

## **RIGHTS AND OBLIGATIONS OF THE HEALTH SERVICES USER**

The right to health protection is established in the Constitution of the Portuguese Republic, based on a set of fundamental values such as human dignity, equity, ethics and solidarity.

Law 15/2014, of 21 March, consolidated the legislation in terms of rights and obligations of the health services user in the National Health System, implementing Base XIV of Law 48/90, of 24 August, and safeguarding the particularities of the National Health Service.

In turn, Regional Legislative Decree 3/2016/M of 28 January, adapted Law 15/2004 to the Regional Health System of the Autonomous Region of Madeira.

The understanding of the rights and privileges of users, extending to all users of the national and regional health systems, empowers them to actively intervene in the progressive improvement of care and services.

The information available here does not dispense the careful reading of the applicable legislation in effect. For more thorough understanding of the rights and obligations of the health services user, please see the following documents:

- Law 15/2014, of 21 March.
- Regional Legislative Decree 3/2016/M, of 28 January.
- Ministerial Order 5344-A/2016, of 14 April, of the Secretary of State for Citizenship and Equality and the Adjunct Secretary of State and of Health.

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### **RIGHTS OF THE HEALTH SERVICES USER**

#### **Right of choice**

1. The health services user has the right to choose services and healthcare providers, within available resources.
2. The right to health protection is carried out in accordance with the rules of the health services organisation.

### **Consent or refusal**

1. Consent to or refusal of medical care must be a free and informed decision, unless otherwise specially provided for by law.
2. The health services user may, at any time during the provision of medical care, rescind consent.

### **Suitability of the provision of medical care**

1. The health services user has the right to receive, promptly or within a time considered medically acceptable, depending on the situation, the needed medical care.
2. The health services user has the right to receive the most suitable and technically correct medical care.
3. Medical care must be provided in a humane and respectful manner.

### **Transfer of patients in Regional Health Services**

1. The right to patient transfer in Regional Health Services applies to the following situations, without prejudice to the standards of access to cross-border medical care provided for by law:
  - a. Provision of public or private medical care, given outside the Region, or abroad, due to lack of technical or human means in the Regional Health Services and duly referred by said service;
  - b. Provision of private medical care outside the Region, or abroad, by the user's own option or choice, when the technical or human means are present in Regional Health Services;
  - c. Provision of one-time or continued medical treatment for the user who, due to any changes, is outside the Region or abroad.

### **Personal data and protection of private life**

1. The health services user holds all the rights of protection of personal data and personal privacy.
2. Data processing in the area of health is subject to Art. 5 of Law 67/98, of 26 October, corrected by Rectification Statement 22/98, of 28 November, and amended by Law 103/2015, of 24 August, guaranteeing, specifically, that the data gathered is appropriate and relevant and does not exceed the needs for the purposes in question.
3. The health services user holds the right to access personal data gathered and may require correction of incorrect information and the inclusion of information completely or partially omitted, under the terms of Art. 11 of Law 67/98, of 26

October, corrected by Rectification Statement 22/98, of 28 November, and amended by Law 103/2015, of 24 August.

### **Confidentiality**

1. The health services user has the right to the confidentiality of personal information.
2. Health professionals are obligated to keep confidential any information they learn as a result of performing their duties, except when otherwise provided for by law or when a court order requires the information to be revealed.

### **Right to information**

1. The health services user has the right to be informed by the healthcare provider regarding his/her condition, possible treatment options and the expected progression of the condition.
2. The information must be communicated in an accessible, objective, complete and intelligible manner.

### **Right to a second opinion**

1. The patient has the right to a second opinion regarding his or her health condition in the event of a serious illness, particularly if the decision involves great risks or serious consequences.
2. This right, which entails seeking the opinion of another doctor, allows the patient to provide additional information regarding his health condition, thus enabling a clearer decision regarding the treatment to pursue.
3. In the situations mentioned above, the doctor should accept and may even take the initiative to suggest that the patient seek another medical opinion.

**Note:** This right is not provided for in Law 15/2014, of 21 March, nor in Regional Legislative Decree 3/2016/M, of 28 January. However, it may be exercised, under the circumstances listed above, only within the context of the Health Services of the Autonomous Region of Madeira.

### **Spiritual and religious care**

1. The health services user has the right to receive religious support, regardless of the user's faith.
2. Churches and religious communities that are legally recognised are ensured conditions that allow for the free exercise of spiritual and religious support for any hospitalised patients in health establishments who have so requested.

### **Complaints and claims**

1. The health services user has the right to complain or present a claim at health establishments, under the terms of the law, as well as receive compensation for damages incurred.
2. Complaints and claims may be presented in a complaint book or individually, with response to them being compulsory.
3. Health services, providers of goods or health services and health operators are required to have a complaint book that can be filled in whenever requested.

**Note:** One may also exercise this right online. To present a complaint or a claim, or to communicate gratitude or a suggestion, please access [www.sesaram.pt](http://www.sesaram.pt) and click **Fale Conosco** (Contact Us) in the **Cidadão** (Citizen) menu.

### **Right of association**

1. The health services user has the right to hire entities to represent and defend his/her interests.
2. The health services user may hire entities that collaborate with the health system, specifically associations that promote and protect health or groups of health establishment friends.

### **Minors and incapacitated**

For minors and those incapacitated, the law regarding the conditions in which their legal representatives may exercise the rights granted them, specifically regarding consent or refusal of care, is applicable.

### **Right to a companion**

1. At Regional Health Service emergency services, all users have the right to be accompanied by a person of their choosing, this information to be provided at the time of admittance.
2. A pregnant woman hospitalised at a health establishment has the right to be accompanied, during all phases of labour, by any person of her choosing.
3. Family presence is allowed for all children hospitalised in a health establishment, as well as disabled persons, those who are dependent on others and persons in advanced stages of an incurable illness and in final stages of life.
4. Oncology patients have the right to be accompanied by any person of their choosing, during hospital stays and during all treatment phases.

### **A. Companion**

1. In situations when the clinical situation does not allow the patient to choose the companion freely, the services may promote the right to a companion and request proof of family ties or the relationship to the patient invoked by the companion.
2. The nature of the family ties or relationship mentioned in the previous paragraph may not be used to prevent accompaniment.
3. When the person hospitalised is unaccompanied, the administration of the health establishment shall take all measures to see that the necessary personalised care is given, as appropriate for the situation.

### **B. Limits to the right to a companion**

1. Being present at or watching surgeries and other exams or treatments is not allowed if, due to their nature, their efficacy or correctness could be placed in jeopardy because of the companion's presence, except when express authorisation has been given by the doctor in charge.
2. The presence of a companion must not compromise the conditions and technical requirements needed to provide medical care.
3. In the situations provided for in the previous paragraphs, it is the responsibility of the health professional responsible for providing medical care to inform and explain to the companion the reasons that would prevent him/her from continuing to accompany the patient.

### **C. Rights and obligations of the companion**

1. The companion has the right to be informed in a clear and timely manner regarding the patient's condition, at the different phases of care, with the following exceptions:
  - a) Express indication by the patient to the contrary;
  - b) Information kept under medical confidentiality.
2. The companion must behave in a civil manner, respecting and complying with the well-grounded instructions and demands given by the health professionals.
3. In the event of a violation of the right of civility, obedience or respect, the services may prevent the companion from remaining with the patient and ask him/her to leave the health services, in which case a different companion may be named as a replacement.

### **D. Conditions for accompanying a pregnant woman during labour**

1. The right to companionship may be exercised regardless of the time of day or night when the labour takes place.

2. To the extent necessary to fulfil that which is set forth in this document, the companion shall not be subject to the hospital policy for visits, nor to its restrictions.

#### **E. Conditions for accompanying a pregnant woman**

1. A companion may, at times, not be allowed in situations of serious medical conditions, if it is unadvisable and if expressly determined by the obstetrician.
2. A companion may not be possible in units where facilities are not conducive to the presence of a companion or where it is not possible to guarantee the privacy of other women in labour.
3. In the situations provided for in previous paragraphs, the interested parties must be duly informed of the corresponding reasons, by the staff in charge.
4. In situations when the child hospitalised is a carrier of a transmittable disease in which contact with others constitutes a risk to public health, the right to a companion may be terminated or limited, by written indication of the doctor responsible.

#### **F. Family companion for people with disabilities or those dependent on others**

1. People with disabilities or dependent on others, cancer patients in advanced stages, and persons in final stages of life, hospitalised at a health establishment, have the right to be permanently accompanied by a parent, child, spouse or partner and, if these are absent or hindered, or at the patient's discretion, by a person of their choosing.

#### **G. Conditions for a family companion for people with disabilities or those dependent on others**

1. Permanent family companionship can be carried out during the day or at night, following the instructions and technical rules regarding applicable medical care and the other standards established by the corresponding hospital regulation.
2. Companions may not be present in surgeries or treatments where their presence could be detrimental to the correctness or efficacy of said procedures, except with authorisation by the doctor in charge.

#### **H. Cooperation between the companion and services**

1. Health professionals should give companions the appropriate information and guidance so that they may, if they so desire and under the supervision of the doctors, cooperate in the provision of care for the person hospitalised.
2. The companion must follow the instructions that, under the terms of the current law, are given by the health professionals.

## **I. Meals**

The companion of the person hospitalised, provided he or she is exempt from the payment of the user fee, in accessing medical care from the Regional Health Service, has the right to a free meal at the health establishment when present in the institution for more than six hours a day, and whenever one of the following conditions applies:

- a) The hospitalised patient's life is in danger;
- b) The hospitalised patient is in post-op and within 48 hours after surgery;
- c) When the companion is the mother and is nursing the hospitalised child;
- d) When the hospitalised patient is isolated for medical and surgical reasons;
- e) When the companion lives more than 20km away from the health establishment where the patient is hospitalised.

## **OBLIGATIONS OF THE HEALTH SERVICES USER**

1. The health services user must respect the rights of other users, as well as the related health professionals.
2. The health services user must respect the rules of the organisation and the operation of services and health establishments.
3. The health services user must collaborate with the health professionals in all aspects regarding their condition.
4. The health services user must pay the fees incurred for medical care, if applicable.