)** The content of discussions held in a Control and Quality Committee, the discussion minutes, all material prepared for such discussion and submitted to the Committee, and the Committee's summations and conclusions, shall be privileged information and closed to all other persons, including the patient concerned, and shall not be admissible as evidence in any judicial process.

**(C)** The provisions of Sub-Clause 22(b) notwithstanding, the summations and conclusions of a Control and Quality Committee shall be submitted to the appointer of the Committee, who may also study the minutes of its discussions and all other material submitted to it.

**(D)** Should the appointer of the Committee find that there is *prima facie* cause to institute legal disciplinary measures against a clinician he shall so inform the Director-General.

**(E)** The factual findings established by a Control and Quality Committee concerning a patient's condition, his treatment and its outcomes, shall be entered into the medical record as soon as they are established, if they have not already been so entered, and shall constitute part of the medical record.

### **Objections**

**23. (A)** Should a patient or his representative believe that factual findings have not been entered into the medical record, as required by Sub-Clause 22(e), they may submit an objection to an Ethics Committee.

**(B)** Should an objection be submitted to an Ethics Committee in accordance with Sub-Clause 23(a), the Ethics Committee, notwithstanding the provisions of Sub-Clause 22(b), shall examine the minutes of the discussions held in the Control and Quality Committee, all documents prepared for those discussions and submitted to the Committee, the Control

and Quality Committee's summations and conclusions, and the medical records of the patient concerned; should the Ethics Committee find that factual findings have not been entered as required, it shall order that they be entered in the medical record and shall so inform the patient or his representative.

### **Section 3: Ethics Committee**

**24. (A)** The Director-General shall appoint Ethics Committee; each such Committee shall comprise five members as follows:

- (1) A person fit to be appointed District Court judge, from a list of such persons drawn up by the Minister of Justice, - Chairman of the Committee;
- (2) Two specialist physicians, from different specializations;
- (3) Psychologist or social worker;
- (4) Representative of the public or person of religious authority.

**(B)** The provisions of Sub-Clause 24(a) notwithstanding, when hearing objections in accordance with Clause 23, the Committee shall sit in a panel of three only' the Chairman and the two specialist physicians.

**(C)** Should a case arise requiring an urgent decision of the Ethics Committee and circumstances not permit its urgent convening, the District Court shall be empowered to act as an Ethics Committee.

**(D)** The Minister may issue regulations as to the manner of the appointment of Ethics Committee members, its term of office, and its working arrangements.

## **Chapter 7: Responsibility for the Observance of Patients' Rights in a Medical Facility**

### **Responsibility for Patients' Rights**

**25.** The director of a medical facility shall designate a person to be responsible for the observance of patients' rights, whose duties shall be:

- (1) To give advice and assistance to a patient as to the realization of his rights under this Act;
- (2) To receive, investigate, and process patients' complaints; complaints regarding the quality of medical care shall be referred to the attention of the facility director;
- (3) To educate and instruct all medical and administrative staff in the facility in all matters regarding the provisions of this Act.

### **The Responsibility of the Director of a Medical Facility**

**26.** The director of a medical facility shall take measures so that all the obligations laid on his facility under the provisions of this Act may be implemented.

## **Chapter 8: Provisions with regard to the Security Forces**

## Provisions with regard to the Security Forces

**27. (A)** Without derogating from the provisions of Clause 30 as to the application of this Act to the State, this Act shall apply to the Israel Defence Forces, the Israel National Police, and the Israel Prison Service with the following adjustments:

**(1)** For the purposes of Clauses 7,8,10,17 to 23, and 26, the Israel Defence Forces' Medical Corps, the Israel National Police's internal medical system, and the Israel Prison Service's Medical Dept. shall be deemed to be medical facilities;

**(2)** The Chief Medical Officers of the Israel Defence Forces, the Israel National Police, and the Israel Prison Service shall be granted the powers and duties of a director of a medical facility within the meaning of this Act, as well as the authority of the Director-General to appoint an Ethics Committee under Clause 24;

**(3)** Directions may be issued by military order, as this is defined by the Military Justice Act, 1995, by order of the Israel National Police, as this is defined by the Police Ordinance (New Version), 1971, and by order of the Israel Prison Service, as this is defined by the Prisons Ordinance (New Version), 1971, as to –

**(a)** The ways in which a patient held in custody may obtain a second opinion under Clause 7 above, provided that there be no encroachment on the right of every patient held in custody, at his own initiative, to obtain a second opinion;

**(b)** The transfer of patients serving in the Israel Defence Forces, or held in custody, from one medical facility to another, provided that no such transfer shall be permitted that is liable to impair the medical treatment of the patient;

**(c)** Visits to patients held in custody;

**(d)** The passing on of medical information to a soldier, police officer, or prison officer, where the information is required to preserve the health of persons held in custody.

## Chapter 9: Miscellaneous

### Penalties

**28. (A)** A clinician or facility that discriminates between patients on grounds of religion, race, sex, nationality, or country of birth shall be liable to a fine under Clause 61(a)(3) of the Penal Law, 1977.

**(B)** A person infringing any of the obligations enumerated in Clause 17 is liable to a fine under Clause 61(a)(2) of the Penal Law, 1977; an offence under this Sub-Clause does not require proof of criminal intent or negligence.

### Saving Laws

**29.** Nothing in the provisions of this Act shall –

**(1)** Derogate from the provisions of existing legislation;

**(2)** Exempt any patient from payments due for receipt of medical services.

### **Application to the Stste**

**30.** This Act also applies to the State.

### **Amendments to the Supplement**

**31.** The Minister may, with the approval of the Knesset Labor and Social Affairs Committee, amend the Supplement to this Act.

### **Implementation and Regulations**

**32.** The Minister is charged with the implementation of this Act and may make such regulations as are required for its implementation including –

- (1)** Ways of transferring a patient to an appropriate medical facility, under Clauses 11 and 12;
- (2)** Data that have to be entered into the medical record;
- (3)** With the approval of the Knesset Labor and Social Affairs Committee, the maximum payment for obtaining a copy of the medical record in all its forms, or of parts of it, or for inspecting it or parts of it;
- (4)** Ways of passing on medical information for publication in a scientific journal, or for research or teaching purposes;
- (5)** Ways of protecting, administering, and managing access to, medical records, ways of releasing medical information from medical records, and of preserving medical confidentiality, the length of time records must be held, access to medical records in the interest of the health of others or of the public, or in the interest of medical research or the monitoring of treatment outcomes/

### **Amendment No. 4 to the Physicians Ordinance**

**33.** At the end of Clause 41 of the Physicians Ordinance (New Version), 1976, shall be inserted:

“(7) Breached any of the provisions of the Patients' Rights Act, 1996.”

### **Amendment No. 3 to the Dentists Ordinance**

**34.** At the end of Clause 45 of the Dentists Ordinance (New Version), 1979, shall be inserted:

“(7) Breached any of the provisions of the Patients' Rights Act, 1996.”

### **Amendment No. 2 to the Psychologists Act**

**35.** At the end of Clause 33 of the Psychologists Act, 1977, shall be inserted:

“(6) Breached any of the provisions of the Patients' Rights Act, 1996.”

### **Entry into Force**

**36.** This Act shall come into force three months from the date of its publication.

### **SUPPLEMENT**

#### **(Clauses 14,15)**

- 1.** Surgery, other than minor surgery.
- 2.** Blood vessel catheterization.
- 3.** Dialysis.
- 4.** Radiotherapy.
- 5.** In-vitro fertilization.
- 6.** Chemotherapy for malignancies.

