



HUMAN RIGHTS IN PATIENT CARE:
A User-Friendly Guide for
People Living with HIV/AIDS

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INTRODUCTION

It is no secret that people living with HIV/AIDS (PLWHA) often face violation of their rights, including those when receiving medical help. In the real life, many of rights stipulated by law are not being carried into practice, and PLWHA are well-aware of that.

There are many reasons leading to such a situation – gaps in legislative acts or implementation mechanisms, law awareness level among citizens on their rights etc. Moreover, there are even cases when one is not able to make differentiation between the norms and violation of those norms.

Within the all scope of legal wrongs there are ones where *human rights* become the object of violation despite these rights are inherent to all human beings at birth and inalienable. Nobody can bereave one of his or her natural rights - to life and health, to personal privacy, family and home, to information, to freedom of expression, to confidentiality of personal data etc. *The right to health* is the same human rights in health settings when one receives medical help and health services. Everybody have the right to health without distinction of any kind such as sex, nationality or his or her status of being infected with HIV/AIDS.

The brochure is developed for PLWHA and aims to improve their level of awareness on their rights while receiving medical care. We believe that having enough knowledge on their own rights would be the first step to defend against ignorance or violations of those rights. The brochure also brings important quotations of relevant legal acts and other documents.

If you find hard to understand statements or ideas in this brochure and need further clarification while browsing the brochure, please feel free to visit us or contact with our legal practitioner (Ms. Violeta Zopunyan, phone: 621635, email: zopunyan@healthrights.am).

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Your rights in receiving medical care and service

It is well-known that PLWHA are reluctant to seek for medical help and apply for any type of medical assistance (polyclinic or hospital) as they concern that they will face discriminative, 'cold' and not respectful attitude, and their "HIV-status" will be shared with a wide range of people, including family, neighbors, relatives and co-workers.

REMEMBER

When receiving medical care and health services, discriminative and non-respectful attitude, disclosure and/or dissemination of health secrets, negligence of patients' will and agreement, leaving one without any medical help are cases of violation of their rights and lead to legal liability.

Rights of PLWHA

When receiving health services, PLWHA can realize common human rights as others. Human rights main norms are stipulated by Armenian as well as international legislation. You can find both patient rights and health service provider responsibilities in relevant legal acts. And, in terms of rights, there is no any difference if a person with HIV or other person is applying for therapeutic either surgical treatment.

PLWHA like other citizens of the Republic of Armenia are entitled with human rights stipulated by **the Constitution and the Law on "Medical Care and Service to Population" of the Republic of Armenia.**

REMEMBER

When receiving medical care and service, PLWHA have the following rights:

- the right to medical care free from discrimination
- the right to choose medical care and service provider
- the right to receive medical care and services in conditions meeting the requirements of hygiene
- the right to receive information concerning his or her health status
- the right to demand confidentiality regarding consulting with a physician, state of his or her health, and information gained during examinations, diagnostics and treatment
- the right to consent for medical service (oral or written) except mandatory treatment cases
- the right to receive compensation for the harm caused by the medical care and services

The right to medical care free from discrimination means that there should not be any attempt by health practitioners to classify patients as “good” or “bad”, “worthy” or “non-respectful”, “payable” or “poor”, “law abiding” or “criminal”, and the medical staff should treat all patients with care and respect without making any kind differentiation.

The right to choose medical care and service provider means that a patient is free in choosing from among different treatment facilities which he or she would like to apply for, take medical examinations and receive his or her treatment.

The right to receive medical care and services in conditions meeting the requirements of hygiene is a reflection of the respect by medical service providers. It also prevents break out of any hospital infections.

One who receives medical care, has the *right to receive information concerning his or her health status*. He or she can require from the health provider all information and results gained during his or her examinations, diagnostics and treatment.

All patients, including PLWHA, have *the right of confidentiality of their medical information*, which means that they can require health provider keep in secret their data regarding consultation, state of his or her health, and information gained during examinations, diagnostics and treatment. Such information is personal, and PLWHA like others have the right to privacy.

Except mandatory treatment cases ratified by the court, all patients including PLWHA, *has the right to consent for medical service*. The consent could be in oral or written form. Moreover, a patient has the right to refuse to receive medical intervention (again, except in cases stipulated by the law). It means that only the patient could decide whether to start or decline his or her treatment.

Finally, patients have *the right to complain and receive compensation* in cases he or she has suffered harm caused by a health service treatment. In our republic, compensation for the damage caused is sought by way of bringing an action before a court. Thus, the medical institution or practitioner bears responsibility for the the harm caused to person’s health.

REMEMBER

PLWHA are entitled with the following additional rights:

- to receive a written information note about his or her test results;
- to continue working, except of some cases;
- to not be a subject of scientific experiments and studies without his or her written content
- to receive adequate counselling and become familiar with the preventive measures of the HIV spread
- to demand compensation if he or she was infected with HiV while receiving medical care

It is worth mentioning that the parents (lawful representatives) of a child infected with HIV are entitled with some additional rights (see “This is the Law!”).

Also, along with the above rights, PLWHA have a certain **responsibility** to follow preventive measures against HIV spread and to not intentionally infect other person(s).

Responsibilities of health institutions and medical practitioners

All types of patient rights stated under the previous heading, have their guarantees in terms of a set of provider responsibilities stipulated by the Armenian domestic and international legislations. If there is a right, then there should be one who is responsible for implementing that right.

In order to ensure above-listed rights of patients, health providers are obliged:

- to provide emergency medical treatment to everyone, irrespective of the guarantee to pay or other form of remuneration;
- to provide medical care and services which meet the quality standards;
- to keep each patient informed of the type, methods scope, and the order, as well as conditions of provision of the medical care and services to him/her;
- to provide each patient with the necessary information on the quantitative and qualitative features of medical care and services, and the expenses made for that purpose;
- to ensure the confidentiality of the patient data;
- to treat patients with care and respect.

REMEMBER

Medical providers bear the full scope of responsibility to ensure patients rights. This is stipulated by the existing legislation.

Liabilities for violation of patients' rights are stated in civil or criminal codes of the Armenia. Below are explained most important ones:

- **Article 130 of the RA Criminal Code** provides for liability for failure to implement or improper implementation of professional duties by medical and support personnel;
- **Article 130 of the RA Criminal Code** sets liability for subjecting a person to medical or scientific experiment without the his or her consent;
- **Article 145 of the RA Criminal Code** provides for liability for disclosing information about a patient's illness or the results of medical tests, by the medical personnel, without professional or official need;
- For persons eligible to receive compensation, the manner of calculation of the amount of compensation is defined by **Articles 1077-1087 of the RA Civil Code**. Especially, in case of causing disability or other injury to the health of a citizen, the lost wages (or income) which he or she was receiving or definitely could have received, and also supplementary expenses borne as a result of the injury to the health, including expenses for medical treatment, supplementary nourishment, acquiring medicines, prosthetics, care, sanitarium-resort treatment, acquiring special means of transport, preparation for another job, etc. shall be

subject to compensation, if it is established that the victim needs these means of assistance and care and does not have the right to receive them free of charge.

Full extracts from those and other relevant legal acts is presented below.

THIS IS THE LAW !

The Republic of Armenia Law on Prevention of Disease Caused by HIV, 03.02.1997

Article 6. Guarantees of the rights of freedoms of persons infected with HIV

The fact of being infected with HIV shall not be a source of limitation of his/her rights and freedoms, except in cases stipulated by the law.

Article 14. Rights of People infected with HIV

People infected with HIV have the rights:

- a) to receive written information about the test results;
- b) to receive non-discriminative attitude;
- c) to demand medical confidentiality except of cases stipulated by the law;
- d) to continue working, except of cases defined by the Government of the Republic of Armenia;
- e) to receive adequate counselling and become familiar with the preventive measures of the HIV spread.

HIV-infected persons shall not be subjects of scientific experiments and studies without their written content.

Article 15. Rights of children infected with HIV and their parents (legal representatives)

Children under 18 infected with HIV shall be entitled to the rights prescribed in the Republic of Armenia legislation for disabled children under 18.

The parents (lawful representatives) of a child infected with HIV shall have the right:

- a) to be in the hospital with the child, to be relieved from work duties for such period, and to receive the benefits to which the child and they are entitled;
- b) to take their annual leave at a time convenient for them.

The period during which such persons are relieved from their work duties for the purpose of caring for a child infected with HIV shall be included in the calculation of the length of employment.

Article 16. Responsibilities of a person infected with HIV

A person infected with HIV or his/her legal representative is obliged to follow preventive measures against HIV spread defined by the state authorised body.

The Law of Republic of Armenia on Medical Care and Service to Population, 04.03.1996

Article 4. A person's right to receive medical care and service

Everyone has the right to receive medical care and service in the Republic of Armenia, irrespective of nationality, race, sex, language, religion, age, health status, political or other views, social origin, property or other status...

Article 5. Human rights while receiving medical care and services

While requesting medical care, as well as while receiving medical care and services, everybody has the right:

- a) to choose medical care and service provider;
- b) to receive medical care and services in conditions meeting the requirements of hygiene
- c) to demand confidentiality regarding consulting with a physician, state of his/her health, and information gained during examinations, diagnostics and treatment, except for cases stipulated by the legislation of Republic of Armenia
- d) to be informed about his/her disease and to give his consent for medical intervention;
- e) to refuse to receive medical intervention except in cases stipulated by this law
- f) to be treated with respect by medical care and service providers:

Article 6. The right of a person to receive compensation for the harm caused during medical care and service

Everyone shall have the right to receive compensation for the harm caused to his/her health during the organization and realization of medical care and services, in accordance with the RA legislation

Article 7. The right of a person to receive information on the state of his health

Everyone shall have the right to easy access to information on the state of one's health, results of examinations, methods of diagnosis and treatment of disease and related risk, possible options for medical intervention, consequences and results of treatment.

The information on the state of health of a person may not be communicated to that person or other persons against that person's will, except for cases stipulated by the legislation of Armenia.

Information on the state of health of persons under 18 or persons declared legally incapable in accordance with the law shall be given to their legally authorized representative

Article 8. Consent to medical intervention

Consent of a person to medical intervention is a necessary condition, except in cases stipulated by this law.

At the request of the doctor or the patient, the consent may be in a written form...

Article 16. Medical Care and service without consent of a person to medical intervention

It shall be permitted to provide medical care and services without the consent of the patient or his legally authorized representatives, when there is a danger threatening his/her life, as well as in case of diseases dangerous for the health of other people, in accordance with the legislation of Armenia.

Article 17. Refusal to receive medical intervention

Everyone or his/her legally authorized representative shall have the right to refuse to receive medical intervention or demand to interrupt it except in cases defined by the Article 16 of this law.

The fact of refusal to receive medical intervention together with the indication of its possible consequences must be recorded in medical documents and certified by the patient or his/her legally authorized representative.

The Criminal Code of Republic of Armenia, 18.04.2003

Article 123. Infecting with AIDS virus.

1. Subjecting another person to the obvious danger of infection with AIDS, is punished with correctional labor for the term of up to 2 years, or with arrest for the term of up to 2 months, or with imprisonment for the term of up to 1 year.

2. Infecting another person with AIDS willfully or self-confidently, by another person who was aware that he had the disease, is punished with imprisonment for the term of up to 1 year.

3. The committed actions envisaged in part 2 of this Article, which was committed:

1) in relation to 2 or more persons;

2) in relation to a minor,

3) in relation to a pregnant woman, are punished with imprisonment for the term of 3 to 8 years.

Article 127. Subjecting a person to medical or scientific experiment without the consent of the latter.

1. Subjecting a person to medical or scientific experiment without free expression of will and informed and proper consent of the latter,

is punished with a fine in the amount of 200 to 400 minimal salaries, deprivation of the right to hold certain posts and practice certain activities for the term of up to 3 years, or without that.

2. The same act committed:

1) in relation to a helpless person;

2) in relation to a person financially or otherwise dependent on the perpetrator;

3) in relation to a minor,

is punished with imprisonment for 1 to 3 years, deprivation of the right to hold certain posts and practice certain activities for the term of up to 3 years, or without that.

3. The same act committed by an organized group or caused severe consequences by negligence, is punished with imprisonment for 2 to 6 years, deprivation of the right to hold certain posts and practice certain activities for the term of up to 3 years, or without that.

Article 129. Failure to help the patient.

1. Failure without good reasons by the person who was obliged to help the patient, if this caused grave or medium-gravity damage to the patient through negligence,

is punished with a fine in the amount of 50 to 100 minimal salaries, or correctional labor for up to 1 year, or with an arrest for the term of 1 to 2 months.

2. The same crime, if the action, through negligence, caused the patient's death,

is punished with imprisonment for the term of up to 3 years, with deprivation of the right to hold certain posts and practice certain activities for the term of up to 3 years, or without that.

Article 130. Failure to implement or improper implementation of professional duties by medical and support personnel.

1. Failure to implement or improper implementation of professional duties by medical and support personnel, as a result of careless or not diligent treatment which through negligence caused grave or medium-gravity damage to the patient,

is punished with a fine in the amount of 100 to 200 minimal salaries, or with arrest for the term of up to 3 months.

2. The same action, if it caused through negligence the patient's death or AIDS infection,

is punished with imprisonment for the term from 2 to 6 years, with deprivation of the right to hold certain posts and practice certain activities for the term of up to 3 years, or without that.

Article 145. Divulging medical secrets.

1. Divulging information on the patient's illness or the results of medical tests, by the medical personnel, without professional or official need,

is punished with a fine in the amount of 200 to 500, or by deprivation of the right to hold certain posts or practice certain activities from 2 to 5 years, or with arrest for the term of 1 to 2 months.

2. Actions envisaged in part 1 of this Article, if they caused grave consequences by negligence,

are punished with imprisonment for up to 4 years, with deprivation of the right to hold certain posts or practice certain activities for up to 3 years or without that.

Article 1078. Scope and Nature of Compensation for Harm Caused by Injury to Health

1. In case of the causing of physical injury or other injury to the health of a citizen, the lost wages (or income) which it had or definitely could have had and also supplementary expenses borne that were caused by the injury to the health, including expenses for medical treatment, supplementary nourishment, acquiring medicines, prosthetics, care, sanitarium-resort treatment, acquiring special means of transport, preparation for another job, etc., shall be subject to compensation, if it is established that the victim needs these means of assistance and care and does not have the right to receive them free of charge.

2. In determining the lost wages (or income), a disability pension awarded to the victim in connection with the physical injury or other injury to the health and also other types of pensions, allowances and also other similar payments awarded both before and after the causing of harm to the health shall not be considered and shall not entail a reduction of the amount of compensation for harm (shall not be considered toward the compensation for harm). Wages (or income) received by the victim after the injury to the health was caused also shall not be considered toward the compensation for harm.

3. The scope and amount of compensation for harm due to a victim in connection with the present Article may be increased by a statute or contract.

Reminder: “Minimal salaries” is equal to 1000 Armenian Drams.

HIV laboratory testing

Laboratory test on Human Immunodeficiency Virus (HIV) is aimed at detecting HIV in the body of a person. First being infected with HIV, no any signs could be found for a long time and a person could not be any idea that he or she has aquanted with this disease. That is why testing on HIV still remains the first simple medical investigation to diagnose HIV and needs to be regulated by the law.

Article 11.1 of the Law on Preventing the Disease Caused by the Human Immunodeficiency Virus defines main groups of population who are subject to mandatory medical consulting and testing on HIV.

REMEMBER

Population Groups Subject to HIV Testing are:

- Donors of blood, biological fluids, tissue, and organs;
- Children born to mothers who have the HIV infection.

In both cases, the person should be informed about the testing purpose, results and should be provided by the proper before- and after-testing counseling.

At the same time, **2nd part** of the same Article states that medical workers shall provide HIV counseling and testing to *pregnant women, persons with sexual infections, drug addicts and persons in places of deprivation of freedom*. From this 4 cases, the first is directed to mother-to-child HIV prevention and the remaining 3 cases – to prevent HIV spread among most at risk population groups.

REMEMBER

- HIV detection laboratory tests are voluntary and anonymous, with the exception of above mentioned cases.
- In case of positive results of the HIV laboratory testing a mandatory repeat test is a must.
- The HIV laboratory testing shall be accompanied with pre-test and post-test counseling.
- The testing of children under age 14 shall be performed at the application or with the consent of their lawful representatives, and testing of adolescents of ages 14 to 18 - either at the application or with the consent of their lawful representatives, with the exception of cases prescribed by law

THIS IS THE LAW !

The Republic of Armenia Law on Prevention of Disease Caused by HIV, 03.02.1997

Article 10. Laboratory testing

Laboratory tests aimed at detecting HIV shall be performed in health care facilities licensed in accordance with the procedure defined by the Republic of Armenia legislation (regardless of ownership form).

In case of positive results of the HIV laboratory testing, the National Center for AIDS Prevention shall perform a mandatory repeat test.

HIV detection laboratory tests are voluntary and anonymous, with the exception of cases stipulated by Article 11 of this Law.

Persons that will receive transfusion of blood, blood components, biological fluids, or transplants of organs and tissue may demand their repeat laboratory testing for the purpose of detecting HIV.

The HIV laboratory testing shall be accompanied with pre-test and post-test counseling.

The testing of children under age 14 shall be performed at the application or with the consent of their lawful representatives. The testing of adolescents of ages 14 to 18 shall be performed either at the application or with the consent of their lawful representatives, with the exception of cases prescribed by law.

Article 11. Mandatory medical testing

1. The following shall be subject to mandatory medical counseling and testing:

- a) Donors of blood, biological fluids, tissue, and organs;
- b) Children born to mothers who have the HIV infection.

2. Medical workers shall provide HIV counseling and testing to:

- a) Pregnant women

- b) Persons with sexual infections;
- c) Drug addicts; and
- d) Persons in places of deprivation of freedom.

All the groups of the population have the right to receive voluntary HIV counseling and testing.

The state body authorized by the Republic of Armenia Government shall define the procedures of the counseling and testing stipulated by Paragraphs 1, 2, and 3 of this Article.

International Framework of Your Rights

Human rights of people living in the Republic of Armenia, including those with HIV are protected not only by Armenian legislation, but various international conventions and other legal acts ratified by the National Assembly. So far, the Republic of Armenia has joined to important international treaties which *prevail over all domestic legislative acts*. Below are listed most important international acts which have direct or indirect links to your rights in health settings¹:

- ***International Covenant on Civil and Political Rights (ICCPR)***, date of accession on June 23, 1993 and entry into force on September 23, 1993;
- ***International Covenant on Civil and Political Rights (ICCPR)***, date of accession on September 13, 1993 and entry into force on December 13, 1993;
- ***Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights, ECHR)***, date of accession on January 13, 2001, date of signature on April 26, 2002 and entry into force on the same date;
- ***European Social Charter (ESC)***, date of signature on January 21, 2004 and entry into force on October 18 of the same year.

REMEMBER

International treaties ratified by the RA National Assembly and binding on Armenia are considered to be the supreme law of the country, i.e. the provisions of a ratified international instrument prevail over all domestic legal acts.

Thus, adopting the norms of international law, the Republic of Armenia has taken responsibilities to ensure the rights of its citizens to Liberty and Security of the Person, the Right to Privacy, the Right to Information, the Right to Bodily Integrity, the Right to Life, the Right to the Highest Attainable Standard of Health, the Right to be Free from Torture and Cruel, Inhuman, and Degrading Treatment, the Right to Participate in Public Policy and, finally, the Right to Non-Discrimination and Equality.

¹ This information could be useful for your attorney. Only most important international treaties are listed in the presented table. One can find a complete list of all international legal acts of the field in “Human Rights in Patient Care: Practitioner Guide” (electronic version is available at www.healthrights.am/practitioner-guide/)

TABLE: Key International Human Rights Standards in the delivery of medical care

NAME OF INTERNATIONAL RIGHTS	RELEVANT INTERNATIONAL TREATIES	EXAMPLES OF POTENTIAL VIOLATIONS
Right to Liberty and Security of the Person	Article 9(1) ICCPR Article 5(1)(e) ECHR	An HIV-infected prisoner is not allowed to daily walks.
Right to Privacy	Article 17(1) ICCPR Article 8(1) ECHR	HIV-status of a patient receiving surgical treatment is announced to medical employees and other patients of the clinic.
Right to Information	Article 19(2) ICCPR Article 8(1) ECHR	An HIV-infected patient receives no information from his physician about alternative treatment methods.
Right to Bodily Integrity	Article 5 ECHR	An HIV-infected patient is taken under the clinical trial out of his will.
Right to Life	Article 6(1) ICCPR Article 2(1) ECHR	In an obstetrics department an HIV-infected pregnant woman has been refused for receiving birth-delivery service.
Right to the Highest Attainable Standard of Health	Article 12 ICESCR Article 11 ESC	In a clinic, an HIV-infected patient does not receive a full scope of medical service.

Freedom from Torture and Cruel, Inhuman, and Degrading Treatment	Article 7 ICCPR Article 10(1) ICCPR Article 3 ECHR	An HIV-infected person has left without his ARV medicines in order to obtain his testimony.
Right to Participate in Public Policy	Article 25 ICCPR	An HIV-infected person is not allowed to take part in community development projects.
Right to Non-Discrimination and Equality	Article 26 ICCPR Article 2(2) ICCPR Article 2(2) ICESCR Article 14 ECHR Article 11 ESC	A planned surgery of an HIV-infected patient is being canceled without any grounds or existence of any waiting list.

REMEMBER

International Standards on Human Rights

1. RIGHT TO LIBERTY AND SECURITY OF THE PERSON

Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law (Article 9(1) ICCPR).

Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law: ...the lawful detention of persons for the prevention of the spreading of infectious diseases, of persons of unsound mind, alcoholics or drug addicts, or vagrants (Article 5(1)(e) ECHR).

2. RIGHT TO PRIVACY

No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honor and reputation (Article 17(1) ICCPR).

Everyone has the right to respect for his private and family life, his home and his correspondence (Article 8(1) ECHR).

3. RIGHT TO INFORMATION

Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice (Article 19(2) ICCPR).

Everyone has the right to respect for his private and family life, his home and his correspondence (Article 8(1) ECHR).

4. RIGHT TO BODILY INTEGRITY

An intervention in the health field may only be carried out after the person concerned has given free and informed consent to it (Article 5 ECHR).

5. RIGHT TO LIFE

Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life (Article 6(1) ICCPR).

Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law (Article 2(1) ECHR).

6. RIGHT TO THE HIGHEST ATTAINABLE STANDARD OF HEALTH

1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. 2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:... (c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases; (d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness (Article 12 ICESCR).

With a view to ensuring the effective exercise of the right to protection of health, the Parties undertake, either directly or in co-operation with public or private organisations, to take appropriate measures designed inter alia: (1) to remove as far as possible the causes of ill-health; (2) to provide advisory and educational facilities for the promotion of health and the encouragement of individual responsibility in matters of health; (3) to prevent as far as possible epidemic, endemic and other diseases, as well as accidents (Article 11 ESC).

7. FREEDOM FROM TORTURE and CRUEL, INHUMAN and DEGRADING TREATMENT

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation (Article 7 ICCPR).

All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person (Article 10(1) ICCPR).

No one shall be subjected to torture or to inhuman or degrading treatment or punishment (Article 3 ECHR).

8. RIGHT TO PARTICIPATE IN PUBLIC POLICY

Every citizen shall have the right and the opportunity, without... distinctions... (a) To take part in the conduct of public affairs, directly or through freely chosen representatives (Article 25 ICCPR).

9. RIGHT TO NON-DISCRIMINATION AND EQUALITY

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status (Article 26 ICCPR).

The States Parties to the present Covenant undertake to guarantee the rights enunciated in the present Covenant shall be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, birth or other status (Article 2(2) ICCPR ; Article 2(2) ICESCR).

The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, color, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status (Article 14 ECHR).

With a view to ensuring the effective exercise of the right to protection of health, the Parties undertake, either directly or in cooperation with public or private organizations, to take appropriate measures designed...(1) to remove as far as possible the causes of ill-health; (2) to provide advisory and educational facilities for the promotion of health and the encouragement of individual responsibility in matters of health; (3) to prevent as far as possible epidemic, endemic and other diseases, as well as accidents (Article 11 ESC).

Forteen Patients' Rights and legal remedies in case of violation of these rights

In 2002, one of Europe-based organizations - Active Citizenship Network – developed **the European Charter of Patients' Rights** which provides a clear, comprehensive statement of patient rights. The charter identifies fourteen concrete patients' rights currently at risk, including PLWHA. It is important to know that most of 14 patient rights have their legal grounds in Armenian legislative acts. Although the charter is not legally binding, it gives a clear understanding of patients' rights of

PLWHA when receiving health care. Understanding of 14 patients' rights allow you easily identifying and preventing cases of violation of your certain rights in the delivery of medical care.

REMEMBER

14 patient rights defined by European Charter on Patient Rights

1. Right to Preventive Measures
2. Right of Access
3. Right to Informatio
4. Right to Consent
5. Right to Free Choice
6. Right to Privacy and Confidentiality
7. Right to Respect for Patients Time
8. Right to Observance of Quality Standards
9. Right to Safety
10. Right to Innovation
11. Right to Avoid Unnecessary Suffering and Pain
12. Right to Personalized Treatment
13. Right to Complain
14. Right to Compensation

As you can see, from the 14 above listed rights the last but one is *the right of patients to complain* and the last one – *the right to receive sufficient compensation*. Thus, whenever you consider that your rights in receiving medical care guaranteed by the Constitution or by laws have been violated, we suggest to take appropriate actions for remedies at your disposal. In general, there are a couple of levels for effective legal remedies to protect your rights.

At first, you can file a complaint with the ***administration of the medical entity***. In case your application has been left with no answer, you can proceed with the next step – applying to ***official superior to the alleged violator***. Please note that in one case it can be the Ministry of Health, and in another – local self-governmental body (municipality, marzpetaran). Please also remember that mostly legal remedies of violated rights could realized in this level.

As the second step, you can bring a lawsuit before ***the Court***. Remember that you are entitled to effective legal remedies to protect your rights and freedoms before judicial as well as other public bodies. In the republic there are 3 main types of courts - the Court of First Instance, the Court of Cassation and the Court of Appeal. Please note that you should apply to the Administrative Court if you intend to dispute public or alternative service, administrative bodies etc.

In certain cases you can file a complaint with ***the Police or Prosecutor Office of the Republic of Armenia*** if the alleged action or inaction contains elements of crime. You may need an attorney service in these cases.

Further, you can seek the support of ***the Human Rights Defender*** if the alleged violation was committed by a state or local self-government body or its official. Please note that when applying to the Ombudsman, the complaint may be filed against the heads or staff of any state body. Complaints

against state hospitals, clinics or their heads and staff may not be addressed by the Human Rights Defender. That is why it is necessary to apply, in the first place, to the respective state body supervising activities of the health care facility. Afterwards, if there is no response or the response is not satisfactory, the complaint against the state body may be forwarded to the Human Rights Defender. The subject of the complaint should be the fact that the state body has not made a valid decision in relation to the person's rights.

Finally, you can address your concern or complaint to *Civil Cosiety Organizations* committed to protection of patients' rights in health care. Relevant organizations would assist you in choosing appropriate steps of proceedings with your complaints.

Useful Contacts

The Ministry of Health of Republic of Armenia

Mr. Harutyun Kushkyan, the Minister of Health

Address: Republican Square, Governmental House 3, Yerevan 0010

Phones: 544028, 544027

HotLine: 528872

E-mail: info@moh.am

Website: www.moh.am

National Center for AIDS Prevention,

Mr. Samvel Grigoryan, Director

Address: Yerevan 0040, Acharyan 2

Phones: 610730; 617107

E-mail: armaids@armaids.am

Website: www.armaids.am

Human Rights Defender of Republic of Armenia

Mr. Armen Harutyunyan, RA Human Rights Defender

Address: 56a, Pushkin street, Yerevan 0002

Phone: 537651

E-mail: ombuds@ombuds.am

Website: www.ombuds.am

Office of Public Defender

Mr. Masis Ghazanchyan, Director

Address: 8, Kuryun Street, 5, Yerevan 0009

Phones: 583844, 586015

Real World Real People NGO

Mr. Hovhannes Madoyan and Mr. Varuzhan Abrahamyan, Co-Presidents

Address: Yerevan 0069, 33 M.Avetistyan 4th Street

Phone: 249318

E-mail: info@realwrp.net

Website: www.realwrp.net

Armenian Network of Positive People NGO

Ms. Anahit Harutyunyan, President

Address: Yerevan, Comitas Street 27/1

Phones: 260502, 091-000560, 077-272014

E-mail: ppan777@gmail.com

Helsinki Citizens` Assembly Vanadzor Office

Mr. Artur Sakunts, Director

Address: 59, Tigran Mets Street, Vanadzor

Phone: 0322-42268

E-mail: hcav@hcav.am

Website: www.hcav.am

Antidrug Civil Union NGO

Ms. Violeta Zopunyan, Lawyer

Address: 2, Acharyan Street 2nd side-street, Yerevan

Phone: 621635

E-mail: info@healthrights.am

Website: www.healthrights.am