

This guide addresses the concept of “human rights in patient care,” which brings together the rights of patients and health care providers. The concept of human rights in patient care refers to the application of general human rights principles to all stakeholders in the delivery of health care. These general human rights principles can be found in international and regional treaties, such as the International Covenant on Civil and Political Rights; the International Covenant on Economic, Social and Cultural Rights; the European Convention on the Protection of Human Rights and Fundamental Freedoms; and the European Social Charter. These rights are universal and can be applied in the context of health care delivery just as they can be in any other context.

1.2 Overview of the Guide

Chapters 2 and 3 of the guide respectively cover the international and regional laws governing human rights in patient care. They examine relevant “hard” and “soft” laws and provide examples of cases and interpretations of treaty provisions. These two chapters are identically organized around the established human rights applicable to both patients and providers. These are the rights to liberty and security of the person; privacy; information; bodily integrity; life; highest attainable standard of health; freedom from torture, cruel, inhuman, and degrading treatment; participation in public policy; nondiscrimination and equality for patients; decent work conditions; freedom of association; and due process for providers. Chapter 4 provides information on the international and regional procedures for protecting these rights.

Chapters 5, 6, 7, and 8 are country specific. Chapter 5 clarifies the legal status of international and regional treaties ratified, signed, or adopted by Ukraine; explains the country’s use of precedent; and includes a brief description of the legal and health systems. Chapter 6 deals with patient rights and responsibilities. The patient rights section is organized according to the rights in the European Charter of Patients’ Rights, with the addition of any country-specific rights not specifically covered by the charter. Drawn up in 2002 by the Active Citizenship Network—a European network of civic, consumer, and patient organizations—the European Charter of Patients’ Rights is not legally binding, but it is generally regarded as the clearest and most comprehensive statement of patient rights. The charter attempts to translate regional documents on health and human rights into 14 concrete provisions for patients: rights to preventive measures, access, information, informed consent, free choice, privacy and confidentiality, respect of patients’ time, observance of quality standards, safety, innovation, avoidance of unnecessary suffering and pain, personalized treatment, the filing of complaints, and compensation. These rights have been used as a

reference point to monitor and evaluate health care systems across Europe and as a model for national laws. Chapter 6 uses the rights enumerated in the European Charter of Patients' Rights as an organizing principle, but along with each right, the applicable binding provisions under the national laws are presented and analyzed. These rights are then cross-referenced with the more general formulation of rights in the international and regional chapters. Chapter 7 focuses on provider rights and responsibilities, including the right to work in decent conditions, the right to freedom of association, the right to due process, and other relevant country-specific rights.

Chapter 8 covers the national mechanisms for enforcement of both patient and provider rights and responsibilities. These mechanisms include administrative, civil, and criminal procedures and alternative mechanisms, such as the Office of the Public Prosecutor, ombudspersons, ministries of internal affairs, ethics review committees, and inspectorates of health facilities. The chapter additionally contains an annex of sample forms and documents for lawyers to file.

The final section is a glossary of terms that are relevant to the field of human rights in patient care. Some versions of the guide also include a section of the glossary with country-specific terminology. The glossary will enable greater accessibility of law, health, and human rights material.

Uses of the Guide

The guide has been designed as a resource for both litigation and training. It may be particularly useful in clinical legal-education programs. Although designed for lawyers, the guide may additionally be of interest to medical professionals, public health managers, Ministries of Health and Justice personnel, patient advocacy groups, and patients who desire a firmer understanding of the legal basis for patient and provider rights and responsibilities and the available mechanisms for enforcement.

Companion Websites

The field of human rights in patient care is constantly changing and evolving, necessitating the need for regular updates to the guide. Electronic versions of the guides will be periodically updated at www.health-rights.org. The website of Ukrainian branch is <http://healthrights.org.ua>. This international home page links to country websites, which include additional resources gathered by the country working groups that prepared each guide. These resources include relevant laws and regulations, case law, tools and sample forms, and practical tips for lawyers. The websites also provide a way to connect lawyers, health providers, and patients concerned about human rights in health care. Each of the websites provides a mechanism for providing feedback on the guides.

Note from the Authors

The material in this guide represents the views of an interdisciplinary working group composed of legal and medical experts. The guide does not carry judicial or legislative authority and it does not substitute for legal advice from a qualified lawyer. Rather, it represents the authors' attempt to capture the current state of the law and legal practice in the field of human rights in patient care in Ukraine. The authors welcome any comments concerning errors or omissions, suggested additions to the guide, and questions about how the law might apply to a particular factual scenario.

As this guide illustrates, in Ukraine, the field of human rights in patient care is still new and evolving. Many of the statutory provisions cited in the guide have not been authoritatively interpreted by courts, and those that have still remain open to additional application and interpretation. There remain huge gaps in understanding how, in practice, to apply human rights in patient care. This guide is, therefore, a starting point for legal inquiry, not a final answer. It is hoped that this guide will attract new professionals to the field of human rights in patient care, and that future editions will be much richer in their elaboration of legal protections.