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KUVENDI I KOSOVËS
СКУПШТИНА КОСОВА
ASSEMBLY OF KOSOVO

Law No.2004/38

**ON THE RIGHTS AND RESPONSIBILITIES OF THE CITIZENS
IN THE HEALTH CARE**

The Assembly of Kosova,

Pursuant to the Constitutional Framework of Provisional Self Government in Kosovo,
UNMIK Regulation, No. 2001/9 of 15th of May 2001 following the chapters 5.1 (h),
9.1.26 (a), and

Intending to recognize the right of everyone to the enjoy the highest attainable health
standards,

Approves:

**LAW ON THE RIGHTS AND RESPONSIBILITIES OF THE CITIZENS
IN THE HEALTH CARE**

**CHAPTER I
BASIC PROVISIONS**

Article 1

This Law determines the rights and responsibilities of the citizens within the health care
and establishes mechanisms to protect and ensure these rights and responsibilities.

Definitions

Article 2

2.1. For the purposes of this Law the following definitions apply:

a. **Citizen:** any person holding a valid resident permit issued by official responsible
authorities for the territory of Kosovo, any person with refugee status or a foreign victim
of trafficking, in accordance with the relevant regulations;

b. **Health care worker:** health professional, according to article 86 of the General Health
Law, who is qualified and licensed to practice independently healthcare services;

c. **Health care:** measures and activities undertaken in the territory of Kosovo by health care institutions, health workers and citizens, in order to advance the overall physical, mental and social well-being of the citizens;

d. **Health care institution:** all institutions established by legal or natural persons, regardless of the type of ownership or the supervising authority, that are authorized to provide healthcare services under a working license, issued by the health authority;

e. **Professional confidentiality:** maintaining confidential the data about the health condition of citizens, from unauthorized persons;

f. **Emergency Situation:** immediate change occurring in the health condition, which when urgent healthcare is lacking, poses a risk of death or of serious permanent damage to the health of the citizen;

g. **Medical treatment:** physical, chemical, biological or psychological procedures applied for the prevention, diagnosing, treatment, rehabilitation and other measures that result or may result or may cause changes in the health of the citizen;

h. **Health documentation:** any written reports, notes or other data, regardless of the fact who and in which way collects them, to which a healthcare worker has access during the medical treatment and which contain data on the personal identity of the citizen;

i. **Authorized representative:** the parent or guardian of a person under the age of 18 years. In the case of a person under the age of 18 who has neither a parent nor a guardian, it shall mean a representative of the Centre for Social Work;

j. **Supporting entity:** for primary healthcare institutions, municipality; for secondary and tertiary healthcare institutions as well as for healthcare institutions in the private sector, the Ministry of Health;

k. **Child:** person up to 12 year of age.

2.2. For the purpose of this Law he, his or him always imply female gender, unless it is expressly otherwise stated.

The role of the citizen in the health care system Article 3

The role of the citizen in the health care system is regulated in Chapter IV of the General Health Law of Kosovo.

CHAPTER II
THE RIGHTS OF CITIZENS

The right to qualitative health care
Article 4

4.1. Every citizen is entitled to the health care that is conditioned by his state of health. The health care should be adequate and continuously accessible to all without discrimination.

4.2. The health care is adequate if it is in compliance with the professional and ethical rules, and the guidelines relating to the given health care service.

4.3. The health care is continuously accessible if such a medical treatment system is provided 24 hours a day.

4.4. Particular citizen categories are entitled to the health care, free of charge, in accordance with the General Health Law of Kosovo.

4.5. Health care is provided without any discrimination, if, in the course of the medical treatment citizens are not discriminated on the basis of their social position, political views, origin, nationality, religion, gender, sexual preferences, age, marital status, physical or mental disability, qualification or on any other grounds not related to their state of health.

4.6. In emergency cases, every person is entitled to the adequate and continual emergency health care, which would ensure prevention of any serious or permanent health damage, as well as the alleviation of pain and the reduction of suffering.

4.7. If a citizen cannot receive the required health care service within the shortest possible period of time, the health care institution must inform him where such medical treatment can be offered .

4.8. The citizen shall be placed on a waiting list if:

- a. A certain medical treatment cannot be offered by another health care institution, or
- b. The citizen does not accept medical treatment to be offered by another health care institution, as defined under Paragraph (1).

4.9. A citizen may only be made to wait for health care for reasons and for a period of time which is reasonable and does not endanger his life.

4.10. In the event of being placed on a waiting list, the citizen shall be informed for the waiting reasons and the expected term when the treatment can be offered, as well for possible consequences of such waiting.

4.11. The order of citizens on the waiting list and the selection based on that shall be made on the basis of controllable health standards and professional criteria, in a manner justified by the state of health of citizens on the waiting list and without any discrimination. The official of the Ministry of Health responsible for the rights of the citizens in the health care is entitled to check waiting lists on the basis of the citizen's written authorization or on its own initiative, within the limits of professional confidentiality from article 20 of this Law.

4.12. The waiting list shall contain the health care and personal identification data of citizens waiting to receive the given health care service, as well as the circumstances justifying their selection.

4.13. Along waiting list processing, the war invalids have a priority following the relevant legislation.

4.14. If a required health care service is not available in Kosovo or if it is not available within the period of time warranted by the state of health, a citizen is entitled to health care outside Kosovo, subject to conditions to be determined by sub legal act issued by the Government of Kosovo.

4.15. The provisions of this Law also apply to any medical treatment which is not necessary required for health care.

Right to Choose Article 5

5.1. A citizen has the right to consult and be treated by the physician of his choice with the agreement of the responsible health care institution, within the limits established by its operational orders and the law.

5.2. A citizen may request to be examined by the medical consultants team within the institution in connection with: any diagnosis made by or therapy recommended by the attending physician, the planned discharge of the citizen from an in-patient institution of health care, or transfer to another health care institution.

Right to Human Dignity Article 6

6.1. In the course of medical treatment, the citizen's human dignity, privacy, personal integrity and religious beliefs shall be respected.

6.2. In the absence of provisions in this Law to a different effect, only the interventions necessary for the health care of the citizen may be performed on a citizen, without his consent.

6.3. In the course of the medical treatment, a citizen may, when warranted by his state of health, be restricted in exercising his rights, only for the period of time, to the extent and in the way, as established by law.

6.4. In the course of the medical treatment, the citizen's personal freedom may be restricted by physical, chemical, biological or psychological methods or procedures exclusively in case of emergency, or in the interest of the protection of the life, physical safety and health of the citizen or others, as regulated by law. Restriction of the citizen may not be of a punitive nature and may only last as long as the cause for which it was ordered exists.

6.5. In the course of medical treatment, the citizen's privacy shall be respected, and his clothing may therefore only be removed for the time and extent which is professionally justified.

Right to Communication
Article 7

7.1. In the course of stay in an in-patient health care institution, the citizen is entitled to keep in contact with other persons and to receive visitors. The health care institution should allow for and facilitate such communication and contact, as far as possible.

7.2. The rights defined in Paragraphs 1 to 7, of this article, may be exercised by a citizen depending upon the existing conditions in the in-patient health care institution, respecting his fellow-citizens' rights, and ensuring the maintenance of disturbance-free medical treatment for the citizens. The detailed rules thereof shall be defined in the operative rules of the in-patient health care institution, without restricting the content of these rights. The operative rules may establish further rights, in addition to those defined in Paragraphs 1 to 7.

7.3. A citizen, in a serious health conditions is entitled to have the person designated by him, stay with him, or, in the event of legal incapacity, the person designated by the person defined in Paragraph 11.1. For this purpose, a citizen is in a serious health condition who, due to his condition, is unable to look after himself, whose pains cannot be eased even with the use of medications, or who is in a state of psychological crisis.

7.4. A child is entitled to have, his parent, authorized representative, or a relative designated by him, or by his authorized representative stay with him, during his stay in the in-patient health care institution.

7.5. A woman giving birth is entitled to designate a person of age to be with her continuously during labour and giving birth, and after giving birth, to have her baby placed in the same room as her (rooming in), unless her baby's state of health does not allow it.

7.6. In the absence of operational rules of the in-patient health care institution to a different effect, the citizen is entitled to use his own clothes and personal belongings.

Right to Leave the Institution
Article 8

8.1. The citizen is entitled to leave the health care institution. This right may only be restricted in cases when he threatens the physical safety or health of others by doing so, as regulated by law.

8.2. The citizen shall inform the attending physician of the intention to leave, and this fact shall be indicated in his health documentation.

8.3. If the citizen leaves the health care institution without announcing the fact, the attending physician shall indicate this fact in the citizen's health documentation, and if it is warranted by the citizen's condition, shall notify the competent authorities of the citizen's departure from the institution, and, in the case of citizens with legal incapacity or with reduced disposing capacity, the authorized representative.

8.4. The citizen, his family member, other relative or authorized representative shall be informed of discharge from the health care institution in advance, if possible, at least 24 hours prior to the planned discharge.

8.5. In the case of a citizen with legal incapacity, the right defined in Paragraph (1) of this article may be exercised with the agreement of the authorized representative.

Right to be Informed
Article 9

- 9.1. The citizen is entitled to receive full information in an individualized form.
- 9.2. The citizen is entitled to receive detailed information on:
- a. His state of health, including its medical evaluation;
 - b. The recommended examinations and interventions;
 - c. The possible advantages and risks of performing or not performing the recommended examinations and interventions;
 - d. The planned dates for performing the examinations and interventions;
 - e. His right to decide in respect of the recommended examination or intervention;
 - f. The possible alternative procedures and methods;
 - g. The course of the medical treatment and the expected outcome;
 - h. The success or failure of the medical treatment, upon completion of each examination and intervention, including if the result deviated from what was expected, and the reasons for this;
 - i. The recommended lifestyle; and
 - j. Any other information related to the citizen's state of health or a medical treatment.
- 9.3. The citizen is entitled to become acquainted with the names, specialized qualifications and positions of the persons directly involved in his medical treatment.
- 9.4. The citizen with legal incapacity or reduced disposing capacity is also entitled to information corresponding to his age and mental state.
- 9.5. The citizen is entitled to receive information in a way that is comprehensible for him, with regard to his, age, education, knowledge, state of mind and his wish expressed on the matter.
- 9.6. When necessary an interpreter or sign language interpreter shall be supplied for offering information, to the extent possible.
- 9.7. The conditions necessary for exercising the rights attached to obtaining information shall be provided by the maintaining entity.
- 9.8. A citizen with full disposing capacity may waive the right of being informed except in cases when he must be aware of the nature of his illness, in order not to endanger the health of others.
- 9.9. If an intervention takes place at the citizen's initiative and not for therapeutic purposes, renunciation of the right of being informed shall only be valid in writing.
- 9.10. A citizen with full disposing capacity is entitled to designate a person in writing or in any other credible manner who is to be informed instead of him.
- 9.11. The citizen is entitled to the right to be informed even in cases where his consent is not otherwise a condition for beginning the therapy.

Right to a Personal Decision
Article 10

10.1. The citizen has the right to make a personal decision on whether to undergo a certain treatment or not. This right may only be restricted as established by law.

10.2. Within the framework of exercising the right of a personal decision, the citizen is free to decide whether he wishes to use health care services or not, and which interventions to consent to or to refuse, in the course of using such services, taking into account the restrictions set out in the law.

10.3. The citizen is entitled to take part in any decision concerning his medical treatment, apart from the exceptions established by law. In exercising the right to a personal decision the citizen should be presented with adequate, accurate and complete information, as provided for in article 9 and article 19 of this Law.

10.4. A citizen may grant his consent defined in previous paragraph, verbally, in writing or through conduct implying such consent, in presence of two joint witnesses, unless otherwise provided for by law.

10.5. The written consent of the citizen is required for invasive interventions, or – if the citizen is not capable of this – a declaration made verbally or in some other way in the joint presence of two witnesses.

10.6. A citizen may, at any time, withdraw his consent to the performance of an intervention. However, in the event of the withdrawal of the consent without justified reason, the citizen may be obliged to reimburse the reasonable costs incurred as a result of this.

Article 11

11.1. Unless otherwise provided by law, a person with full disposing capacity, in a statement incorporated into a public deed, into a fully conclusive private deed, or, in the case of inability to write, a declaration made in the joint presence of two witnesses, may:

- a. Name the person with full disposing capacity who is entitled to exercise the right of consent and refusal in his place, and who is to be informed on the basis of article 9 and article 19 of this Law;
- b. Exclude any of the persons defined in Paragraph 2 of this article, from exercising the right of consent and refusal in his place or from obtaining information, as defined in article 9 and article 19 of this Law.

11.2. If a citizen, in the health emergency conditions, has no disposing capacity or has limited disposing capacity and there is no person entitled to make a statement on the basis of paragraph 11.1, point (a), the following persons in the order indicated below are entitled to exercise the right of consent and refusal within the limits set out in Paragraph 4 taking into account the provisions of paragraph 11.1 point (b):

- a. The citizen's authorized representative, in the absence thereof;
- b. The following family member, with full disposing capacity;
 - i. spouse or common-law spouse, in the absence thereof,
 - ii. descendent above 18 year of age, in the absence thereof,

- iii. parent, in the absence thereof,
 - iv. brother or sister, in the absence thereof,
 - v. grandparent, in the absence thereof;
- c. In the absence of a family member in point (b), the responsible medical professional.

11.3. In the event of contrary statements made by those in the same line entitled to make statements, the decision with the potentially most favorable effect upon the citizen's state of health, according to the health care institution, shall be taken into account.

11.4. The person defined in Paragraph 2 may only make a statement after having being informed, according to article 9. Statement may extend to granting consent to invasive interventions recommended by the attending physician. However such a declaration – with the exception of the case defined in Paragraph 15.3 – apart from the intervention may not unfavorably affect the citizen's state of health, and in particular may not lead to serious or lasting impairment to the health. The citizen shall be informed of such statements immediately after the citizen regains his full disposing capacity.

11.5. In making decisions on the health care to be provided, the opinion of a citizen with no disposing capacity or with limited disposing capacity shall be taken into account to the extent that is not in contradiction with professional norms and standards. This provision is applicable also in cases where the right of consent and refusal is exercised by a person defined in Paragraph 2, of this article.

Article 12

12.1. The citizen's shall undergo the proposed treatment without given consent, if the citizen is unable to make a statement of consent as a result of his state of health and:

- a. Obtaining a declaration from the person defined in Paragraph 11.1 point (a) would result in a delay that would seriously affect the health of the citizen;
- b. In the case of invasive interventions, if obtaining a declaration from the person defined in Paragraph 11.1 point (a) or paragraph 11.2 would result in delay and the delayed performance of the intervention would lead to a serious or lasting impairment of the citizen's state of health.

12.2. The citizen's consent is not required if failure to carry out the given intervention or action:

- a. Would seriously endanger the health or physical safety of others – including also the fetus beyond the 10th week of pregnancy, in accordance with a law;
- b. If the citizen's life is in direct danger – also taking into account articles 15-18, of this Law.

Article 13

13.1. If, in the course of an invasive intervention, an extension thereof becomes necessary which was not foreseeable, in the absence of a consent to such extension – with the exception of the case defined in Paragraph 2 of this article – it may only be carried out if:

- a. A state of emergency warrants it, or
- b. Failure to do so would impose a disproportionately serious burden on the citizen.

13.2. If the extension of the intervention defined in a previous paragraph would lead to the loss of an organ or a part of the body or to the complete loss of the function thereof – the intervention may only be extended if the citizen’s life is in direct danger.

Article 14

14.1. The citizen's written consent is required to the utilization of any of his cells, cell components, tissues, organs and body parts removed while alive in connection with an intervention for any purpose not related to the citizen's medical treatment. The citizen's consent is not required for the destruction of these materials in the usual manner.

14.2. The citizen has the right to decide over any interventions regarding his corpse in the event of his death, within the restrictions established by law.

Right to Refuse Provision of Services

Article 15

15.1. With the exception of the conditions set out in Paragraphs 2 – 3 and the cases defined in Paragraph 6 of this article, a citizen with full disposing capacity is entitled to refuse provision, unless its lack would endanger the lives or physical safety of others.

15.2. Any provisions, in the absence of which his state of health would probably be seriously or permanently impaired may only be refused by a citizen in a public deed or in a fully conclusive private deed or in the case of inability to write, in the joint presence of two witnesses. In the latter case, the refusal must be indicated in the health documentation and certified with the signatures of the witnesses.

15.3. Life-supporting or life-saving interventions may only be refused, allowing the illness to follow its natural course, if the citizen suffers from a serious illness that, according to the current state of medical science, will lead to death within a short period of time even with adequate health care provision, and is incurable. The refusal of life-supporting or life-saving interventions may be made respecting the formal requirements set out in Paragraph 2.

15.4. Refusal as defined in Paragraph 3 shall only be valid if a Committee composed of three physicians examines the citizen and makes a unanimous, written statement to the effect that the citizen took his decision being fully aware of its consequences, and the conditions defined in Paragraph 3 are satisfied, further that on the third day following the statement by the medical committee the citizen again declares – in the presence of two witnesses – the intention of refusal. If the citizen does not consent to the examination of the medical committee, his statement regarding refusal of medical treatment may not be taken into account.

15.5. The members of the Committee defined in Paragraph 4 shall be two physicians specialized in the field corresponding to the nature of the illness who does not take part in the treatment of a citizen and one psychiatrist. The attending physician has to be heard.

15.6. A woman may not refuse the life-supporting or life-saving intervention if she is pregnant and is able to bear the child beyond the time provided in Paragraph 12.2 point (a).

15.7. In the event of refusal as defined in Paragraphs 2 to 3, an attempt shall be made to uncover the reasons for the citizen's decision on the basis of personal interviews and to alter the decision. In the course of this, in addition to the information defined in article 9, the citizen shall be informed once again on the consequences of failure to carry out the intervention.

15.8. A citizen may, at any time, withdraw his statement regarding refusal without any restriction upon the form thereof.

Article 16

16.1. In the case of a citizen with no disposing capacity or with limited disposing capacity, the provisions defined in Paragraph 15.2 may not be implemented.

16.2. If in the case of a citizen with no disposing capacity or limited disposing capacity, in the case of refusal described in Paragraph 15.3, the health care institution shall institute proceedings for obtaining the required consent from the court. The attending physician shall supply all medical treatment justified by the citizen's health, until the court passes its final and absolute decision. In the case of a direct threat to life, it is not necessary to obtain the statement from the court for carrying out the required interventions.

16.3. An attending physician, in the interest of satisfying his obligation defined in the previous paragraph may, if necessary, use the police authority.

16.4. In the course of the proceedings aimed at obtaining the statement defined in Paragraph 2, of this article, the court shall proceed in out-of-court proceedings, without delay. Objective exemption from costs shall apply to such proceedings, unless it otherwise follows from this Law.

Article 17

17.1. A person with full disposing capacity may, for the event of subsequently losing his disposing capacity, reject in a public deed:

- a. Certain examinations and interventions defined in Paragraph 15.1,
- b. Interventions defined in Paragraph 15.3, and
- c. Certain life-supporting or life-saving interventions if he has an incurable disease and as a consequence of the disease is unable to care for himself physically or suffers pain that cannot be eased with appropriate therapy.

17.2. A person with full disposing capacity may, for the event of subsequently losing his disposing capacity, name, in a public deed the person with full disposing capacity who is entitled to exercise the right defined in Paragraph 1 in his place.

17.3. The statement defined in Paragraphs 1 and 2, of this article, is valid if psychiatrist confirms in a professional opinion, given not more than one month previously, that the person made the decision in full awareness of its consequences. The statement shall be

renewed every two years, and may, at any time, be withdrawn, regardless of the citizen's disposing capacity and without formal requirements.

17.4. In the case of a declaration refusing intervention made by a person with full disposing capacity according to paragraph 17.2, the Committee defined in Paragraph 15.4 shall make a declaration on whether:

- a. The conditions set out in Paragraph 17.1 exist, and
- b. The citizen defined in Paragraph 17.2 made the decision with a full awareness of its consequences.

Article 18

18.1. Termination or non-performance of an intervention as defined in Paragraph 15.3 may only be carried out if the will of the citizen to that effect can be determined clearly and convincingly. In the case of doubt, any later personal declaration made by the citizen must be taken into account; in the absence of such a declaration, consent for the life-supporting or life-saving intervention must be assumed.

18.2. A citizen, or the person defined in Paragraph 17.2 refusing an intervention may not be forced by any means to alter his decision. Even in the case of refusal of intervention defined in Paragraph 15.3, the citizen is entitled to medical treatment intended to ease his sufferings and reduce pain.

Right to access on health documentation

Article 19

19.1. A citizen is entitled to become acquainted with the data contained in the health documentation prepared on him, and is entitled to access information on his health care data.

19.2. The health care institution shall have available the health documentation, and the citizen shall have access to the information contained therein.

19.3. The citizen is entitled to:

- a. Receive information on the management of the data related to his medical treatment,
- b. Become acquainted with the health care data relating to him,
- c. Have access to the health documentation; and receive copies thereof at his, own expense,
- d. Receive a final report upon being discharged from the health care institution,
- e. Receive a summary or extract written opinion of his health care data for justified purposes, at his, own expense.

19.4. A citizen is entitled to initiate completion or correction of health documentation relating to him or her, if deemed by him to be inaccurate or incomplete. The erroneous data of the health care institution may not be deleted following the entry thereof, and shall be corrected in such a way that the data entered originally can be maintained.

19.5. If the health documentation, prepared for the citizen also contains personal details of another person, his right to privacy should be respected. For this reason, the citizen may not be able to exercise the right of access and other rights mentioned in Paragraph 19.3, in relation to the information concerning another person.

19.6. The person referred in Paragraphs 11.1 and 11.2 is entitled to have access to the health documentation of a person with no capacity to act.

19.7. A citizen is entitled to authorize a person in writing, designated by him, to have access to the health documentation related to the medical treatment offered to him and his illness, and obtain copies thereof.

19.8. Following the conclusion of the citizen's medical treatment, only the person authorized by him in a fully conclusive private deed granted is entitled to have access to the health documentation and to make a copy of it.

19.9. In the event of a citizen's death, his authorized representative, his close relative and heir, are entitled to become acquainted with the health care data, which was or may have been related to the cause of death and his medical treatment prior to the his death; to have access to the health documentation and to receive copies thereof, at their own expense.

19.10 The detailed rules of the management and protection of health care data and the personal data related thereto shall be established in a sub-legal act, issued by the Ministry of Health.

The right of confidentiality and secrecy of health data Article 20

20.1. The citizen has the right to protection of the confidentiality and secrecy of his personal data and information related to his state of health and medical treatment, as well as to any other information included in his health documentation.

20.2. A citizen is entitled to make a statement as to who may receive information on his illness and the expected outcome thereof and who is not entitled to be fully or partially acquainted with his health care data.

20.3. Data under paragraph 20.1 shall be disclosed even prior the consent of the citizen concerned, if the law stipulates it.

20.4. The person charged with a citizen's continual symptomatic care may be informed, without the consent of the citizen concerned, of the necessary health documentation, the lack of which may lead to thee deterioration of the citizen's state of health.

20.5. A citizen has the right to have only those persons present during the course of his medical treatment, who are required for the purposes of medical treatment, and those whose presence the citizen has consented, unless otherwise provided by the law.

20.6. A citizen is entitled to request that his medical treatment take place under the circumstances whereby he cannot be seen or heard by others without his consent, except in emergency and threatening state cases, if this is unavoidable.

20.7. A citizen is entitled to name the person who may be notified of his admission to an in-patient health care institution and the development of his state of health, and is entitled

to exclude any person there from. The in-patient health care institution, shall inform the person named by the citizen of the citizen's admission and any change thereof, and of any significant change in the citizen's state of health.

CHAPTER III RESPONSIBILITIES OF THE CITIZEN

Article 21

21.1. When using a health care service, the citizen shall respect and observe relevant legal rules.

21.2. If the citizen's state of health allows this, a citizen shall cooperate with health workers involved in his medical treatment, according to his abilities and knowledge, as follows:

- a. Inform them of all details necessary for the establishment of the diagnosis, preparation of an adequate treatment plan and for carrying out the required interventions, in particular, of every former illness, medical treatment or medicine taken, or paramedical products and procedures, and the risk factors of damage to health;
- b. Inform them of every detail in connection with his illness, which may endanger the lives or physical safety of others, in particular, of any communicable diseases, and of illnesses and conditions disqualifying him from pursuing an occupation;
- c. In the case of the communicable diseases, name the persons from whom he may have contracted the communicable disease and whom he may have infected;
- d. Inform them of all previous statements made by him, made in relation to the illness or disorder, for which medical treatment is currently provided;
- e. Comply with the instructions received from them in connection with the medical treatment,
- f. Observe the operative rules of the health care institution;
- g. Pay co-payments and other fees;
- h. Provide credible proof of the personal data.

Article 22

22.1. In the course of exercising these rights, the citizen or his relatives shall respect the rights of other citizens.

22.2. In a course of exercising the rights foreseen by this Law, the citizen or his relatives should not violate the rights of the health care workers stipulated in law.

22.3. A detailed method on the citizens' rights and responsibilities, within the health care institution, shall be regulated by operational rules of the relevant health care institution, which must be in full compliance with this Law.

Chapter IV
IMPLEMENTATION OF CITIZEN'S RIGHTS IN HEALTH CARE

Article 23

The health care service provider shall, upon the admission or prior to the provision of health care, immediately inform the citizen, depending on his state of health, about the rights of the citizen to health care services, possibilities of their application, as well as about operational rules of the health care institution. This provision shall fully apply in respect of any other person, to exercise the right of freedom to decide himself, in accordance with this Law.

Investigation of the Complaints of Citizens

Article 24

24.1. Any citizen is entitled to lodge a complaint against the health institution regarding the health care service provided to him, no later than 60 days after the incident has occurred.

24.2. The health care institution shall investigate the complaint and shall inform the citizen in writing of the findings of the investigation, within 10 working days.

24.3. The citizen is entitled to appeal against the decision of the health care institution to his supporting entity.

24.4. The right to complain does not affect the citizen's right to address other institutions for the investigation of the complaint, as defined by the law. The health care institution shall draw the citizen's attention to that circumstance.

24.5. The investigation procedure of citizens' complaints by the health care institution shall be laid down in its internal operational rules, in agreement with relevant laws.

24.6. Complaints shall be registered and the documents related to the complaints and the investigation thereof shall be kept for 5 years.

The concept of damage inflicted upon citizens

Article 25

25.1. Within the context of this Law, the damage inflicted upon citizens constitutes material and non-material types of damage, including pain and decrease of the quality of life, caused as a result of:

- a. The medical treatment or medical research of a citizen of which he was a subject;
- b. Infection or inflammation connected to intra-hospital infections;
- c. Structural shortcomings of the medical equipment, malfunctioning of the medical equipment or something similar.

25.2. The consequences of medical treatment based upon universally accepted principles or standards of medical practice and science, which could not have been avoided through the use of an equally effective method of treatment, shall not be treated in this Law as damage inflicted upon a citizen.

Requests of citizens for compensation

Article 26

26.1. A citizen is entitled to lodge a request for damage compensation, based on the civil responsibility of the health care institution for the damage caused to his health during the medical treatment, no later than within one year from the time the citizen first became aware of the damage sustained by him.

26.2. Requests shall be registered and the documents related to them shall be kept for 5 years.

Commission on evaluation and compensation of damage inflicted upon the health of citizens

Article 27

27.1. The Ministry of Health shall establish, a Commission for evaluation and compensation of damage inflicted to the health of citizens, during their medical treatment, in a public or private health sector (hereinafter: Commission). The mandate of commission is four years.

27.2. The Minister of Health shall nominate the Commission, composed by qualified and independent persons, including:

- a. one representative from the General Professional Council;
- b. one representative from patient associations;
- c. one member who is not part of these institutions and who has the qualification of a judge.

27.3. The Commission shall not decide on criminal and disciplinary matters, or matters regarding licensing.

27.4. In the case that the Committee finds out that damage inflicted on the health of a citizen is cause due to medical malpractice or negligence, it must inform General Professional Council.

27.5. The commission shall decide about the validity of the citizens' requests regarding damage compensation and shall establish the size of compensation, taking into account the degree of loss of patient's ability to work, as well as the extent and duration health loss sustained.

27.6. Commission members, when examining the request of a citizen for damage compensation, shall have the right to acquaint themselves with the necessary documents. The administration of the health care institutions, physicians, nursing and other staff members must provide the information and documents within five business days, in compliance with the commission's request.

27.7. When examining the request of a citizen, Commission members, must maintain confidentiality.

Article 28

28.1. Citizen's requests for damage compensation shall be submitted and examined in accordance with the procedure established by Commission's operational rules.

28.2. The request of a citizen must be examined within a three-month period and the decision of the Commission must be submitted to the citizen, in writing.

28.3. Decisions of the Commission concerning damage compensation are binding for the Ministry of Health.

28.4. The Ministry of Health and other institutions authorized according to the procedure established by laws of Kosovo shall inspect the activities of the Commission.

28.5. The Commission shall have full independence in decision making.

28.6. Commission shall give an annual report for the Assembly of Kosovo.

Article 29

29.1. The position of a member of a Commission shall terminate in the following situations:

- a. after the expiry of the mandate period;
- b. when a member resigns;
- c. when the member is removed by a decision of the Supreme Court;
- d. when the member is unable to carry out his tasks for other serious personal reasons;
- e. in the case of conflict of interests.

29.2. In the case of serious violations of obligations, the procedure for the dismissal of the Commission member before the Supreme Court, may be initiated by the institution that has proposed it or by the Minister of Health.

29.3. Establishment, activities and procedures of the Commission shall be determined by a sub-legal act, issued by the Ministry of Health.

Damage compensation

Article 30

30.1. The Commission shall determine the extent of the damage inflicted to the citizen, as result of actions or negligence of a physician, a dentist, a pharmacist or a nursing staff member.

30.2. If the level of damage inflicted upon the health of a citizen has increased due to the citizen's malicious intent or gross carelessness, compensation shall be paid only for the damage which was not influenced by these circumstances.

30.3. The procedure of compensation for the damage inflicted upon the health of citizens, shall be established by this and other relevant laws.

Insurance of health care Institutions
Article 31

31.1. Health care institutions licensed for individual health care in Kosovo, must insure their civil responsibility for the damage caused to citizens through the actions or negligence of physicians, dentists, pharmacists or nursing staff members.

31.2. The Ministry of Health Patients Insurance Fund for the damage caused to citizens during the medical treatment, shall be instituted, through application of compulsory insurance for civil responsibility of the individual public and private health care institutions for this damage (hereinafter: the Fund).

31.3. The fund, insurance premiums and contractual relationships between the health care institutions and the Ministry of Health related to this issue, shall be established through a sub-legal acts issued by the Ministry of Health and the Ministry of Economy and Finance.

31.4. The fund shall provide an annual accounting of the use of financial means in it.

31.5. The private health care institutions could insure their civil responsibility under Paragraph 1 of this article in the Fund or through insurance agreements with insurance companies, which have a right to implement general civil responsibility insurance, in accordance with the relevant laws.

31.6. If the private health care institutions, insure their civil responsibility under Paragraph 1 of this article by forming insurance contracts with insurance companies from the previous paragraph, the terms of insurance, size of insurance payments, procedure of the payment thereof, etc., shall be established in the insurance contracts.

31.7. The health care institutions, who have not provided the required insurance of their civil responsibility for the damage caused to the citizen by actions or negligence of the health workers employed in them, shall not have the right of engaging in individual health care.

Payment of compensation to the citizen
Article 32

32.1. If a damage was caused at the health care institution, which has insured its civil responsibility under Paragraph 31.1 through an insurance contract with the Fund, the compensation shall be paid by this Fund, in accordance with the provisions of this Law.

32.2. The compensation shall be paid pursuant to the decision of the Commission under Paragraph 27.1, in accordance with the procedure and amounts approved in the sub legal act under Paragraph 31.3, but not to exceed the 15 minimal monthly pay amount.

32.3. The damage shall be compensated in accordance with the minimum monthly pay amount, effective on the day the request, concerning compensation of the damage incurred, was submitted to the Commission for compensation.

32.4. If the citizen sustained damage at a private health care institution, that its civil responsibility under Paragraph 31.1 has insured an insurance company under Paragraph 31.5, the damage compensation shall be paid based on the contract under Paragraph 31.6 of this Law. In this case, the maximum amount of damage compensation can not be smaller than the sum designated in Paragraph 2 of this article.

Appeal against a decision of the commission

Article 33

Decisions of the Commission may be appealed to a competent court, in accordance with the relevant laws.

Transitional provisions

Article 34

Provisions of the Chapter IV of this Law shall be operative on January 15, 2005.

Article 35

The present law shall enter into force after adoption by the Assembly of Kosova on the date of its promulgation by the Special Representative of the Secretary -General .

Law No.2004/38
8 September 2004

President of the Assembly

Academic Nexhat Daci