



INTERNAL REGULATIONS GOVERNING THE MEDIATION FUNCTION¹

THE ROYAL DECREE OF 8 JULY 2003 ESTABLISHING THE CONDITIONS TO BE MET BY THE MEDIATION FUNCTION IN HOSPITALS.

BRUSSELS UNIVERSITY HOSPITAL (H.U.B)

ERASMUS HOSPITAL – ANDERLECHT CAMPUS

TRC : TRAUMATOLOGY AND REHABILITATION CENTRE

GRC : GERIATRIC REHABILITATION CENTRE

LOTHIER POLYCLINIC

1. OBJECT

The object of these internal regulations is to establish the specific rules governing the organisation, functioning and procedures for complaints submitted to the Mediation function at the Brussels University Hospital - Anderlecht Campus - Jules Bordet Institute.

These regulations are available from the mediator, on the hospital website and in the internal document management system for employees.

2. USEFUL DEFINITIONS

The Law: Law of 22 August 2002 on the Rights of the Patient amended by the Law of 6 February 2024.

The healthcare professional and the patient together contribute to the optimal provision of healthcare for the patient. The patient and the healthcare professional act with respect in their mutual relations and in their relations with other patients and with other healthcare professionals.

The Rights of the Patient (general description):

- Right to services of quality:
 - Effective, vigilant healthcare of good quality on the basis of the available medical and technological knowledge, aimed at ensuring the patient's well-being and comfort while respecting the patient's values ;
 - Advanced planning of healthcare;
 - Advance declaration;
- Right to free choice of professional practitioner;

¹Approved by the hospital manager.

- Right to information: the best possible understanding of the care and reason for the treatment, the procedure carried out or the examination undergone by the Patient, including the financial repercussions;
- Right to consent;
- Right to the compiling, retention, consultation and copying of the Patient file;
- Right to protection of private life;
- Right to submit a complaint to the Mediation function;
- Right to receive from the healthcare professional the most appropriate care that seeks to prevent, listen, evaluate, take into account, treat and relieve pain.

The Patient : The physical person who benefits from the healthcare, whether or not at the Patient's request.

The Complaint: If the Patient (or Patient's representative) feels, rightly or wrongly, that their patient rights are not being respected in connection with the care or services, the Law provides that the Patient can complain to the Mediation service of the hospital.

The Mediation: The consultation process on a voluntary basis that aims to (re)establish dialogue between the parties involved so that they can themselves arrive at a solution. This process is conducted by a neutral, impartial and independent mediator who has no influence whatsoever on the results of this process, while guaranteeing the confidentiality of the exchanges.

The Mediator :The person appointed by the manager to exercise the Mediation function at the hospital, while respecting the law on hospitals and implementing decrees.²

The Complainant : The Patient, legal representative, trusted person and representative as defined by Law, family member.

Healthcare professionals: The healthcare professionals in the sense of the law on the exercising of healthcare professions, coordinated on 10 May 2015.

3. MISSIONS OF THE MEDIATION FUNCTION (Law of 22 August 2002 - Art. 11 and 16/1)

The principal mission of the Mediation function is to ensure that the hospital Patients are able to exercise their right of complaint as laid down by the Law of 22 August 2002 on the Rights of the Patient

The missions of the Mediation function are as follows:

1. **Prevention** of questions and complaints by promoting communication between the Patient and the healthcare Professional;

²In particular RD of 8 July 2003 setting the conditions to be met by the mediation function in hospitals (M.B., 26/08/2003, p. 41864).

2. **Mediation** to assist the parties in having fluid relations and in finding a solution to their request;
3. **Informing** on the options for resolving the complaint in the absence of compliance with their request of the parties;
4. **Communication of information** on the organisation, functioning and rules of procedure of the Mediation function;
5. **Formulation of recommendations** making it possible to avoid any repeat of failings that could give rise to a complaint, as referred to under n°1.
6. **Drawing up of an annual anonymised report.**

4. MEANS OF INTERVENTION OF THE MEDIATOR

The Mediator intervenes in connection with the complaint Mediation as accompanier in an atmosphere of calm with a view to helping the parties to restore dialogue and to improve the quality of communication between them so as to permit an outcome that is acceptable to these parties and with whom the final decision rests.

The documents drawn up and the written and oral communications of the mediation service addressed to the parties concerned during the mediation and for the purposes of the mediation, are confidential. They cannot be used outside of the context of the mediation in question, in particular in a judicial, administrative, disciplinary or arbitrating procedure or in any other procedure with a view to resolving the conflict, and are not admissible as proof

Except for a desire to the contrary of the parties expressed in writing, this obligation of confidentiality does not concern the document requesting mediation drawn up by the Mediation function of the healthcare professional, the mediation agreement or any document drawn up by the Mediation function that notes the failure of the Mediation.

The confidentiality obligation may, however, be lifted with the written consent of the parties and within the limits that they determine.

The confidential documents and communications that are nevertheless communicated or which a party takes as a basis in violation of the confidentiality obligation, are automatically removed from the discussions.

Recourse to Mediation does not suspend obligations to pay invoices. The general terms of payment continue to apply, failing specific intervention by the Mediator

The Mediation process is completely free of charge.

4.1. In exercising the function of Mediator, the Mediator :

- Makes every effort to exercise the function in total independence.

- Shows strict impartiality in relations with the parties concerned. This implies an attitude of distancing. The Mediator does not therefore take up a position for one or other party during the mediation process.
- Also shows proof of neutrality, that is, the Mediator cannot intervene in the result of the Mediation process;³
- Is bound to respect professional secrecy (Article 458 of the penal code);
- Guarantees the confidentiality of data received and data accessed in exercising the Mediator mission and exchanges both in writing and orally;
- Can, if the Mediator considers it useful, enter directly into contact with all persons concerned by the complaint or with all persons able to provide useful details concerning the case in hand;
- Can obtain information featured in the patient's medical and administrative file, by direct access or otherwise
- Cannot be punished for acts carried out in the correct exercising of the Mediator's missions;

4.2. Situations in which the Mediator cannot intervene

The Mediator cannot intervene to exercise the Mediator's legal missions in the following situations:

- The Mediator is concerned by the facts or by the persons that are the subject of the complaint;
- For any complaint that is the subject of a judicial procedure or that has given rise to a judicial decision. Any complaint in the course of being examined by the Mediator shall be immediately closed if legal action is instigated.

5. SUBMITTING A COMPLAINT TO THE MEDIATION FUNCTION

5.1. When to submit a complaint to the Mediator?

Before initiating a Mediation procedure the Mediator requests the Patient or the Patient's representative to contact the healthcare professional directly. Recourse to the Mediation service takes place, in principle, when direct contacts between the persons concerned by the dispute have failed to produce a satisfactory solution. The Mediator then intervenes through a mediation process.

5.2. Who can submit a complaint ?

Any Patient (possibly assisted by a trusted person) or legal representative of the Patient as referred to in Chapter IV of the Law.

³Due to the obligation of independence, neutrality and impartiality, the function of Mediator is incompatible with a management function within the institution; with the exercise, at the hospital, of a function in connection with which healthcare is provided in the capacity of professional practitioner; with a function or activity in an association whose object is the defence of the Patient's interests.

5.3. How to contact the Mediator?

By telephone :

From Monday to Friday, from 8.30 am to 4.30 pm: on +32 2 555 44 91 or on +32 478/666 508
You can also leave a message on the automatic answering device of the mediation service, stating your name, first name and contact telephone number.

By ordinary post addressed to :

Hôpital Erasmet
Service de Médiation des Droits du Patient
Route de Lennik, 808
1070 Bruxelles

By electronic mail addressed to: mediation.erasme@hubruxelles.be;

Via the online form available on the Hospital website.

The complainant is requested to communicate contact details so that the complainant can be recontacted.

5.4. Processing of the complaint by the Mediator :

Acknowledgement of receipt and contact

In whatever manner the complaint is submitted, a confirmation that the complaint is being considered shall be addressed to the complainant and the latter shall be contacted within three working days at the latest by the Mediator.

Note : The fact that the complaint is “being considered” simply means that a complaint has been addressed to the hospital’s Mediation function and that it will soon be considered by the Mediator. Under no circumstances does the fact that it is being considered have any implications as to the admissibility or the merits of a complaint.

Processing of complaint by the Mediator

The Mediator hears the dissatisfaction of the Patient/Complainant and examines the complaint

Any complaint that seems clearly fanciful, exclusively vexatious, defamatory, racist or xenophobic, is rejected. The same applies to a complaint that is identical to a previous complaint as previously submitted and rejected by the Mediator unless there are new elements to support the new complaint.

After having examined the admissibility of the complain, the Mediator defines the object of the complaint and inquires as to the complainant's expectations. The Mediator keeps the complainant informed of the various steps to take.

If the complainant is not the Patient concerned, the Mediator ensures, insofar as is possible, that the Patient is associated with this complaint and the exercising of his or her rights.

The Mediator transfers the complaint to the person concerned by the complaint. The Mediator is free to contact all persons concerned by the complaint.

The Mediator obtains from the persons involved those elements that the Mediator considers necessary to correctly deal with the complaint while respecting professional secrecy, impartiality and neutrality.

The Patient/Complainant is notified orally or in writing, directly or indirectly of the information obtained.

The Mediator can also arrange a Mediation meeting, in agreement with the parties concerned.

The Mediator deals with the complaint within a reasonable period given the various steps that must be taken to resolve the problem and the organisation of the Function.

The Mediator has an obligation of means and not of result. If the mediation fails, that is, if the Mediation process does not result in a solution that is to the complainant's satisfaction, the Mediator is legally obliged to inform of the possibilities of recourse open to the complainant to resolve the complaint.

For all complaints submitted, the following data are recorded by the Mediator:

- The Patient's identity and, if applicable, the identity of the person to contact;
- Date of reception of the complaint ;
- Nature and content of the complaint;
- Result of processing of the complaint;
- Date of completing the processing;
- Other data requested by the competent authority (Patient Right in question, result of mediation, etc).

The personal data collected in connection with the examination of the complaint are only retained for the time necessary to process the said complaint and to draw up the annual report (article 8 of the Royal Decree of 8 July 2003).

6. SUPPORT FOR THE MEDIATION FUNCTION BY THE HOSPITAL

The Mediator is supported in exercising the mission of Mediator by the Management Committee that, in accordance with Article 4 of the Royal Decree of 8 July 2003:

- Provides all information required for the Mediation function to be easily accessible (information via reception desk, website, notices displayed at main entrances);
- Provides the Mediator with information concerning the functioning of the “Rights of the Patient” Federal Commission;
- Provides the Mediator with the necessary administrative and technical environment for the Mediator to fulfil the Mediator missions, including a secretariat, means of communication and travel, documentation and means of archiving. The Mediator shall have a telephone number, own exclusive electronic address and a telephone answering device indicating the times when the Mediator can be contacted
- Makes an appropriate reception area available to the Mediator;
- Ensures that the Mediator can enter freely into contact with any person concerned by the complaint;
- Ensures that the Mediator completes the process of dealing with the complaint within a reasonable period of time.

7. THE MEDIATOR’S ANNUAL REPORT

The Mediator draws up an annual report. This contains an inventory of the number of complaints submitted, the subject of the complaints and the result of action taken during the prior calendar year.

The report mentions the Mediator’s recommendations, notably those designed to avoid failings of a nature to give rise to a complaint being repeated as well as the action to which such complaints gave rise.

The report may not contain elements through which the physical person or persons concerned by the processing of the complaint could be identified. The date included are anonymised.

At the latest during the month of April of each year the report is transmitted to the manager, the Head Doctor, the Management, the hospital Medical Council and to Vivalis, the CoCom administration. The annual report can also be transmitted to the H.U.B Quality, Safety & Patient Partnership Committee.

At the hospital the report is available to the competent doctor-inspector

A more detailed report containing a record and analysis of complaints and the recommendations and activities of the Mediation function can be presented to other hospital bodies on request. In all cases the data are anonymised.

PRINCIPAL LEGAL REFERENCES

Law on the Rights of the Patient of 22 August 2002

Law of 6 February 2024 amending the law of 22 August 2002 concerning the rights of the patient and amending the provisions relating to the rights of the patient in other healthcare laws

Law of 13 December 2006 on various provisions concerning health.

Law of 22 April 2019 on modifications to the coordinated Law of 10 May 2015 concerning the exercising of healthcare professions.

Royal Decree of 8 July 2003 setting the conditions to be met by the Mediation function in hospitals.

Royal Decree of 2 February 2007 setting the maximum amount per copied page that can be requested from the Patient in exercising his or her right to obtain a copy of his or her Patient file.

Royal Decree of 15 February 2007 determining an exceptional regime concerning the representation of the Patient in connection with exercising the right to complain as referred to in article 11 of the Law of 22 August 2002 on the rights of the patient.

Royal Decree of 21 April 2007 determining the content and means of transmission of the information referred to in article 17 of the Law on hospitals and other care establishments, coordinated on 10 July 2008.

Decree of the assembled College of the Common Community Commission of 25 May 2023 setting the standards that hospitals must respect.