

# The Cyprus Law of 2004 (1(I)/2005) on Patients' Rights Revisited. Experts' Recommendations for Law Modernization

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## Abstract

**Objective:** This qualitative study was to collect suggestions on modernization of the Cyprus Law concerning patients' rights.

**Methods:** This comprises interviews with nine renowned professionals, as Lawyers, Medical Doctors, Nurse, Sociologist, Theologist, Educator and Executives representing patient unions. A simple, four-question questionnaire, with open-ended questions was provided, asking to make comments on current Law utility, if the Law has become old fashioned, if the Law contains any oversights and if they have any suggestions concerning its modernization.

**Result-Conclusions:** Most interviewees agreed on the significant utility of existing legislation, agreed patients now hold more autonomy over medical decisions, amendments and updates of the existing Law are an urgent necessity, as are further audit amendments. Results of previous complaints investigations should be published and disseminated, theory and experience acquired by the recent implementation of General Health System should be taken into account, legislation should include that doctors and nurses should respect fully patients' refusal to therapy and that patients themselves should participate in health care policymaking.

**Keywords:** Cyprus Law; Medical Law and Ethics; Patients' Rights

## Introduction

The passing of the "On the Entitlement and Protection of Patients' Rights Law of 2004 (1(I)/2005)" was a milestone in the promotion of patients' rights in Cyprus 1. This law established the patients' right to health care and treatment (Article 4), the right to be treated with dignity (Article 5), access to health services (Article 6), the elimination of discrimination (Article 7), the care health emergency or the situation in serious danger (Article 8), the medical examination in an emergency department (Article 9), the right to information (Article 10), health care with the patient's consent (Article 11), medical information (Article 12), health care without the patient's consent (Article 13). This was followed by chapters on patient participation in scientific research or experimental treatment (Article 14), confidentiality (Article 15), protection of patient privacy (Article 16), keeping of medical records (Article 17), patient rights regarding medical records and the right of representation (Articles 18 and 19). Control mechanisms followed, namely the institution of the Patient Rights Officer in a state hospital (Article 22), the complaints review committee (Article 23), the obligation to inform the patient about filing a complaint, offenses and penalties (Articles 24 and 25) [1].

Newer and important pieces of knowledge, such as modern medical liability, the issue of disorderly patients, euthanasia, abortion, tissue and organ transplants, artificial fertilization, cloning, etc., are a common field of study by medicine, humanities and legal sciences. In contemporary times, bioethics is constantly evolving into bio-law and "Flexible Law" is evolving into "Hard Law" [2]. Sociology teaches that human rights emerged in close relation

with the respective social and philosophical currents. The chapter on patients' rights is characterized by the existence of different trends between doctors and patients, who are currently developing initiatives in the entire spectrum of health services, institutional, legislative or executive [3]. In Europe, the inscription of Gortyna in Crete, 5th century BC, which contains points of civil, criminal and procedural law, is considered to be the oldest relevant legislation [4]. A pivotal point was the concurrence of the Magna Charta (1215), which formed the core of today's Anglo-Saxon Law. In 1628 the British Parliament passed the Petition of Right and in 1689 the Bill of Rights. This was followed by the declaration of Independence by the US Congress in 1776 and the declaration of the rights of man in 1789, the precursor to the French constitution [5].

The first recorded patient right was proclaimed in 1793, when the French National Assembly declared that "every patient is entitled to a bed of his own, and the beds must be at least three feet apart." In the same year the American Hospital Association drafted the Patient's Bill of Rights [5]. The American Hospital Association published the patient care partnership online, translated into eight languages [6]. The patients' rights were formulated in rules accepted by modern states in the Lisbon Declaration in 1981 [7]. The Oviedo Convention (1997) states that "intervention in health matters can only take place after the person concerned has given his free consent after prior information." This person will be informed in advance of the purpose and nature of the intervention, as well as of the risks it entails. The person involved can freely and at any time withdraw his consent" [8].

The oncologist Van Potter introduced the term "bioethics" in 1970, a concept that captures the desired coupling of the biological sciences and humanities [2]. The goal was to define a common basis of approach to the dilemmas that were growing with the increase in knowledge and authority of the scientist. Beauchamp and Childress introduced in the same decade the concept of Principles (Principlism) [9]. Regarding the principles of "beneficence" and "non-harm", attributed to the teachings of Hippocrates, "autonomy" (which is part of Kant's teaching that "man must consider the result and not the means" and "equity" were added [10]. The latter can be traced to Aristotle's approach as "eikotis" (reason freed from the human passion), which evolved into "equitas" and "equity" and refers, in this case, to the fair distribution of rights and obligations to individuals [11].

Thus, parallel to the development of bioethics, bio-justice began to take shape, as an attempt to regulate ethical principles [2 & 12]. The original questions of the intelligent man were philosophical and many of them were answered by the evolving science. But philosophy waits at the end of the scientific course to complete by confirming its status (and ethics, as part of it) as pre-science and meta-science [13]. Today, Health Law is extensive, heterogeneous, multi-layered, and its limits stretch beyond the limits of human health law [12]. As expected, the rights of patients and the duties of doctors towards them are closely related. An example is the "Medical Code of Ethics" of the Greek State established by law 3814/2005 [14]. The purpose of this current work is the modernization of

Cypriot legislation in the field of patients' rights.

## Materials and Methods

Sixteen individuals of different professions whose expertise in their respective fields made them relevant for participation in the interview process. Of these, nine accepted interview invitations. A bishop Doctor of Theology, a nurse-psychologist Doctor of Philosophy, an ex-lawyer for the republic of Cyprus, an ex-first consultant in secondary education, an ex-director of a paediatric clinic, the president of Cyprus patient association federation, the vice-president of the advocacy movement of patients' rights, the associate professor of human rights at a university school of law and lastly, a professor of sociology at a university school of medicine. As they accepted the invitation, a printout of the relevant law was mailed to them and an interview was scheduled. The questions asked (research tool) were open-ended. They were addressed as "You have accepted my written request to grant an interview and for this you have studied the 'Law of 2004 (N1(I) 2005) on the entitlement and protection of the rights of patients'. Please state your opinion on: Points that need clarification, points that have lost their validity, points you disagree with, points where the Law needs modernization. Thank you.

## Result and Discussion

### General findings

- I. "The passing of the 2004 Law (1(I)/2005) on the Entitlement and Protection of Patients' Rights" was a necessity.
- II. "The provisions of the Law are supplementary to other laws." The protection of patients' rights derives from the Constitution of the Republic of Cyprus [15] and from International and European Conventions, legal acts ratified by the Republic, from the Declaration for the Promotion of Patients' Rights in Europe, the European Charter of Patients' Rights, the Law on the Implementation of Patients' Rights in the context of Cross-Border Healthcare of 2013 [16], the e-Health Law of 2019 [17].
- III. "The rights of patients as recorded in the law, Articles 4-20, are often not implemented."
- IV. "In everyday practice, the law is often downgraded and limited to dealing with simple issues of "low politics".
- V. "Patient autonomy towards medical-nursing decisions gained ground."

### Specific findings

- I. "No service plans have been drawn up to define the duties of the Patient Rights Officer, Article 22 of the 2004/5 law".
- II. "The reports of the Patient Rights Officers and the Complaints Review Committees have not, with the necessary processing, been made public, nor used in any way to avoid repeating mistakes."

III. "The 2004/5 law does not regulate the matter concerning complaints against private hospitals when they are examined in the second instance, Articles 22 and 23".

IV. "The President of the Provincial Complaints Committee, who is not required by law to be a doctor, Article 23, therefore how can he examine complaints of a medical nature?"

V. "The Oversight Commissioner of the GHS does not have the authority to examine a complaint, action or matter regarding which any procedure is pending before any court or before the Organization or before any other administrative or independent authority operating under any other law. Article 43(4) of Law 89(1) of 2001 on the General Health System".

VI. "It is established that there is a contradiction within the Law, with one Article stating that the patient must be fully informed, Article 10(2) whereas Article 18 (a) and (b) state that there is ground for limitation, rejection or suspension of information when third party information is involved.

VII. "No regulations have yet been issued by the Council of Ministers in accordance with Article 26 of Law 2004/5."

VIII. "There is a lack of legislative regulation regarding the care of critically ill new-borns and children."

IX. "There is a lack of legislation regarding the regulation of the matter of maintaining life by artificial means of new-borns and children".

#### General recommendations

I. "There is a need to upgrade and modernize the existing legislation of 2004/5 on Patients' Rights". However, the existing legislation should not be viewed as significantly outdated.

II. "The resulting legislation must be the evolution of the original law of 2004/5." The modernization must take into account modern legal thinking and legislation, e.g., the General Regulation on Personal Data Protection, theory and experiences from the implementation of the legislation on Personal Data Protection.

III. "The aim of the new legislation must be to further strengthen the rights of patients."

IV. "The aim of the new legislation must be to strengthen the mechanisms for supervising its implementation." "Position of principles of the Orthodox Church: Dialogue with Science and underlining the Church's position that for every medical or scientific act there is always a moral dimension."

V. "The need for more systematic familiarization of patients and the public about their rights is identified. This will also be facilitated by holding a public debate on the matter."

VI. "The patient has the right to autonomy and thus expresses himself with his own will, but at the same time his will must exude respect in the medical practice."

VII. "The autonomy of patients and nurses should not develop into selfish autonomy."

#### Specific recommendations

I. "To maintain the institution of the Patient Rights Officer."

II. "To establish Patient Rights Officer service plans."

III. "The Patient's Rights Officer be a doctor so that he can judge whether an incident reported to him is of an urgent nature or not."

IV. "To maintain the institution of the Provincial Grievance Committees." There are no reasons for abolishing the two institutions.

V. "To reduce the number of members of the Complaints Committee from five to three as well as establishing fair compensation for them."

VI. "To allocate a budget to the Provincial Grievance Committees."

VII. "The Patient Rights Officer and Complaints Review Committees not be appointed by the Minister of Health." "The appointments of the Patient Rights Officer, the President and the Members of the Provincial Grievance Committees be carried out by the Minister of Justice."

VIII. "The Reports of the Patient Rights Officers and the Complaints Review Committees be made public and, in every way, utilized."

IX. "To maintain the institution of the General Health System Supervisory Commissioner."

X. "To institutionalize the Health and Patient Advocate by legislative act." This is already an established institution in European countries. However, depending on the country, there is an overlap of duties and responsibilities with the Citizen's Rights Commissioner (Ombudsman), something that needs to be avoided. "The provisions of Regulation (EU) 2016/679 of the European Parliament and of the Council on the protection of natural persons against the processing of personal data and on the free circulation of such data, be taken into account in the amendments which will be carried out in the law under study." The application of the provisions of this legislation is necessary where there is personal data [18].

XI. "To incorporate into the new legislation the theory and experiences that have emerged from the implementation of the National Health Service so far." The basic law on GHS was passed before the law on patients' rights was passed in 2001 [19].

XII. "Legislation is proposed in cases where parents refuse treatment for their children for religious or cultural reasons."

XIII. "To regulate by law the cases where parents refuse to vaccinate their children."

XIV. "To legally secure the rights of the nursing mother in terms of the provision of every facility by her employer at her workplace."

XV. "To institutionalize the online availability of the qualifications and experiences of health care providers."

XVI. "To legislate Quality Standards in Health Services."

XVII. "Legislation is proposed for the establishment and operation of a Centre of Excellence for Science, Health and Care according to the standards of the British NICE."

XVIII. "To institutionalize by law the conduct of research in the field of Health Sciences and Nursing by health professionals, especially by doctors."

XIX. "The establishment and operation of Bioethics and Ethics Committees in hospitals is proposed."

XX. "To legislate the position that patients participate in the formulation of Health Policies."

XXI. "The active participation of patients in the choice of their treatment be legally enshrined." This also reflects the contemporary trends of civil society and the positions of the European legal establishment.

XXII. "The ownership of medical personal data be legally secured exclusively by the patient himself."

XXIII. "Legislative regulation is proposed on the subject of the compliance of doctors and nurses in the decision to refuse treatment by the patient, when this is a conscious choice, as an expression of his autonomy."

XXIV. "The specialized issues concerning euthanasia, abortions, medically assisted reproduction, the hospitalization of the seriously mentally ill should not be considered within the framework of this general legislation." For some of the above there is separate special legislation in Cyprus [20].

XXV. "The various electronic information systems of the State in which information of a demographic, medical or nursing nature is registered be all compatible with each other."

XXVI. "To modernize the legislation in matters concerning medical negligence."

XXVII. "To impose sanctions in cases of violation of the Legislation."

XXVIII. "Circulars may be issued, until the issuance of regulations by the Council of Ministers for the Law of 2004/5 Article 26, in a similar manner as provided for in Law 89/1 of 2001 Concerning the National Health Service, Article 64(3)(a)"

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