

REPUBLIC OF KENYA



MINISTRY OF HEALTH

THE KENYA NATIONAL PATIENTS' RIGHTS CHARTER, 2013

1st Edition- October, 2013

Issued by: Ministry of Health



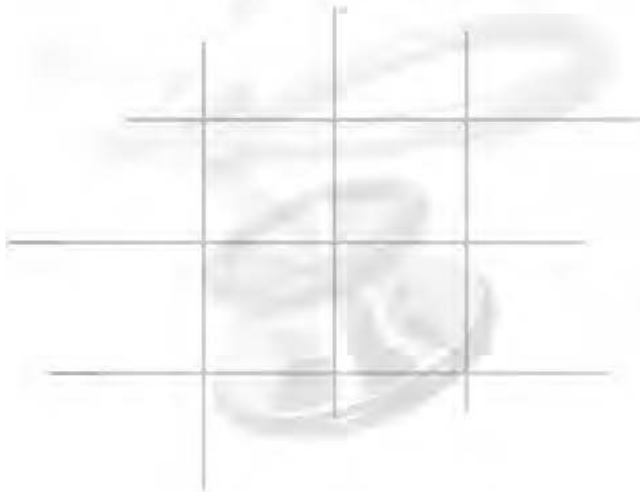
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2013**

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MINISTRY OF HEALTH

Vision

A healthy and globally competitive Nation.

Mission

To deliberately build progressive, responsive and sustainable technologically-driven, evidence-based and client-centered health system for accelerated attainment of the highest standard of health to all Kenyans.

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List of Abbreviations and Definitions

MPDB	Medical Practitioners and Dentist Board
COC	Clinical Officers Council
NCK	Nursing Council of Kenya
PPB	Pharmacy & Poisons Board
KMLTTB	Kenya Medical Laboratory Technicians and Technologists Board
RPB	Radiation Protection Board
KNDI	Kenya Nutritionist and Dietician Institute
LSK	Law Society of Kenya

In this Charter, unless the context otherwise requires, the words below have the following meaning;

Client:	Patients and parents/guardians of minors
Diagnosis:	The disease a patient is found to be ailing from
Diagnostic procedure:	Any laboratory, radiological or clinical process necessary to make a diagnosis
Health care provider:	Any persons involved in the management of a patient and this also includes the healthcare institution
Palliative care:	Care given to terminally ill patient
Patient:	A client of a healthcare provider

Foreword

The development of this Patients' Charter has been necessitated by the dynamics of medical practice, current constitutional dispensation and the review of other enabling legislation relevant to health.

For the first time in the history of Kenya, health is recognized as a constitutional right, thus creating new opportunities and challenges for health care providers to offer the highest attainable standard of health services to their clients.

The Patients' Charter is meant to inform clients and patients of their rights and responsibilities thus empowering them to demand quality services from health care providers. The Charter provides guidelines for resolution of conflicts that may arise between the patient and the health care providers.

This Charter was developed following wide consultation with stakeholders and its application will promote the rights and responsibilities of patients. It is divided into three sections. The first section describes the patients' rights, while the second stipulates the responsibilities of the patients. Section three outlines the dispute resolution mechanism between the patient and the health care providers.

The Ministry of Health expects all health care providers to be familiar with the Patients' Rights Charter and apply it diligently in the provision of healthcare services.



Hon. James Macharia

Cabinet Secretary

Ministry of Health

Introduction

This Patients' Charter is informed by the need for patients in the Republic of Kenya to be aware of their rights and responsibilities.

It defines and explains the patients' rights, responsibilities and dispute resolution mechanisms. The rights outlined herein are anchored in the Constitution of Kenya 2010 and in particular Articles 19,20(5),21(2),22(1),26, 43(1)(2),46,53(1)(c) and 70.

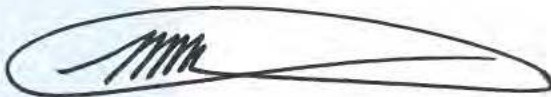
At the inception a meeting held at the Sarova Panafric Hotel in Nairobi under the stewardship of the Director of Medical Services, Dr. Francis Kimani, the following were created;

1. National Patients right charter Secretariat,
2. Technical Working Group, and the
3. National Stakeholders forum

The Patients' Rights Charter secretariat developed the draft zero of the Patients' charter after collecting views from stakeholders and subsequently organizing a workshop for the Technical Working group in Naivasha.

The Technical Working group deliberated and developed draft 1 of the Patients' Charter and made recommendations that were discussed and adopted at a National stakeholder's forum held on 20th February 2013 in Nairobi.

It is our hope and desire that this document shall change the modus operandi in healthcare for the better of all the actors, but more importantly, that benefits and care should accrue to the patient.



Dr. Francis M. Kimani

Director of Medical Services

Acknowledgment

The Ministry of Health wishes to acknowledge the following, among others, for their invaluable contribution towards the development of the first Patients' Charter in Kenya;

1. Dr. Francis Kimani, the Director of Medical Services and Dr. Shahnaz Sharrif, the Director of Public Health and Sanitation, for providing leadership and steering the process;
2. Law Society of Kenya for playing an advisory role under the stewardship of Prof. Kiama Wangai, being the convener of the Society's medical legal committee;
3. Morris Moses Foundation under the stewardship of its Chief Executive Officer, Mrs. Alice Naserian Mwongera;
4. The following seven (7) Health Regulatory Bodies i.e Medical Practitioners and Dentist Board, Pharmacy and Poisons Board, Clinical Officers Council, Nursing Council of Kenya, Kenya Medical Laboratory Technicians and Technologists Board, Radiation Protection Board, Kenya Nutritionist and Dietician Institute for sharing their experiences in handling patients' rights and for providing their codes of conduct and discipline for reference.
5. The Patients' Rights Charter Secretariat under the stewardship of Mr. Daniel Yumbya, the Chief Executive Officer of the Medical Practitioners and Dentists Board and the following members: Evelyne Opondo, Prof. Kiama Wangai, Mrs. Elizabeth Oywer, Sophie Ngugi, Perez Wawire, Michael Wanga, Mrs. Alice Mwongera and Rose Wafukho for developing draft zero of the document and for providing secretarial and logistical support.
6. The legal Team involved in the drafting and compiling the document under the stewardship of Adv. Peter Munge Murage and Adv. James Mwenda.
7. The Technical Working Group for deliberating and developing draft 1 of the document.

In addition, the Ministry wishes to acknowledge all the stakeholders for their invaluable contributions, deliberations and subsequent adoption of this Patients Charter.

Special gratitude goes to H.E. Ambassador Dr. Eunice Brookman-Amissah Vice President and Adv. Evelyne Opondo of Ipas Africa Alliance for providing financial and technical support in the development of this Charter.



Prof. Fred H. K. Segor
Principal Secretary
Ministry of Health
October, 2013

Chapter 1 Patients' Rights

Every person, patient or client, has a:-

1. Right to access health care.

Health care shall include promotive, preventive, curative, reproductive, rehabilitative and palliative care.

2. Right to receive emergency treatment in any health facility.

In emergency situations, irrespective of the patient's ability to pay, treatment to stabilize the patient's condition shall be provided.

3. Right to be informed all the provisions of one's Medical Scheme/Health Insurance Policy.

Anyone who is enjoying the provisions of a medical cover (insured) is entitled to know all the privileges accorded and also entitled to challenge, where and if necessary, the contents and decisions of the medical scheme and health insurance policy.

4. Right to choose a health care provider.

A patient's right to access a health care provider of his choice shall not be unduly restricted by third parties so long as the provider of choice is qualified, registered, retained and in current good standing with the Regulatory Authority to provide treatment for the particular ailment or illness and as long as that choice is acceptable in medical and ethical standards.

5. Right to the highest attainable quality of Health care products and services.

Every person has the right to the highest attainable quality of health care products and services.

6. Right to refuse treatment.

Any person, patient or client may refuse, withdraw or withhold treatment and such refusal shall be documented in writing by the medical service provider and in the presence of an independent witness, provided that such refusal, withdrawal or withholding does not create an immediate danger to the patient or the health of others and provided further that the consciousness and competency of the person has been taken into account.

7. Right to confidentiality.

This shall be upheld except where consent has been expressly given or disclosure is allowed by law or in the public interest. Confidentiality shall be maintained even after a patient's death.

8. Right to informed consent to treatment.

To be given full and accurate information in a language one understands about the nature of one's illness, diagnostic procedures, proposed treatment, alternative treatment and the costs involved for one to make a decision except in emergency cases.

The decision shall be made willingly and free from duress.

9. Right to information.

Every patient is entitled to receiving full and accurate information concerning their health and health care.

In addition every patient is entitled to access and to obtain information about their health.

10. Right to be treated with respect and dignity.

11. Right to a second medical opinion.

Every person has the right to a second medical opinion if so desired, regarding diagnosis, procedures, treatment and/or medication from any other qualified health professional of one's choice.

12. Right to complain

Every person has a right to complain about health services to the relevant authorities, such complaint should be investigated and receive a response from the authority within a reasonable time that does not exceed twelve months. Where there is a delay, the relevant authority shall provide the reasons.

13. Right to insurance coverage without discrimination on the basis of age, pregnancy, disability, illness including mental disorders.

14. Right to donate his or her organs and/or any other arrangements / wishes upon ones demise.

Chapter 2 Responsibilities

Every patient has the following responsibilities:

1. To take care of his/her health by adopting a healthy lifestyle.
2. If the patient is a minor, protection, care and healthy lifestyle of the minor shall be the responsibility of the parent or guardian of the minor;
3. To adopt a positive attitude towards their health and life;
4. To protect the environment.
5. To respect the rights of others and not to endanger their life and health.
6. To give health care providers relevant, accurate information to facilitate diagnosis, treatment, rehabilitation and/or counseling while being truthful and honest on past health care;
7. To take care of the health records in his or her possession and produce them if and when required by the health care provider;
8. To keep scheduled appointments, observe time and if not possible, communicate to the health care provider;
9. To follow instructions, adhere to and not abuse or misuse prescribed medication or treatment and/or rehabilitation requirements.
10. To enquire about costs of treatment and rehabilitation and to make appropriate arrangements for payments;
11. To be aware of the available health care services in his or her locality and to make informed choices while utilizing such services responsibly;
12. To inform the health care providers, where necessary, when one wishes to donate his or her organs and/or any other arrangements / wishes upon ones demise;
13. Where an adult patient is not competent to make decisions on health care services the spouse, where applicable, next of kin and/or the guardian shall accord protection and care to the patient;
14. To seek treatment at the earliest opportunity.
15. To express any concerns through the right channels confidentially.

Chapter 3 Dispute Resolution

Disputes may arise from the following areas, including;

- 1) Patient and health care provider;
- 2) Patient and financier/insurer;
- 3) Patient and the employer, and
- 4) Patient and Regulatory Body.

Any dispute arising from the rights and responsibilities set out herein above, their exercise and/or enforcement may be resolved through any of the following ways:-

1. The patient may lodge the dispute directly with the Health Care Provider. The provider may resolve the dispute amicably, formulate an internal inquiry, establish a committee and/or internal body to consider it and thereafter take appropriate steps which resolves the complaint conclusively to the satisfaction of all the concerned parties.
2. The patient may opt to lodge the complaint with the relevant Regulatory Authority or body as set out by the applicable Statutes, which includes;
 - (i) The Public Health Act, Chapter 242 of the Laws of Kenya;
 - (ii) The Medical Practitioners & Dentists Board Act, Chapter 253 of the Laws of Kenya
 - (iii) The Pharmacy & Poisons Board, Chapter 244 of the Laws of Kenya;
 - (iv) The Nursing Council of Kenya;
 - (v) The Clinical Officers Council;
 - (vi) The Kenya Medical, Laboratory, Technician and Technologists Board;
 - (vii) The Radiation Protection Board;
 - viii) The Nutritionists and Dietician Institute,
 - (ix) The Consumer Protection Act, and
 - (x) The Public Health Officers and Technicians Act, 2013.
3. The patient may lodge a claim in Court seeking appropriate remedies as provided under Law.

Appendices

APPENDIX 1

The National Secretariat on the Development of Patient Rights Charter

NAME	ORGANISATION
Daniel Yumbya	National Secretariat's Chairman (Medical Practitioners and Dentists Board)
Evelyne Opondo	National Secretariat's Member (Ipas)
Prof. Kiama Wangai	National Secretariat's Legal Advisor (Law Society of Kenya)
Mrs. Elizabeth Oywer	National Secretariat's Secretary (Nursing Council of Kenya)
Sophie Ngugi	National Secretariat's Member (Nursing Council of Kenya)
Perez Wawire	National Secretariat's Member (Clinical Officers Council)
Michael Wanga	National Secretariat's Member (Kenya Medical Laboratory Technician and Technologists Board)
Alice Mwongera	National Secretariat's Member (Morris Moses Foundation)
Dr. Phionah Atuhebwe	National Secretariat's Member (Ipas)
Rose Wafukho	Logistics support

APPENDIX 2

List of Participants at the Technical Working Group Retreat- Enashipai Resort and Spa- 31st January 2013 – 1st February, 2013

NO.	NAME	ORGANISATION
1.	Dr. Francis M. Kimani	Ministry of Health
2.	Mr. Kepha Ombacho	Ministry of Health
3.	Mr. Daniel Yumbya	Medical Practitioners and Dentists Board
4.	Dr. Simon Njuguna Kahonge	Ministry of Health
5.	Dr. Josephine Omondi	Medical Practitioners and Dentists Board
6.	Jackson Muriithi	Ministry of Health
7.	Mr. Munge Murage	Medical Practitioners and Dentists Board
8.	Ms. Sophie Ngugi	Nursing Council of Kenya
9.	Ms. Perez Wawire	Clinical Officer's Council
10.	Mr. Joseph Maina	Radiation Protection Board
11.	Joyce Atienda	Kenya Nutritionist & Dietician Institute
12.	Prof. Kiama Wangai	Law Society of Kenya
13.	Mildred Eseli	Law Society of Kenya
14.	Ms. Shatikha Chivusia	Kenya National Commission on Human Rights
15.	Ms. Margaret Muthee	Gender and Equality Commission
16.	Ms. Alice Mwongera	Morris Moses Foundation
17.	Mr. Franklin Juma	Center of Patients' Rights
18.	Dr. Elly Nyaim Opot	Kenya Medical Association
19.	Dr. Tom Ocholla	Kenya Dental Association
20.	Ms. Evelyne Opondo	IPAS
21.	Ms. Catherine Ombima	IPAS
23.	Ms. Belinda Otieno	Kenya Medical Laboratory Technician and Technologists Board
24.	Rose Wafukho	Medical Practitioners and Dentists Board

APPENDIX 3

Participants to the Stakeholders Workshop held at The New Stanley Hotel on 20th February, 2013

NO.	NAME	ORGANISATION
1.	Prof. George Magoha	Medical Practitioners and Dentists Board
2.	Amb. Dr. Eunice Brookman- Amissah	Ipas
3.	Dr. Francis Kimani	Ministry of Health
4.	Mr. Kepha Ombacho	Ministry of Health
5.	Mr. Daniel Yumbya	Medical Practitioners and Dentists Board
6.	Dr. Simon Njuguna Kahonge	Ministry of Health
7.	Dr. David Kiima	Ministry of Health
8.	Evelyne Opondo	Ipas
9.	Prof. Kiama Wangai	Law Society of Kenya
10.	Margaret Muthee	National Gender and Equality Commission
11.	James Mwenda	Attorney General's Office
12.	Dr. Kinyanjui	Kenya Hospices & Palliative Care Association
13.	Dr. Esther Munyoro	Medical Specialist
14.	David Musyoki	Kenya Hospices & Palliative Care Association
15.	Mildred E. Munyasa	Law Society of Kenya
16.	Judith Okal	Center for Reproductive Rights
17.	Dr. Victor Ng 'ani	Kenya Medical Practitioners, Pharmacists and Dentists Union
18.	Dr. E.W. Onyiego	Ministry of Health
19.	Agnes N. Waudu	Emory University Project
20.	Sophie Ngugi	Nursing Council of Kenya

APPENDIX 3 ...Continued

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| 21. Fredrick Ochieno | Nursing Council of Kenya |
| 22. Dr. Ochiba Lukandu | Moi University |
| 23. Dr. Ober -Oluoch | Kenya Dental Association |
| 24. Joseph Maina | Radiation Protection Board |
| 25. Perez Wawire | Clinical Officers Council |
| 26. Dr.Wamai Jane | Kenya Dental Association |
| 27. Jackson Muriithi | Ministry of Health |
| 28. Dr.Tom Ocholla | Kenya Dental Association |
| 29. Dr. Josephine Omondi | Medical Practitioners and Dentists Board |
| 30. Ms.Alice Mwongera | Morris Moses Foundation |
| 31. Mr. Peter M. Munge | Medical Practitioners and Dentists Board |
| 32. Dr.Wambui Waithaka | Kenya Medical Practitioners, Pharmacists and Dentists Union |
| 33. Rose K. Kirinya | Emory University Programme |
| 34. Peter Wanjohi | Ministry of Health |
| 35. Dr. Pauline Duya | Ministry of Health/ Standards |
| 36. Mr. Batuli Mushi | MOH, Tanzania |
| 37. Dr. Hazel Mumbo | Funzo Kenya |
| 38. Dr. George Mugenya | Egerton University |
| 39. Rose Otaye | Office of the President, Aids Control Unit |
| 40. Robin O. Mose | Ministry of Health |
| 41. Martha Maneno | Commission on Revenue Allocation |
| 42. Prof. Barasa Khwa Otsyula | Medical Practitioners and Dentists Board |

APPENDIX 3 ...Continued

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| 43. | Dr. Fredrick Ndede | Kenya Methodist University |
| 44. | Belice A. Odamna | KELIN |
| 45. | Joyce K. Atinda | Kenya Nutritionists and Dietician Institute |
| 46. | Belinda Otieno | Kenya Medical Laboratory Technician and Technologists Board |
| 47. | Dr. Lukoye Atwoli | Moi University |
| 48. | Dr. Henry Wanga | Kenya Medical Association |
| 49. | Dr. Abdi Mohamed | Kenya Medical Association |
| 50. | Sheila Yieke | Commission on Revenue Allocation |
| 51. | Adv. Palloty M. Luena | Medical Council of Tanganyika |
| 52. | Shatikha Chivusia | Kenya National Commission on Human Rights |
| 53. | Pearl Buyanzi | Kenya National Commission on Human Rights |
| 54. | Dr. Stephen Irungu | Ministry of Health |
| 55. | Dr. Elly Nyaim Opot | Kenya Medical Association |

Notes:



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