

Is there need for a law on patients' rights in Malta?

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The patient

- Health Act, Chapter 528 of the Laws of Malta:
“patient” means a person who is receiving, or has received, medical attention, care, or treatment, whether in a healthcare setting or otherwise.
- S.L. 528.03, Cross-border Health Care Regulations*:
“patient” means any natural person who seeks to receive or receives healthcare in a Member State.
“healthcare” means health services provided by health professionals to patients to assess, maintain or restore their state of health, including the prescription, dispensation and provision of medicinal products and medical devices

* *Directive 2011/24/EU of the European Parliament and of the Council of 9 March 2011 on the application of patients' rights in cross-border healthcare [2011] OJ L 88/45.*

Taking on board rights.

- European Union Law:
Example: Directive 2011/24/EU of the European Parliament and of the Council of 9 March 2011 on the application of patients' rights in cross-border healthcare [2011] OJ L 88/45.
- Jurisprudence of the Council of Europe:
Example: Convention for the Protection of Human Rights and Fundamental Freedoms (Adopted 4 November 1950; entered into force 3 September 1953) ETS 5.
- International human rights law:
Example: United Nations Convention on the Rights of Persons with Disabilities (Adopted 13 December 2006, entered into force 3 May 2008) 2515 U.N.T.S. 3.

Patients' Rights

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Health Act: *To regulate the entitlement to, and the quality of, healthcare services in Malta, to consolidate and reform the Government structures and entities responsible for Health and to provide for the rights of patients.*

S. 27 (1): It shall be the right of every patient:

- (a) to receive healthcare in accordance with the provisions of this Act;
- (b) to receive information concerning the state of his health and the health services and treatments available;
- (c) to be provided in advance with clear information on the treatment options available and to be involved in discussions and decisions about the treatment to be given;
- (d) to access his medical records in accordance with the Data Protection Act, provided this is not to the detriment of his overall wellbeing;
- (e) to have his medical data processed in conformity with the Data Protection Act;
- (f) to refuse treatment that is offered to him, provided such refusal is endorsed by his signature;
- (g) to be seen and treated without excessive or undue delay;
- (h) to file a complaint about services received and be informed of the outcome of the investigation of his complaint in a timely manner;
- (i) to appeal in respect of any decision taken under this Act to the Administrative Review Tribunal in accordance with the provisions of the Administrative Justice Act and any applicable regulations made thereunder.

Laws of Malta

- Affirmation of Sexual Orientation, Gender Identity and Gender Expression Act.
- Criminal Code.
- Code of Organization and Civil Procedure.
- Civil Code.
- Cohabitation Act.
- Counselling Profession Act.
- Data Protection Act.
- Drug Dependence (Treatment not imprisonment) Act.
- Education Act.
- Embryo Protection Act.
- Equal Opportunities (Persons with Disability) Act.
- Gender Identity, Gender Expression and Sex Characteristics Act.
- Health Act.
- Health Care Professions Act.
- Human Blood and Transplants Act.
- Human Organs, Tissues and Cell Donation Act.
- Medical and Kindred Professions Ordinance.
- Medicines Act.
- Mental Health Act.
- Prisons Act.
- Professional Secrecy Act.
- Psychology Profession Act.
- Psychotherapy Profession Act.
- Public Health Act.
- Venereal Diseases (Treatment) Act.

Charter of Patients' Rights and Responsibilities

Health Act, s. 29:

- 1) The Minister shall, within two years of the coming into force of this Part, publish a document to be known as the Charter of Patient Rights and Responsibilities.*
- 2) The Charter shall set out a summary of the rights and responsibilities of patients and other relevant persons as existing at the time of publication.
- 3) The Charter shall be updated on a regular basis to reflect contemporary trends and issues.*

* Published end of 2016; **due to be reviewed by the end of 2021** (Charter, p. 19).

Charter, p. 3:

The eight principles are the right to:

- 1. Health Protection
- 2. Access
- 3. Information
- 4. Participation and Informed Consent
- 5. Privacy and Confidentiality
- 6. Dignity and Respect
- 7. Safe Healthcare
- 8. Comments and Complaints.

What next?

- Patients' Rights? Yes, of course!
- Do we need a patients' rights law? That is not quite so clear but it is subject to debate.
- Patients' organizations can be involved in policy development.