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# **THE LAW OF GEORGIA**

## **ON PATIENT'S RIGHTS**

### **CHAPTER I**

#### **GENERAL PROVISIONS**

##### **Article 1**

The aim of the Law is to protect citizens' rights in Health Care, as well as to ensure inviolability of their dignity and privacy.

##### **Article 2**

The rights and welfare of citizens in the health care have priority against medical and research interests.

##### **Article 3**

Legislation of Georgia in the field of citizens' rights in health care comprises the Constitution of Georgia, the international treaties and agreements to which Georgia is a party, the Law of Georgia on Health Care, this Law, and other legislative and regulatory texts.

##### **Article 4**

Terms not having specific definition in the Law are interpreted, as follows:

- a) Genome - the total set of chromosomes comprising hereditary factors (genes).
  - d) Informed consent - the consent of the patient, or in the case of his/her incapacity, consent of next of kin or legal representative to medical services, after providing an information about:
    - b.a) the nature and need of the medical service;
    - b.b) the expected results of medical service;
    - b.c) the risks that the service entails for the patient's health and life;
    - b.d) the alternative types of services and the expected results and risks related to the alternative intervention;
    - b.e) the consequence of refusal to treatment;
    - b.f) the financial and social aspects related to the issues mentioned in sections "b.a"- "b.e".
  - c) Palliative Care – medical service, that doesn't radically improve patient health condition and doesn't change poor prognosis of the disease and which aims at temporary alleviating the patient's suffering.
  - d) Patient – any person who uses, needs or intends to use the health care services, despite of his/her health status.
  - e) Next of kin – person who according to the legislation of Georgia has priority to participate in making decision about the patient's medical care or issues, related to patient's death.
  - f) Legal Representative - patient's guardian or trustee.
  - g) Healthcare provider – person who provides medical service in accordance with the rules, set out by Legislation of Georgia.
  - h) Medical Service – any intervention or procedure having diagnostic, therapeutic, prophylactic or rehabilitative purpose and carried out by healthcare provider
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- i) Medical records – Information that is entered on the paper or Personal Computer by healthcare provider, and is related to the medical service provided to the patient.
- j) Terminal state - end stage of incurable disease.

#### **Article 5**

Every citizen of Georgia has the right to receive from any healthcare provider medical service in accordance with the professional and service standards, acknowledged and established in Georgia

#### **Article 6**

1. Discrimination against a patient on the basis of race, colour, language, sex, genetic heritage, religious convictions, political and other views, ethnic or social origin, economic condition or status, place of residence, disease, sexual orientation, or negative personal attitude shall be prohibited.

2. Conditions to limit the rights of patient on the basis of disease are established by legislation of Georgia.

#### **Article 7**

Patient has the right to freely apply to other physician or healthcare institution to seek second opinion.

#### **Article 8**

Patient has the right to choose and change any time the healthcare provider.

#### **Article 9**

Citizen of Georgia staying abroad, also citizen of another country, as well as person without citizenship staying in Georgia, have guaranteed right to health care according to international agreements and treaties of Georgia or if such agreements and treaties do not exist, in accordance with the legislation of the country, where patient is staying.

#### **Article 10**

Patient or his/her legal representative has the right to apply to the court for:

- a) compensation of financial and non-financial damages as a result of:
  - a.a) infringement of patient's rights;
  - a.b) medical malpractice;
  - a.c) other faults of healthcare institution;
  - a.d) inadequately conducted supervision or control by State.
- b) suspending or revoking license of healthcare provider
- g) changing state medical and sanitary standards.

## **CHAPTER II**

### **RIGHT TO MEDICAL TREATMENT AND CARE**

#### **Article 11**

Equal access to medical Services is ensured through State Medical Programmes.

#### **Article 12**

1. State protects the right of patient to medical services, without immediate providing of which the death or disability or serious deterioration of health is inevitable.

2. If patient needs medical services, without immediate providing of which the death or disability or serious deterioration of health is inevitable, but healthcare provider has no capacity to provide such services, healthcare provider shall inform the patient, his/her relatives or legal representative where the appropriate care can be rendered.

**Article 13**

1. Government shall ensure that patients with rare, uncommon diseases are able to receive appropriate medical services in accordance with the professional and service standards, acknowledged and established in Georgia

2. Ministry of Health and Social Affairs elaborates the list of rare, uncommon diseases.

**Article 14**

In the case of deficiency of human, technical, financial or other resources essential for providing medical services, selection of patients for these medical services should be made only according to medical criteria, excluding any other privileges.

**Article 15**

Patient has the right to request from the healthcare provider to be treated with dignity and to respect his/her culture, religious convictions and personal values.

## **CHAPTER III**

### **THE RIGHT TO INFORMATION**

**Article 16**

1. Every citizen of Georgia shall have the right to receive comprehensive, objective and timely information on factors, which improve or have negative influence on health.

2. State shall provide citizens with the information specified in the paragraph 1 of this article via mass media or individually, upon the request, in accordance with existing regulations.

**Article 17.**

1. The patient, or if he/she doesn't refuse, or in case of his/her incapacity, his/her relative or legal representative shall have the right:

a) to access information included in medical records and require to amend information about the patient. Medical records shall contain the amended information entered by patient, his/her relative or legal representative as well as the information existed in the file before amendment was made.

b) to require to receive copies of any part of the medical records.

2. The request to access medical records as well as to receive its copies shall be submitted to the medical institution in written form.

**Article 18.**

1. The patient shall have the right to receive from the healthcare provider comprehensive, objective, timely and understandable information about:

a) available resources of healthcare services, the methods of accessing these services, as well as the tariffs and methods of payment.

b) the rights and responsibilities of the patient stipulated by legislation of Georgia and bylaws of the medical institution.

c) proposed preventive, diagnostic, therapeutic and rehabilitation procedures patient will be subjected, and potential risks and benefits of each procedure.

d) results of medical investigations.

e) alternatives to the proposed medical procedures and potential risks and benefits of alternative procedures.

f) possible results of refusal to proposed medical procedures.

g) diagnosis, prognosis and ongoing treatment.

h) the identity, status and professional experience of healthcare provider.

2. Information on the patient's health status may only be withheld or limited, if there is valid assumption that complete information would seriously harm the patient. Patient shall receive information if he/she expressly requires information.

3. Decision about withholding or limiting the patient's information shall be authorised by Medical Ethics Committee or if such committee doesn't exist by another physician. Decision about withholding or limiting the patient's information shall be entered in medical record of the patient.

4. If patient is incompetent or lacks decision-making capacity, the healthcare provider should provide the information specified in paragraph "1" of this article to the relative or legal representative of the patient.

#### **Article 19**

When information is provided to the patient or his/her relative or legal representative his/her capacity to understand shall be taken into consideration. Specific terminology shall be minimised when explanations are given.

#### **Article 20**

Patient shall have the right to refuse to receive information specified in paragraph "1" of the article "18", with the exception of the cases when withholding information may cause serious damage to the patient or to the third party.

#### **Article 21**

Patient shall have the right to make decision whether any person can receive information about his/her health status. If patient agrees, he/she should entitle the person who should be informed. Information about the decision of the patient, as well as the identity of the person entitled, shall be entered in medical record of the patient.

## **CHAPTER IV**

### **CONSENT**

#### **Article 22**

1. Informed consent of the patient or in case of his/her incapacity, informed consent of patient's relative or legal representative shall be a prerequisite for providing medical service to the patient. Informed consent shall precede the medical service.

2. Written informed consent is necessary for providing the following medical services:

a) surgery other than minor surgery

b) abortion

c) contraception surgery - sterilisation

d) central blood vessels catheterization

e) haemodialysis and peritoneal dialysis

f) extra-corporal fertilisation

g) genetic testsh) gene therapy

i) radiotherapy

j) chemotherapy for malignancies

k) in all cases, when healthcare provider considers written informed consent to be essential.

### **Article 23**

1. Competent patient having decision-making capacity shall have the right to refuse medical service, as well as to cease ongoing medical service at any stage. Patient shall be thoroughly informed about expected outcomes of refusal or cessation of medical services.

2. It is prohibited to provide medical services against the will of competent patient who has decision-making capacity, with the exception of the cases stipulated by the legislation of Georgia.

### **Article 24**

1. Every citizen of Georgia has the right to express in advance his/her wishes (consent or refusal) in written form concerning the provision of resuscitation, life-saving treatment or palliative care when patient becomes incompetent or loses decision-making capacity only if such condition is caused by:

- a) terminal stage of incurable disease or
- b) disease, which inevitably will cause serious disability.

2. Every citizen of Georgia has the right to entitle in advance the person who will make decision about the provision of medical services under the circumstances specified in the section “1” of this article.

### **Article 25**

1. Healthcare provider shall have the right to put the decision of the incompetent patient’s relative or legal representative into court, if this decision contradicts the health interests of the patient.

2. If incompetent patient or patient who lacks decision making capacity urgently needs medical service without of which the death, disability or serious deterioration of health is imminent, but patient’s relative or legal representative can’t be contacted, healthcare provider shall make decision in accordance with patient’s health interests.

3. If incompetent patient or patient who lacks decision making capacity urgently needs medical service without of which the death is imminent, but patient’s relative or legal representative refuses medical service, healthcare provider shall make decision in accordance with patient’s health interests.

### **Article 26**

1. Informed consent of the patient shall be a prerequisite for the participation of a patient within the context of medical training. Informed consent shall precede the involvement of a patient in the above-mentioned process.

2. The issue of participation of the incompetent patient within the context of medical training is regulated by Georgian legislation.

3. Consent of the patient is not obligatory if in the process of medical training is used:

- a) information included in the medical records, if on the basis of this information the identity of patient could not be established;
- b) materials obtained during diagnostic or therapeutic procedures (urine, blood, and other tissues) and the anonymity of the patient is ensured.

## **CHAPTER V**

### **CONFIDENTIALITY AND PRIVATE LIFE**

#### **Article 27**

Healthcare provider shall keep confidentially the information about the patient both within the period of his/her life as well as after patient's death.

#### **Article 28**

1. Disclosure of confidential information by healthcare provider is permitted only if:
  - a) patient's informed consent is obtained;
  - b) nondisclosure of information will endanger the life and/or health of the third person;
  - c) information about the patient is used for the scientific or medical training purposes and if this information is introduced in the manner that the identification of the patient is impossible;
  - d) Georgian legislation provides for this.
2. Consent of the patient shall be presumed for the disclosure of confidential information by healthcare provider to other healthcare providers who participate in the process of medical care of that patient.

#### **Article 29**

It is prohibited to intervene into private and family life of the patient, with the exception of the cases when:

- a) intervention is necessary for the establishment of diagnosis, for treatment and care of the patient. Consent of the patient in such cases is prerequisite;
- b) health and/or life of patient's family members are endangered.

#### **Article 30**

Only persons who directly participate in providing of medical services shall attend the medical procedure, with the exception of the cases when patient agrees or requests presence of other persons.

## **CHAPTER VI**

### **RIGHTS IN THE FIELD OF GENETIC COUNSELLING AND GENE THERAPY**

#### **Article 31**

Discrimination against a person on grounds of his/her genetic heritage is prohibited.

#### **Article 32**

Tests, which serve to identify a gene responsible for a disease or to detect a genetic predisposition to a disease, shall be carried out only for:

- a) patient's healthcare purposes;
- b) scientific research linked to health purposes.

#### **Article 33**

Any intervention seeking to modify the human genome shall only be carried out for diagnostic, therapeutic or preventive purposes and only if its aim is not to modify the genome of patient's descendants.

**Article 34**

The use of methods of medically assisted procreation for the purpose of sex selection shall be prohibited, with the exception of the cases when hereditary sex-related disease is to be avoided.

**CHAPTER VII**

**RIGHTS OF PREGNANT WOMEN AND NURSING MOTHERS**

**Article 35**

The pregnant or nursing mother shall have the right to receive comprehensive, objective, timely and understandable information about direct and indirect harmful effects of medical interventions on foetus or newborn proposed to be carried out during pregnancy, child-birth or lactation.

**Article 36**

1. The pregnant woman shall have the right to make decision about the medical intervention proposed to be carried out on her or foetus with the exception of cases referred to in paragraph “2” of this article.

2. Pregnant woman shall not have the right to refuse medical intervention, which is necessary for the birth of living foetus and which bears minimal risk to the health and life of pregnant woman.

**Article 37**

Lying-in woman shall have the right to have her husband or any desired person with her during childbirth.

**Article 38**

The nursing mother shall have the right to keep her newborn with her, unless due to newborn’s health status healthcare provider decides to transfer baby to a different place, as well as to feed newborn according to her child’s need’s.

**CHAPTER VIII**

**RIGHTS OF MINOR**

**Article 39**

Medical services accessibility for minors is ensured through State Medical Programmes.

**Article 40**

1. Parent or legal representative of minor shall have the right to receive comprehensive, objective, timely and understandable information about the health status of the minor, including information specified in paragraph “1” of the Article 18 of this law.

2. Parent or legal representative of minor shall not be entitled to receive information if against the information disclosure is:

a) minor, who is entitled to be competent in accordance with existing legislation;

b) minor of age between 14 and 18, who by opinion of healthcare provider has capacity to understand his/her health status and who accessed the healthcare provider for the treatment of sexually transmitted disease or drug abuse or for counselling about the non-surgical methods of contraception or for abortion.

**Article 41**

1. Minor of age between 14 and 18, who by opinion of healthcare provider has capacity to understand his/her health status shall have the right to give informed consent to medical service, if he/she accessed the healthcare provider for reasons referred to in paragraph “2b” of the Article 40 of this law.

2. Medical service shall be provided to minor under 16 can only by consent of his/her relative or legal representative, with the exception of cases referred to in paragraph “2b” of the Article 40 of this law. Participation of the patient in decision-making process is obligatory taking into consideration the age and degree of his/her mental development.

3. Minor over 16 shall have the right to give informed consent or to refuse medical service if by opinion of healthcare provider he/she has capacity to understand his/her health status. Relative or legal representative of the patient shall be informed about patient’s decision.

**Article 42**

1. Minor under 16 may participate in clinical teaching only by informed consent of his/her relative or legal representative. Participation of the patient in decision-making process is obligatory taking into consideration the age and degree of his/her mental development.

2. Minor over 16 may participate in clinical teaching only by his/her informed consent. Relative or legal representative of the patient shall be informed about patient’s decision.

**Article 43**

Minor shall have the right to receive information about his/her health status and treatment. Information should correspond to the child’s age and degree of his/her mental development.

**CHAPTER IX**

**RIGHTS OF SERVICEMEN, MEN DUE FOR CALL-UP, AND  
SERVICEMEN ON CONTRACTUAL BASIS**

**Article 44**

Servicemen, men due for call-up, servicemen on contractual basis shall have the right to require independent medical expertise.

**CHAPTER X**

**RIGHTS OF PERSONS BEING IN DETENTION OR HELD IN  
CUSTODY**

**Article 45**

1. Medical services accessibility for person being in detention or held in custody is ensured through State Medical Programmes.

2. Person shall have the right to require appropriate medical examination, independent medical expertise and medical treatment if necessary as soon as he/she is held in custody.

**Article 46**

Person being in detention or held in custody shall enjoy all rights stipulated by this law.

**Article 47**

Administration of the detention institution or prison shall have the right to restrict the right of person being in detention or held in custody to choose healthcare provider. Such decision may be put into court.

**CHAPTER XI**  
**FINAL PROVISIONS**

**Article 48**

This Law will go into effect from the moment of publication

**Edward Shevardnadze – the President of Georgia**

**Tbilisi,**

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