

R E P U B L I C O F L I T H U A N I A
L A W
O N T H E R I G H T S O F P A T I E N T S
A N D C O M P E N S A T I O N
O F T H E D A M A G E T O T H E I R
H E A L T H

CHAPTER I
GENERAL PROVISIONS

Article 1. The Concepts Employed in this Law

1. **Patient** denotes a person who avails himself of health care irrespective of whether he is in poor health or well.
2. **Minor** is a patient 18 years of age or under.
3. **Representative of patient** denotes a legal representative (parents, adoptive parents, guardians, custodians) or a designated representative. The patient shall select a representative according to designation. The registration of a representative according to designation, must be accomplished in accordance with the procedure established by laws of the Republic of Lithuania.
4. **Health care institutions** are institutions, enterprises and organisations accredited according to the procedure established by legal acts of the Republic of Lithuania, to provide individual health care services independently of the form of their property.
5. **Physician** is a person having the right, according to the legal acts of the Republic of Lithuania, to engage in the practice of medicine.
6. **Nursing staff member** is a person having the right, according to the legal acts of the Republic of Lithuania, to engage in the practice of nursing.
7. **Patient documents** denote documents containing the case history of illness and other documents, which assess the health condition of patient and the kinds and methods of health care applied to him.
8. **Commission on evaluation of damage inflicted upon the health of patients** (further-commission) an institution functioning at the Ministry of Health, whose purpose is to certify that damage has been inflicted upon the health of patients and to establish the size of compensation to be paid out of the State Patients' Fund of the Insurance Fund for the Civil Responsibility of Individual Health Care Institutions for the Damage Inflicted Upon Patients. Statutes approved by the Ministry of Health shall regulate the formation of the commission.

Article 2. Purpose of the Law

1. The purpose of the Law on the Rights of Patients and Compensation of the Damage to their Health shall be to establish the rights of patients and the procedure of assessing and compensating the damage inflicted on the health thereof through the legitimate actions of a physician or nursing staff member (through no fault of their own).
2. This and other laws of the Republic of Lithuania and legal acts shall regulate the special rights of patients in performance of tissue and organ transplantation and also the rights of mental patients.

CHAPTER II
THE RIGHTS OF PATIENTS

Article 3. The Right to Health Care

1. The rights of patients may not be restricted in health care institutions because of gender, age, race, nationality, language, social status, faith, beliefs or convictions thereof.
2. Patients must be accorded qualified health care. The physicians and nursing staff must respect the personal privacy of patients. The patients shall have the right to be treated in such a way that their diagnosis, treatment and nursing care would be regarded with respect.

3. In the event that limited treatment possibilities, within health care institutions, do not permit provision of similar treatment concurrently, for all of the patients, the treatment selected by the physician must be medically sound and non discriminatory towards other patients.

4. If the continued accommodation of patients at a health institution is not medically sound, prior to discharge from the health care institution and sending a patient home or transferring him to another health care institution, the patient must be provided a thorough explanation of the grounds for such a decision.

5. The patients must be provided scientifically sound means of anaesthesia, in order that they would not be subjected to suffering as a result of their health disorders.

6. Patients shall have the right to be cared for and to die with dignity.

Article 4. The Right to Accessible Health Care

1. The right of a patient to obtain free health care, compensated from state or municipal budgets, shall be established by other laws and legal acts of the Republic of Lithuania. The right of a patient to obtain health care services, compensated from the compulsory health insurance funds, shall be established by the Law on Health Insurance.

2. The required medical assistance must be provided for the patient without delay. If the conditions for providing required medical assistance are not available within the patient's area of residence, the administration of the health care institution and the physician whom the patient contacts, must inform him of the reasons and time involved in the patient's having to wait, until the required medical assistance shall be provided for him at this institution. If the opportunities for rendering of that type of medical assistance are not to be found in the patient's area of residence, the administration or physician of the health care institution to which the patient applies must inform the patient as to where he can obtain the medical assistance necessary. In cases of need, the health care institution must transport the patient at its own expense, to the other health care institution in accordance with the procedure established by the Ministry of Health.

3. The laws and legal acts of the Republic of Lithuania shall establish the right to another kind of health care.

Article 5. The Right to Select a Physician, Nursing Staff Member, Health Care Institution

1. A patient shall have the right to select a physician, nursing staff member, health care institution which is either a part of the National Health System of Lithuania, or not. At the institutions of the National Health System of Lithuania, a patient shall have the right to select a physician or nursing staff member, without violating the institution's subordination to the level of organising the activity of the National Health System of Lithuania.

This right may be limited in accordance with the procedure established by the laws of the Republic of Lithuania.

Article 6. The Right to Information

1. A patient shall have the right to obtain information concerning the services provided by the health care system and the opportunities to make use of them.

2. A patient must be informed of the name, surname, position and qualifications of the doctor treating him and the nursing staff member, nursing him.

3. A patient must be informed of the internal regulations and procedure of the health care or nursing institution, insofar as that concerns his stay at that institution. A patient shall have the right to seek and obtain a description of the diagnosis, treatment and nursing.

4. The patient shall have a right to information on the condition of his health, disease diagnosis, medical examination results, treatment methods and treatment prognosis. The information must be supplied to the patient in a form comprehensible to him, with an explanation of the special medical terms involved. In providing information regarding the treatment, the physician must explain to the patient the course of treatment, possible results of the treatment, possible alternative methods of treatment and other circumstances, which may have an effect upon the patient's decision to accept or refuse the proposed treatment and also the possible consequences of refusal of the proposed treatment. The information should

not be supplied to the patient against his will, however, his will must be clearly expressed and the history of his illness should contain a mention of this wish of his.

5. If the patient so desires, he must be supplied with the history of his illness or other medical documents of his, with the exception of instances, wherein this may have a basic effect upon the patient's health and even endanger his life (this shall be decided by the physician treating him, or a physicians' consilium). In such instances, the treating physician shall note in the disease case history the limitations of the supply of information.

6. The patient shall have the right to request that copies of the case history of his disease and (or) of other documents be made at his expense. This right of the patient may only be limited by the procedure established by the laws of the Republic of Lithuania. The physician must explain the significance of the notes included in the case history of his illness. If the patient's request is justified, the physician must correct, complete, remove, explain and (or) change inaccurate, incomplete, ambiguous data or data not related to the diagnosis, treatment or nursing. If the treating physician fails to agree with such a request by the patient, the consilium of physicians will then decide the validity of the patient's request.

7. Information to a patient who is a minor, his parents and guardians must be furnished in a form comprehensible to them. If differences are present between the minor and his parents or guardians, the treating physician, in presenting the information, must be guided by the interests of a patient who is a minor.

8. A minor patient, who in the opinion of the physician, is capable of accurately appraising the condition of his own health, shall have the right to independently initiate and decide the treatment that has been proposed for him. Upon request by the parents or custodians of the minor patient, the treating physician must advise the legal representatives of the minor, regarding the treatment, however such information may also remain withheld, with the minor having requested this, if this might harm the interests of the minor patient considerably, if other legal acts do not establish otherwise. If the minor is hospitalised, his parents or custodians must be advised of this.

9. A patient shall have the right to learn of the specialist's opinion concerning the condition of his health and the proposed treatment.

Article 7. The Patient's Participation in an Instruction Process, Scientific and Medical Experiments

1. Without the patient's consent, one may not use him in an instruction process and scientific or medical experiments. If the patient is a minor, such consent may be given by one of his parents or the legal custodian and the district, city service for protecting the rights of the child.

2. The laws and other legal acts of the Republic of Lithuania shall establish the procedure for making use of a patient in a training process and scientific and medical experiments.

Article 8. The Right to Refuse Treatment

1. A patient may not be treated or be provided any other health or nursing care against his will, if it shall not be otherwise established by the laws of the Republic of Lithuania. If the possibility exists, the patient must be offered other treatment or other health care services.

2. A minor patient must be informed of the treatment and, with his age and level of development permitting a correct appraisal of the status of his health and proposed course of treatment (the treating physician shall decide this), the minor may not be treated against his will, unless provided otherwise by the Republic of Lithuania laws. The physician shall select the methods of treatment which shall most suit the interests of the minor.

3. If the patient is unconscious or if his will can not be known for another reason and a serious threat is being posed to his life or health, while vital (first or urgent) medical assistance is being provided for him, such medical assistance must be rendered without his consent.

4. The Law on Mental Health Care shall establish the nature of treatment of a patient, mental patient, who is unable to correctly assess the condition of his own health.

5. In the course of providing required (first aid or urgent) medical assistance, which requires the consent of the legal representative of the patient, such may be provided also without the legal representative's consent, if this can not be obtained in time or if the legal representative refuses to give his consent, while according to the treating physician or nursing staff member, the rendering of medical

assistance is in keeping with the interests of the patient. The case history of the illness of the patient must include a record of this.

6. Should the legal representative of a patient refuse to give his consent for treatment, which is not urgent and the treating physician be of the opinion that the treatment being provided is in keeping with the interests of the patient, the medical ethics commission of the health care institution or the Committee for Medical Ethics of Lithuania has the right to give consent for such treatment. The administration of the health care institution or the treating physician shall have the right to appeal to this commission or committee.

Article 9. The Right of Complaint

1. A patient who is dissatisfied with his health care shall have the right to complain to an administration staff member of the health care institution, who is responsible for health care within this institution. The staff member of the institution must reply to the complaint of the patient within five business days.

2. The patient shall have the right to lodge a complaint against the work of health care institutions before the Ministry of Health, other controlling institutions and the court.

Article 10. Inviolability of Personal Privacy

1. The private life of patients shall be inviolable. Information concerning the facts of the patients' personal existence may be collected for the case history of the illness with the patients' consent and if, in the opinion of the treating physician, this shall be deemed necessary for diagnosing the illness, treatment or nursing.

2. All of the information concerning the condition of the patient's health, diagnosis, prognosis and treatment, and also, all of the other information of personal nature concerning the patient, must be held as confidential, even after the patient's death. The laws of the Republic of Lithuania and legal acts of the Ministry of Health shall determine the procedure of safe keeping of such confidential information. Confidential information may be furnished for other individuals, only upon the written consent of the patient, or if this is stipulated by this and other laws of the Republic of Lithuania.

3. Consent is not required, if the information is provided to individuals who are direct participants in the treatment or nursing of patients, performing expert examinations of the patients' health, and also to institutions, which are given the right by the laws of the Republic of Lithuania to inspect the activity of health care institutions.

CHAPTER III PATIENTS' DOCUMENTS

Article 11. Necessity of Patients' Documents

Health care institutions, physicians and nursing staff members must possess patients' documents of the type and form stipulated by the Ministry of Health (case histories of illness, other medical documents) and keep them safe in accordance with the procedure established by the laws of the Republic of Lithuania and the Ministry of Health.

Article 12. Confidentiality of the Information Contained in the Documents of Patients

1. The parents or guardians of a minor patient shall have the right to familiarise themselves with the documents of the minor patient, if this is not contrary to the requirements of parts 7 and 8 of Article 6 of this Law. The Law on Mental Health Care shall establish the right of the representative of a mental patient to familiarise with the documents of a patient.

2. The requirements concerning confidentiality shall not be relevant:

1) when the court, commission or other state institutions, which are accorded such a right by the laws of the Republic of Lithuania, apply seeking to familiarise themselves with information;

2) when information concerning the health condition of a patient is provided based upon the instances stipulated in part 3 of Article 10 of this Law.

Article 13. Use of the Information Contained in Patients' Documents for Scientific Research and Student Instruction

The Committee on Medical Ethics of Lithuania shall establish the procedure for use of the information contained in the patients' documents for medical research work and student instruction. The personal privacy of the patient must be respected in using information for these purposes.

CHAPTER IV

PRINCIPLES AND PROCEDURE FOR COMPENSATION OF DAMAGE INFLECTED UPON THE PATIENTS' HEALTH

Article 14. The Concept of Damage Inflicted upon Patients

1. Within the context of this Law, the damage inflicted upon the patients, constitutes damage which:
 - 1) has resulted as a consequence of the treatment of patients or medical research;
 - 2) has resulted due to infection or inflammation in connection with the examination or treatment of patients;
 - 3) has resulted from a diagnostic procedure or incision, if this gives rise unfoundedly, to long-term health disorders;
 - 4) has resulted from structural shortcomings in the medical equipment or upon malfunctioning of the medical equipment or something similar.
2. The consequences of valid treatment based upon universally accepted principles or standards of medical practice and science, which could not have been avoided through the use of an equally effective method of treatment, shall not be treated in this Law as damage inflicted upon patients.
3. The damage suffered by patients as a result of the culpable actions of a physician or a nursing staff member shall be compensated in accordance with the procedure established by the Civil Code.

Article 15. Damage Compensation

1. The commission shall determine the extent of the damage inflicted upon a patient's health through the legitimate actions of a physician or nursing staff member.
2. Should the damage inflicted upon the health of patients have increased due to the patients' malicious intent or gross carelessness on their part, compensation must be paid only for the damage which was not influenced by these circumstances.
3. The procedure of compensation for the damage inflicted upon the health of patients shall be established by this and other laws of the Republic of Lithuania and legal acts.

Article 16. Insurance of the Health Care Institutions

1. In implementing individual health care the health care institutions of the National Health System of Lithuania, accredited for individual health care, must insure their civil responsibility for the damage caused to patients through the lawful actions of physicians or nursing staff members. The State Patients' Fund shall implement the compulsory insurance for civil responsibility for the damage caused to patients, of the individual health care institutions of the National Health System of Lithuania, in instituting for this purpose, an independent Individual Health Care Institution Insurance Fund for the damage caused to patients. The Government shall approve the statutes of this Fund. The health care institutions of the National Health System of Lithuania, which provide in-patient assistance, shall pay 0.2 per cent, while those not providing in-patient assistance shall pay 0.1 per cent from the added on work compensation fund of physicians and nursing staff members.
2. The monies from the insurance fund of individual health care institutions for civil responsibility for damage caused to patients, shall be used for the purposive payment of compensations to patients for the damage caused. The State Patients' Fund provides an annual accounting of the use of the monies of this Fund, to the Council of Compulsory Health Insurance and the Ministry of Health.
3. The Government shall establish the conditions of the compulsory insurance of the health care institutions of the National Health System and the procedure of purposive payment of funds to patients of the health care institutions of the National Health System.
4. The health care institutions, accredited for individual health care which are independent of the National Health System of Lithuania must, in implementing individual health care, insure their civil responsibility for the damage inflicted upon patients, as a result of the legitimate actions by physicians and nursing staff members, through arranging insurance agreements with insurance companies, which have a

right to implement general civil responsibility insurance in accordance with the laws of the Republic of Lithuania or by entering into agreements with the State Patients' Fund. If the health care organisations, which do not belong to the National Health System of Lithuania, in implementing individual health care, shall insure their civil responsibility for the damage caused to patients through the lawful actions of physicians and nursing staff members by forming insurance contracts with insurance companies, the terms of insurance, size of insurance payments, procedure of the payment thereof, etc., shall be established in the insurance contracts. If the health care institutions, which do not belong to the National Health System of Lithuania, form contracts with the State Patients' Fund, the same insurance conditions and procedure of contribution payment shall apply to them as to the National Health System of Lithuania health care institutions.

5. The health care institutions, who have not insured their civil responsibility for the damage caused to patients, shall not have the right of engaging in individual health care.

Article 17. The Procedure of Payment of Contributions of Compulsory Insurance of Health Care Institutions to the State Patients' Fund for Civil Responsibility for Damage Caused to Patients

1. Individual health care institutions, which have formed insurance contracts with the State Patients' Fund, shall themselves estimate the amount of contributions in accordance with the amounts established by Article 16 of this Law and transfer them to the State Patients' Insurance Fund for Civil Responsibility of Individual Health Care Institutions for the Damage Caused to Patients.

2. The Government shall decide the terms and procedure of the payment of contributions.

Article 18. Payment of Compensation to the Patient

1. Compensation for damage caused to patients shall be paid from the State Patients' Fund monies from the Insurance Fund of the Health Care Institutions Civil Responsibility for Damage Caused to Patients, if damage was caused to the patient at a health care institution which had formed an insurance contract with the State Patients' Fund, in accordance with the requirements of this Law. The compensations shall be paid per decision of the commission in accordance with the procedure and amounts approved by the Government, but not to exceed the 15 minimal monthly pay amount. The damage shall be compensated in accordance with the minimum monthly pay amount, in effect on the day the request, concerning compensation of the damage incurred, was submitted to the commission on compensation.

2. If the patient sustained damage at a health care institution not under the National Health System and one not having formed an insurance contract with the State Patients' Fund, the insurance compensation shall be paid in accordance with the conditions provided in the contract between the health care institution and an insurance company. In this case, the maximum amount of damage compensation can not be smaller than the sum designated in part 1 of this Article.

Article 19. Submission to the Commission of a Request for Compensation

The patient of an insurance fund (or his representative) must submit to the commission a request for compensation by the State Patients' Fund of the Civil Responsibility for the Damage Caused to Patients by individual health care institutions, for the damage incurred, no later than within one year from the time the patient first became aware of the damage sustained by him. In any case, however, the request may not be submitted, if more than three years have elapsed from the incident which was responsible for the damage that followed.

Article 20. The Formation, Activity and Control of the Commission

1. The Ministry of Health shall form, for a term of four years, a commission comprised of individuals from the State Patients' Fund, Compulsory Health Insurance Council, organisations of physicians and nursing staff members, public patient organisations and representatives of other institutions, who possess medical, legal and other university or college levels of education. The activities and formation of the commission shall be established by statutes which shall be approved by the Ministry of Health.

2. This commission shall decide the validity of the patients' requests regarding damage compensation and establish the size of the compensation, taking into account the degree of loss of the patient's ability to work and duration thereof and the extent of the health loss sustained. The decisions of the commission concerning damage compensation are obligatory for the State Patients' Fund.

3. The Ministry of Health and other institutions authorised according to the procedure established by laws of the Republic of Lithuania shall inspect the activities of the commission.

Article 21. The Right of the Commission to Acquaint Itself with Vital Information

1. Commission members, in examining the request of a patient for damage compensation, shall have the right to acquaint themselves with the necessary documents. The administration of the health care institutions, physicians, nursing and other staff members must provide the information and documents within five business days, in compliance with the commission's request.

2. In examining the request of a patient, commission members must maintain confidentiality.

Article 22. The Procedure of Patient's Request Submission and Decision Adoption

1. Patients' requests of damage compensation shall be submitted and examined in accordance with the procedure established in the commission's statutes.

2. The request of a patient must be examined within a three-month period and the decision of the commission must be relayed to the patient in writing.

Article 23. Appeal against the Decisions of the Commission

Decisions of the commission may be appealed to the Ministry of Health, and this Ministry's decisions may be appealed in court.

Article 24. Liability for Violations of this Law

An individual who is in violation of the requirements of this Law, shall be liable in accordance with the procedure established by laws of the Republic of Lithuania.

**CHAPTER V
FINAL PROVISIONS**

Article 25. Coming into Effect of the Law on the Rights of Patients and Compensation of Damage to their Health

1. Chapters I, II and III of the Republic of Lithuania Law on the Rights of Patients and Compensation of Damage to their Health shall come into effect on May 1, 1997.

2. Chapter IV of the Republic of Lithuania Law on the Rights of Patients and Compensation of Damage to their Health shall come into effect on May 1, 1998.

I promulgate this Law passed by the Seimas of the Republic of Lithuania.

ALGIRDAS BRAZAUSKAS
President of the Republic

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