

No. 785/1992

## **ACT ON THE STATUS AND RIGHTS OF PATIENTS**

Issued in Helsinki on 17<sup>th</sup> August 1992

### Chapter 1

#### **General provisions**

##### Section 1

#### **Application**

This Act shall apply to the status and rights of patients in health care and medical care unless otherwise provided by statute.

##### Section 2

#### **Definitions**

In this Act:

1. the term **patient** is used of a person who uses health care services or is otherwise an object of them;
2. the terms **health care and medical care** mean measures taken by health care professionals or in a health care unit in order to assess the state of health of a person or to restore or maintain it.
3. the term **health care professionals** means persons referred to in section 2 of the Health Care Professionals Act (559/1994); (560/1994)
4. the term **health care unit** means health centres and other municipal units in charge of tasks as referred to in the Act on Primary Health Care (66/1972), hospitals and medical care units separate from hospitals and other entities responsible for providing care as decided by the joint municipal board for a hospital district referred to in the Specialized Medical Care Act (1062/1989), units providing health care services as referred to in the Private Health Care Act (152/1990), the Finnish Institute of Occupational Health as far as it provides health and medical care services referred to in the Act on the Activities and Financing of the Institute of Occupational Health (159/1978), State mental hospitals referred to in the Act on State Mental Hospitals (1292/1987), medical care institutions referred to in the Act on Arranging Health Care in the Defence Forces (322/1987), and health care units referred to in the Act on Criminal Sanctions Agency (953/2009); and (741/2011)
5. the term **patient documents** means the documents or technical records used, drawn up or arrived when the treatment of the patient is arranged and carried out and which contain information on his/her state of health or otherwise personal information about the patient.

##### Section 2 a (658/2009)

#### **National Advisory Board on Social Welfare and Health Care Ethics**

The National Advisory Board on Social Welfare and Health Care Ethics operates in conjunction with the Ministry of Social Affairs and Health. The Government appoints it

for four years at one time. The task of the Advisory Board is to deal, at the level of principle, with ethical issues relating to social welfare and health care and the status of patients and clients as well as to issue recommendations concerning them.

Further provisions on the composition of the Advisory Board and its tasks are laid down by Government decree.

## Chapter 2

### **The rights of patients**

#### Section 3

#### **The right to good health care and medical care and related treatment of patients**

Every person who is permanently resident in Finland is without discrimination entitled to health and medical care required by his state of health within the resources available to health care at the time in question. Concerning the right to treatment of persons who are staying in Finland temporarily, what has specially been provided for or what has been agreed upon between states reciprocally shall apply. Provisions on the obligation of municipalities and the state to provide health care services are laid down, in addition, in the Act on Primary Health Care, the Specialized Medical Care Act, the Health Care Act (1326/2010), the Communicable Diseases Act (583/1986), the Mental Health Act (1116/1990), the Act on Criminal Sanctions Agency and the Act on Arranging Health Care in the Defence Forces (322/1987). (1335/2010)

The patient has a right to good quality health care and medical care. The care of the patient has to be arranged so and he/she shall also otherwise be treated so that his/her human dignity is not violated and that his/her conviction and privacy is respected.

The mother tongue, individual needs and culture of the patient have to be taken into account as far as possible in his/her care and other treatment.

Provisions on the patients' right to use the Finnish or Swedish language, to be heard and to obtain their documents containing decisions in Finnish or Swedish and their right to interpretation when using these languages while dealing with authorities are laid down in sections 10, 18 and 20 of the Language Act (423/2003). Provisions on the responsibilities of the municipalities and joint municipal boards for providing health and medical care services in Finnish and Swedish are laid down in section 6 of the Health Care Act. (1335/2010)

#### Section 4 (1335/2010)

#### **Access to treatment**

The patient shall be informed of the date of access to care or treatment. If that date will be altered, the patient must be immediately informed of the new date and the reason for the alteration. Separate provisions on the access to care and provision of care in primary health care and specialized medical care units are laid down in the Health Care Act.

Provisions on providing help to and admitting to care a person in need of urgent treatment are laid down in section 50 of the Health Care Act and in section 15 of the Health Care Professionals Act.

Section 4 a (857/2004)

#### **The plan concerning examinations, treatment or medical rehabilitation**

When organizing health care and medical care, as necessary, a plan concerning examinations, treatment, medical rehabilitation or comparable shall be drawn up. The provision of care for the patient and the time schedule for it must appear from the plan. The plan shall be drawn up in mutual understanding with the patient, his/her relatives or significant others or his/her legal representative. In addition, the content of the plan and the parties concerned are subject to separate provisions.

Section 5

#### **Patients' right to be informed**

A patient shall be given information about his/her state of health, the significance of the treatment, various alternative forms of treatment and their effects and about other factors related to his/her treatment that are significant when decisions are made on the treatment given to him/her. However, this information shall not be given against the will of the patient or when it is obvious that giving the information would cause serious hazard to the life or health of the patient.

Health care professionals should try to give the information in such a way that the patient can understand it. If the health care professional does not know the language used by the patient or if the patient because of a sensory handicap or speech defect cannot be understood, interpretation should be provided if possible.

Concerning the right of the patient to check the data concerning himself/herself in the patient documents, the provisions of sections 26 to 28 of the Personal Data Act (523/1999) shall apply. Concerning the patient's right of access to information, the relevant provisions of sections 11 and 12 of the Act on the Openness of Government Activities (621/1999) shall apply in addition. (653/2000)

Section 6

#### **Patients' right to self-determination**

The patient has to be cared in mutual understanding with him/her. If the patient refuses a certain treatment or measure, he/she has to be cared, as far as possible, in other medically acceptable way in mutual understanding with him/her.

If a major patient because of mental disturbance or mental retardation or for other reason cannot decide on the treatment given to him/her, the legal representative or a family member or other close person of the patient has to be heard before making an important decision concerning treatment to assess what kind of treatment would be in accordance

with the patient's will. If this matter cannot be assessed, the patient has to be given a treatment that can be considered to be in accordance with his/her personal interests.

In cases referred to in paragraph 2, the patient's legal representatives, a close relative, or other person closely connected with the patient, must give their consent to the treatment. In giving their consent, the patient's legal representatives, close relative, or other person closely connected with the patient must respect the patient's previously expressed wishes or, if no wishes had been expressed, the patient's well-being. If the patient's legal representatives, close relative, or other person closely connected with the patient forbid the care or treatment of the patient, care or treatment must, as far as possible in agreement with the person who refused consent, be given in some other medically acceptable manner. If the patient's legal representatives, close relative, or other person closely connected with the patient disagree on the care or treatment to be given, the patient shall be cared for or treated in accordance with his or her best interests. (489/1999)

Provisions on treatment given irrespective of the will of the patient are included in the Mental Health Act (1116/1990), the Act on Social Work with Substance Abusers (41/1986), the Communicable Diseases Act (583/1986) and in the Act on Special Care for the Mentally Handicapped (519/1977).

#### Section 7

##### **The status of minor patients**

The opinion of a minor patient on a treatment measure has to be assessed if it is possible with regard to his/her age or level of development. If a minor patient owing to his/her age and level of development can decide on the treatment given to him/her, he/she has to be cared in mutual understanding with him/her.

If a minor patient cannot decide on the treatment given to him/her, he/she has to be cared in mutual understanding with his/her guardian or legal representative.

#### Section 8

##### **Emergency treatment**

A patient has to be given treatment necessary to ward off a hazard imperilling his/her life or health even in case it is not possible to assess the patient's will because of unconsciousness or other reason. However, if the patient has earlier steadfastly and competently expressed his/her will concerning treatment given to him/her, he/she must not be given a treatment that is against his/her will.

#### Section 9

##### **The right to be informed and the powers of the patient's representative**

In the circumstances referred to in paragraphs 2 and 3 of section 6, the patient's legal representative, close relative, or other person closely connected with the patient shall be

entitled to receive any information regarding the patient's state of health that may be required to enable them to express an opinion and give their consent. (489/1999)

If a minor patient because of his/her age or level of development can decide on the treatment given to him/her, he/she has a right to forbid providing his/her guardian or other legal representative with information on his state of health and care.

The information meant above in paragraphs 1 and 2 of section 5 shall in the case meant in section 7, paragraph 2, be given to the guardian or other legal representative of a minor patient. The guardian or other legal representative of a minor patient do not have the right to forbid treatment necessary to ward off a threat to the life or health of the patient.

The guardian or other legal representative of a minor or a patient referred to in paragraph 2 of section 6 shall not have the right to forbid any care which may be required to avert a threat to the patient's life or health. (489/1999)

### Chapter 3

## **Objections and patient ombudsman**

### Section 10

#### **Objections**

A patient who is not satisfied with the health care or medical care and the related treatment received by him/her has the right to submit an objection on the matter to the director responsible for health care in the health care unit in question. Decision on the objection has to be given in a reasonable time from the submitting it.

Submitting an objection does not restrict the right of a patient to appeal to the authorities controlling health care or medical care about the care or related treatment received by him/her.

If, when the objection is dealt with, it becomes obvious that the care or other treatment of the patient may cause liability for patient injury meant in the Patient Injury Act (585/1986), indemnification liability meant in the Act of Torts (412/1974), taking legal action, cancelling or restricting the right of vocational practise or disciplinary proceedings meant in the legislation on vocational practise of health care staff or disciplinary proceedings meant in other law, the patient shall be advised as to how the matter can be initiated in a competent authority or organ.

### Section 11

#### **Patient ombudsman**

A patient ombudsman shall be appointed for health care units. The patient ombudsman may also be common to two or more units.

The tasks of a patient ombudsman are:

1. to advise patients in issues concerning the application of this Act;

2. to help patients in the matters meant in paragraphs 1 and 3 of section 10;
3. to inform patients of their rights; and
4. to act also otherwise for the promotion and implementation of patients' rights.

## Chapter 4

### **Patient documents and material related to care and treatment**

#### Section 12 (653/2000)

#### **Patient documents and other material related to care and treatment**

Health care professionals shall record in patient documents the information necessary for the arranging, planning, providing and monitoring of care and treatment for a patient. Health care units and health care professionals practising their profession independently shall keep the patient documents as well as the samples containing biological material that arise in the context of examinations and care and models of organs for a period necessary for arranging and providing care and treatment for a patient, for investigating possible claims for compensation related to care, and for scientific research. Patient documents, samples and models shall be disposed of immediately after there are no grounds as referred to above for keeping them.

Further provisions on the drawing up of patient documents and on keeping them and the samples and models referred to in paragraph 1, and on the periods of keeping them determined on the basis of their use shall be issued by a Decree of the Ministry of Social Affairs and Health. Patient documents, samples and models may be kept after the period prescribed by a Decree of the Ministry of Social Affairs and Health has expired, if that is necessary for arranging or providing care for a patient. The need for keeping them after the period prescribed by a Decree of the Ministry of Social Affairs and Health has expired shall be assessed at least at five years' intervals, unless otherwise provided elsewhere in the law, or in the permission granted by the Data Protection Board as referred to in paragraph 2 of section 43 of the Personal Data Act.

Provisions on retention of documents on a permanent basis are laid down in the Archives Act (831/1994).

Section 13 (653/2000)

### **Confidentiality of information in patient documents**

The information contained by patient documents shall be confidential.

Health care professionals or other persons working in a health care unit or carrying out its tasks shall not give information contained by patient documents to outsiders without a written consent by the patient. If a patient is not capable of assessing the significance of the consent, information may be given by his/her legal representative's written consent. In this Act outsiders refer to persons other than those who participate in the care of the patient or in carrying out jobs related to it in the health care unit in question or by its order. The secrecy obligation remains in force after termination of the employment relationship or the job.

The 2nd paragraph notwithstanding:

1. information included in patient documents may be given if there are express provisions on giving it or on the right of access to it in the law;
2. information necessary for the arranging of examination and treatment of the patient may be given to another health care unit or health care professional, and a summary of the treatment provided may be given to the health care unit or the health care professional that referred the patient for treatment and to a physician possibly appointed to be responsible for the care of the patient in accordance with the patient's or his/her legal representative's orally given consent or consent that is otherwise obvious from the context; and
3. information necessary for arranging and providing the examination and care of a patient may be given to another Finnish or foreign health care unit or health care professional, if the patient, owing to mental health disturbance, mental handicap or for comparable reason is not capable of assessing the significance of the consent and he/she has no legal representative, or if the patient cannot give the consent because of unconsciousness or for comparable reason;
4. information about the identity and state of health of a patient may be given to a family member of the patient or to other person close to the patient, if the patient is receiving treatment because of unconsciousness or for other comparable reason, unless there is reason to believe that the patient would forbid this; and
5. information on the health and medical care of a deceased person provided when the person was still living may be given upon a justified written application to anyone who needs the information in order to find out his/her vital interests or rights, to the extent the information is necessary for that purpose; the acquiring party may not use or forward the information for some other purpose.

What is provided in the Act on the Openness of Government Activities, the Act on National Personal Data Registers for Health Care (5561989) and in the Personal Data Act shall apply to the supplying of information contained in patient documents for scientific research and compilation of statistics. Furthermore, the National Institute for Health and Welfare may, in individual cases, grant permission to obtain information that is needed for purposes of scientific research from patient documents of more than one municipality

or joint municipal board providing health and medical care services, from patient documents of a unit providing health care services referred to in the Act on Private Health Care and from patient documents of self-employed health care professionals. The permission may be granted if it is obvious that the supplying of the information does not violate the interests for the protection of which the secrecy obligation has been prescribed. When considering the granting of permission it must be taken care that the freedom of scientific research is secured. The permission can be issued for a fixed period of time, and necessary regulations for the protection of private interests must be appended to it. The permission can be cancelled if considered justified. (795/2010)

The consent obvious from the context referred to in point 2 of paragraph 3 refers to a consent given in some other way than in writing or orally, which the patient has given voluntarily, conscious of the giving of information, of the acquiring party and the use of the information given, as well of the significance of giving it.

The giving of information referred to in paragraphs 2 and 3, and the grounds for it shall be recorded in the patient documents.

Section 13 a (1230/2010)

#### **National information system services**

Provisions on passing on information contained in patient documents by means of the national information system services are laid down in the Act on the Electronic Processing of Client Data in Social and Health Care (159/2007). Provisions on passing on information contained in the prescriptions recorded in the prescription centre maintained by the Social Insurance Institution are laid down in the Act on Electronic Prescriptions (61/2007).

Section 13b (690/2012)

#### **Reference to other legislation**

Provisions on the use of the biological samples generated in connection with the examination and treatment of patients for scientific research are also laid down in the Medical Research Act (488/1999), the Act on the Medical Use of Human Organs, Tissues and Cells (101/2001) and the Biobank Act (688/2012).

Chapter 5

#### **Miscellaneous provisions**

Section 14 (653/2000)

#### **Breach of the secrecy obligation**

Punishment for breaching the secrecy obligation referred to in paragraph 2 and in point 5 of paragraph 3 of section 13, shall be imposed according to section 1 or 2 of Chapter 38 of the Penal Code, unless the offence is punishable under section 5 of Chapter 40 of the Penal Code, or unless a more severe punishment is prescribed for it elsewhere in the law.

## Section 15

### **Right of appeal**

A decision on an objection meant in paragraph 1 of section 10 may not be appealed.

## Section 16

### **Further provisions**

If needed, further provisions on the implementation of this Act shall be issued by Decree.

## Section 17

### **Entry into force**

This Act enters into force on 1 March 1993 and it abrogates:

- 1) paragraph 4 in section 33 in the Specialized Medical Care Act (1062/1989) issued on 1st March 1989;
- 2) section 18 in the Act on Primary Health Care (66/1972) issued on 28th January 1972; and
- 3) section 11 in the Act on Private Health Care (152/1990) issued on 9th February 1990, as this section reads in the Act issued on 17th January 1991 (79/1991) after having been partially amended.

Measures necessary for the implementation of this Act may be undertaken before its entry into force.

### **Entry into force of Amended Acts:**

795/2010:

This Act enters into force on 1 October 2010.

The applications regarding supplying of information referred to in section 13 (4) for scientific research that are being processed at the Ministry of Social Affairs and Health at the entry into force of this Act are transferred to the National Institute for Health and Welfare.

Measures necessary for the implementation of this Act may be undertaken before its entry into force.

1335/2010:

This Act enters into force on 1 May 2011.

Measures necessary for the implementation of this Act may be undertaken before its entry into force.

741/2011:

This Act enters into force on 1 September 2011.

690/2012

This Act enters into force on 1 September 2013.