INTERPRETATION OF ARTICLE 54 OF PATIENT RIGHTS ACT THROUGH THE PRISM OF INDIVIDUAL RESPONSIBILITY AND HEALTHY SOCIETY

Borut Ambrožič, Bachelor of Law, mediator
Slovenia Parliament,
Ljubljana, Slovenia
borut.ambrozic@triera.net

Abstract: Patient Rights Act in the article 54 stipulates patients' duties. Patients' rights and duties imposed by this law are tied to the health insurance system and implemented under the regulations of health insurance. In order to achieve high quality and safe health care every patient is obliged to: participate in protecting, enhancing and restoring own health; comply with the instructions and received professional treatment plan; give doctors and other competent medical and healthcare professionals all the necessary and correct information regarding the patient's health if they are known and are important for further medical care, especially information about patient's current and past injuries and illnesses and their treatment, family diseases, allergies and about medicament treatment; inform medical and healthcare professionals about any changes in health status that occur during treatment; consider and respect the privacy and other rights of other patients, medical and healthcare professionals; to respect the house rules, published schedules and required organizational procedures of the health care providers and timely inform the health care provider about the possible default of the examination or treatment. This law is aimed for patients who should be aware not only of their rights but also about their duties and for rights of medical and health care professionals who must respect these rights, but also take appropriate action when duties are not respected. Responsibility to the physical, mental and social components of health**,** namely, begins and ends with the individual - social responsible personal growth.

Keywords: Patient Rights Act, patient duties, physical, mental and social components of health, individual responsibility, socially responsible personal growth, healthy society.

OBRAZLOŽITEV 54. ČLENA ZAKONA O PACIENTOVIH PRAVICAH SKOZI PRIZMO INDIVIDUALNE ODGOVORNOSTI POSAMEZNIKA DO SEBE IN DRUŽBE ZDRAVJA

Povzetek: Zakon o pacientovih pravicah v 54. členu določa pacientove dolžnosti. Pacientove pravice in dolžnosti, ki jih določa ta zakon, so vezane na sistem zdravstvenega zavarovanja in se uresničujejo v okviru predpisov s področja zdravstvenega zavarovanja. Za doseganje kakovostne in varne zdravstvene oskrbe je vsak pacient dolžan: aktivno sodelovati pri varovanju, krepitvi in povrnitvi lastnega zdravja; ravnati v skladu s prejetimi strokovnimi navodili in načrti zdravljenja, v katere je ustno oziroma pisno privolil; dati pristojnemu zdravniku in drugim pristojnim zdravstvenim delavcem oziroma zdravstvenim sodelavcem vse potrebne in resnične informacije v zvezi s svojim zdravstvenim stanjem, ki so mu znane in so pomembne za nadaljnjo zdravstveno oskrbo, zlasti podatke o svojih sedanjih in preteklih poškodbah ter boleznih in njihovem zdravljenju, boleznih v rodbini, morebitnih alergijah in zdravilih, ki jih uživa; obvestiti zdravstvene delavce in zdravstvene sodelavce o morebitnih spremembah zdravstvenega stanja, ki se pojavijo med zdravljenjem; biti obziren in spoštljiv do zasebnosti in drugih pravic drugih pacientov ter zdravstvenih delavcev in zdravstvenih sodelavcev; spoštovati hišni red, objavljene

urnike in predpisane organizacijske postopke izvajalcev zdravstvenih storitev in pravočasno obvestiti izvajalca zdravstvenih storitev o morebitnem izostanku na pregled ali zdravljenje. Zakon je v prvi vrsti namenjen pacientom, ki bi se morali zavedati ne samo svojih pravic, pač pa tudi dolžnosti ter izvajalcem zdravstvenih pravic, ki morajo te pravice spoštovati in upoštevati, v primeru kršitve dolžnosti pacientov, pa tudi ustrezno ukrepati. Odgovornost do fizične, duševne in socialne komponente zdravja se namreč začne in konča pri posamezniku - družbeno odgovorna osebnostna rast.

Ključne besede: Zakon o pacientovih pravicah, pacientove dolžnosti, fizične, duševne in socialne komponente zdravja, odgovornost posameznika, družbeno odgovorna osebnostna rast.

1. Introduction

Despite the fact that the act, which is engaged in rights and duties of patients, is named the "Patients' Rights Act'' and there is nothing said in the title about the duties, the article 54 is about duties or the duties are precisely listed in this article. In this paper I am engaged in the relationship between the responsibility of an individual and the responsibility of the society of health or the healthy society which can influence the health of an individual with its norms. The basic question is; does the individual obey them or not?

In the national hierarchy of legal standards the Constitution presents the highest legal act, which helps to generate numerous laws and other legal rules, also the ones which refer to health and familiar notions. With this agrees the article 153 of the Constitution, which determines that the acts, regulations and other general acts adjusted with the Constitution and generally valid principles of the international law and valid international contracts, which are ratified by the parliament.

The Constitution of the Republic of Slovenia contains in article 2 the obligation or puts into force the principle of "social state", which refers to social welfare and which according to Kalčič means "that the state fulfils short-term and long-term social and personal interests and leads with legislation and executive organs such politics and accepts such legislations that the conditions for fulfilment and protection of social interests and needs of individuals (disabled, ill, decrepit and week) and the society as whole (Kalčič, 1996) will be created. The Constitution is talking about the notion of health also in the article 5 which is talking about the fact that a state is on its territory protecting people's rights and freedoms. The article 51 of Constitution is also talking about the right of healthcare which refers to the fact that healthcare is regulated with a special law, assured of public funds and that nobody can be forced to medical treatment, accept in special cases, which are determined by the law. The article 72 of the Constitution refers to healthy everyday environment, which talks about the fact that according to law everybody has the right to healthy everyday environment where the state has to determine the conditions and way of managing economic and other activities with a law. Indirectly also the article 17 of the Constitution refers to health as one of the basic human rights, which talks about the intangibility of human life. The article 18 of the Constitution is about the inhibition of torturing and the ban on doing medical and other scientific experiments without free consent of an individual. The article 21 of the Constitution is about the protection of human's personality and dignity in all law procedures. The article 22 of the Constitution is about the assurance of equal rights in the procedures in front of the holders of public authorisations, which decide about the individual's rights, duties and legal interests. The article 25 of the Constitution is about the right to complaint or other legal means. The article 34 of Constitution is about the right to personal dignity and security, the article 35 about the intangibility of human physical and mental integrity, his/her privacy and personal rights, article 38 about personal data protection, article 50 about the right to social security (Constitution of the Republic of Slovenia).

One of the laws, which is adjusted with the law with generally valid principles of the international law and with the valid international contracts which ratifies the parliament, is the Patient Rights Act, which in the article 54 precisely lists the patient's duties (Patients' Rights Act, 2008). Rights and duties, which this law manages, reach to the basic field of material law, family and compensational law, to special fields of offence and criminal law, to the special fields of administrative law and procedure law (Patients' Rights Act, 2009). The asserting of rights and duties has its goal to achieve a quality and safe medical treatment. According to Meyer, an autonomous patient, joined in partnership with the health care professional, has self-regarding obligations and obligations to others, including health care professionals (PubMed.gov, 1992). Similarly thinks also Feguš (2011, p. 13), who states that the Patient Rights Act has given the patient an active role or formalised the active cooperation of the patient in the procedure of medical treatment.

This active cooperation refers also to polite and trustworthy relationship between the doctor and the patient who has to be aware not only of his/her rights but also of his/her duties.

2. Relationship between duties and rights?

Kopač understands the rights and duties as one of the fundamental dimensions of the concept of citizenship which determine or define the individual's situation in the country. According to Kopač (2005, p. 52) some authors stress the individual's rights to the country, and others stress the duties of individuals to the country. Cox (1998, p. 12) understands the rights as agreed demands which are determined with the rights of other individuals in the country. The duties can be on one hand determined as treatment in accordance with the personal belief and on the other hand as treatments "ordered" by the country (decision maker - legislator). At the end of every right there is the duty of somebody to fulfil it. Ivanjko (2011, p. 15) states that we treat an individual in the society as a part of the whole, not to individualise that part. This is why the Patients' Rights Act presents a step into the direction of "personalisation" in mediation, when it normatively determines the patient's rights and duties, which are strongly connected with the rights and duties of the medical personnel. The legal field in connection with medicine also states the so called "duty-full treatment or standard" which Nerat (2011, p. 48) determines as: "legal standard, which presumes a surety duty, which demands a suitable, quality and safe action in the given manoeuvre space, so in the practising of medicine from the doctor or medical worker which engages him". Korošec (2006, p. 646) determines the "right" as a legally insured justification, which provides to the particular subject a particular way of action. In contrast to the duty the subject isn't exposed to legal sanctions in the case of rights when he/she doesn't use them as in the case of unfulfilled duties.

Patient's rights vary in different countries, prevailing cultural and social norms. Different models of the patient-to-medical expert relationship also represent the citizen-state relationship. World Health Organizations recognizes four models, which depict this relationship: the paternalistic model, the informative model, the interpretive model, and the deliberative model. The paternalistic model is typical for Europe in which decision-making power concerning the patient is in the hands of a medical expert. The opposite logic is pursued in the informative model, where the patient as a consumer acts as a judge what is best in his or her interest (WHO, 2014). United States Consumer Bill of Rights and Responsibilities that was adopted by the US Advisory Commission on Consumer Protection and Quality in the Health Care Industry in 1998, also known as the Patient Bill of Rights, helps the patients in their role of consumers to feel more confident in the US health care system.

We find out that the relationship between duties and rights is also the relationship of the joint good of the society (bonum commune communitatis) and general good of the person as an individual (bonum commune hominis). As far as the individual is holding onto his/her duties, is also the fulfilment of his/her rights closer as if he/she did it the other way around. While medical experts have the responsibility to provide health care services to patients, to the best of their ability, patients have the responsibility to participate in decisions regarding their medical treatment, to communicate honestly and openly with medical experts and to comply with the agreed treatment program.

3. What are the patients' duties?

According to Feguš (2011, p. 7) the Patients' Rights Act means an important novelty in the system of healthcare because with it the patient gained legal right which put him in the medical treatment in an equal relationship and above all an active relationship with the performer of medical services. The law, which is in the category of the health legislation, legally determined patient's rights.

Patients' rights and duties are strongly connected. For example; just as it is a patients right to be respected, it is the patients duty to show respect in return on the patient-to-medical expert equation. Kangasniemi, Halkoaho, La¨nsimies-Antikainen and Pietila state that patients have duties as health care services users and duties regarding their own health and that of others (2012, p. 63). The traditional interpretation of the relationship between physician andpatient (paternalistic view), in which the physician made the decisions and the patient was submitted to them, has in recent years been rejected in ethics and in law. Slovenian Patients' Rights Act is the result of such kind of new logic. Autonomous patient in partnership with medical expert has self-regarding obligations and obligations to others.

Duties of the Slovenian patients are defined in the article 54 of the Patients' Rights Act. In order to achieve high quality and safe health care every patient is obliged to:

1. Participate in protecting, enhancing and restoring own health;

2. Comply with the instructions and received treatment plan and work in this direction under the attending physicians direction;
3. Provide accurate and complete information regarding patient's identity, medical history (current and past injuries and illnesses and their treatment, family diseases, allergies, hospitalizations, medications and current health situation) important for further medical care to doctors and other competent medical and healthcare professionals;
4. Inform medical and healthcare professionals about any changes in health status that occur during treatment;
5. Consider and respect the privacy and other rights of other patients, medical and healthcare personnel;
6. Respect the house rules, published schedules and required organizational procedures of the health care providers and be respectful of medical centre property;
7. Timely inform the health care provider about the possible default of the examination or treatment.

According to Evans (2000, p. 686-694) patient has in seeking medical care at least the following 10 duties:

1. Duty to participate in a "health care jurisdiction". For example; each patient should not live intentionally outside societies margins and then expect to be brought within the jurisdiction in order to get free healthcare;
2. Duty to uphold his/her own health. For example; each patient should follow the risk factors affecting him or her, should not put his/her health at significant risk, etc.
3. Duty to protect the health of others. For example; each patient should avoid being a source of ill health for others, should not engage, promote or tolerate practices that are harmful to health:
4. Duty to seek and access healthcare responsibly. For example; each patient should act responsibly when and how he/she seeks healthcare and respect all healthcare personnel;
5. Duty of truthfulness. For example; each patient should be truthful and should divulge everything that is relevant during the consultation with healthcare personnel;
6. Duty of compliance. For example; each patient should comply with his clinical management and medication unless he/she has good reason to think that these have not been properly arrived at;
7. Duty of inpatient conduct. For example; each patient should limit his or her noise and disturbance of others to the necessary minimum;
8. Duty of recovery or maintenance. For example; each patient should during and after the medical treatment wherever possible promote his/her own recovery or try to maintain a reasonable quality of life;
9. Duty of research participation. For example; each patient should take part in clinical research relevant to his or her treatment, when certain strict conditions apply, concerning the therapeutic equivalency of all treatments he or she is likely to receive;
10. Duty of citizenship. For example; each patient should whenever the opportunity arises promote the healthcare jurisdiction that he or she has accessed. In order to do so, he or she should pay his relevant taxes in full and on time.

If a patient refuses treatment or does not follow the practitioners' instructions, he or she must accept the responsibility for his/her (non-)actions. On the other hand we should also take into consideration "Duties of a doctor". According to General Medical Council, patients must be able to trust doctors with their lives and health. In order to do so, medical experts should obtain standards in four domains:

1. Knowledge, skills and performance (patient as a first concern, good standard of practice, up to date professional knowledge, competent work);
2. Safety and quality (prompt action in patients favour, protect and promote the health of patients and society);
3. Communication, partnership and teamwork (treat patient as a partner in decision making, respect patients right to confidentiality, listen and respond to patients, support patients in caring for themselves, give patients the information in a way they can understand, interactive work with colleagues in the best interest of the patient);
4. Maintaining trust (be honest to the patients and colleagues, not act discriminate against patients and colleagues).

In the Medical Ethics Manual we can read that the physician-patient relationship is the cornerstone of medical Practice, and therefore of medical ethics. For example: The Declaration of Geneva which was adopted by the General Assembly of the World Medical Association at Geneva in 1948 requires of the physician that "The health of every patient should be his first consideration". The Free Dictionary defines "duty" as a legal obligation that entails mandatory conduct or performance. Although the decision maker has already defined the patients duties on the law level, there are also some other instruments, which can help to restore the right balance between the individual as a

patient, physicians and society. If a patient violates a legal duty, he or she may also face some sanctions. ISO 26000 as an internationally agreed standard provides guidance on how organizations (also health) can operate in a socially responsible way in order to act in an ethical and transparent way that contributes to the health and welfare of each individual and society. Rijavec, Gorisek and Flis (2011, p. 7-18) state, that *"a doctor-patient relationship cannot simply be controlled by a rigid legal framework, because of its necessarily flexible nature"*.

Table 1: Doctors' and patients' duties according to the South African Constitution and the ethical duties placed on doctors by the Health Professions Council of South Africa.

DOCTORS DUTIES	**PATIENTS DUTIES**
To treat all his/her patients equally and provide them with the same level of concern	To pay for the level of care received or to receive assistance in accordance with relevant legislation and policy.
A doctor should never act in discrimination way and emergency treatment may never be refused. Doctors have the duty not to harass patients, colleagues or others on the basis of sex, gender, sexual orientation, race or any (presumed) group characteristic.	Not to discriminate against any health care worker or the employees of any doctor. Patients have the duty not to harass doctors, their employees or other health care workers.
To protect life, within the confines of a patient's right to physical autonomy and decision-making power.	To ensure that his/her illness or incapacity does not endanger the lives of others.
To ensure that patients are not subjected to cruel, inhuman or degrading punishment or treatment and to report instances where such occur, especially within the spheres of prison, detention, etc. as well as abuse of children and the elderly. Doctors have to ensure that patients take part in all types of research with their full and informed consent.	To respect the physical and psychological integrity and autonomy of others and not to subject others to any form of violence.
To protect the privacy and confidentiality of his/her patients and to only disclose health care, treatment, diagnostic and other health information with the patient's informed and written consent or when authorised by law or a court to do so.	To respect the privacy of others, including those of their children of 14 years and older, as well as the privacy of their spouses and partners. Patients should also respect the privacy and family life of their doctors.
To respect the religion, beliefs and opinions of their patients, even if it differs from their own, and not to force any patient or colleague to prescribe to any religious practice, belief or opinion. Doctors have the responsibility to respect the clinical independence of their colleagues and not to succumb to pressures of dual loyalty.	To respect the religion, belief and opinion of doctors and others and not to force any doctor or other person to act according to a certain set of beliefs.
Not to practice hate speech or to subscribe to expression that is harmful to others or is aimed at inciting harm or violence. Doctors have the responsibility to listen to their patients and take their views into consideration. Doctors have the responsibility not to advertise in an unprofessional- or comparative manner.	Patients have the responsibility to follow the advice given by their practitioners and to regularly and openly communicate with their doctors on matters affecting their health care.
To exercise their rights to assembly, demonstration, picketing and petitions to such an extent that it does not affect the health care of their patients.	To exercise their rights to assembly, demonstration and picketing in such a manner that it does not affect health care delivery and that it does not violate any law.
Not to exercise his/her association in such a manner that it discriminates against any other person, amounts to supporting any scheme providing perverse incentives or - to a denial or exclusion of the rights or benefits potentially due to other doctors or others.	To respect the rights of doctors and others to associate and to respect the duties flowing from their own free association.
To ensure that any political affiliation and activities does not interfere with his/her duties to good patient care.	To tolerate the political activities and viewpoints of others.

Not to interfere with the rights of movement and residence of others and to, as far as possible, accommodate patients whose residence may cause difficulty in accessing health care.	To permit others' freedom of movement and residence and to respect regulation by law in this regard.
To ensure that they exercise their occupation within the limits set by the HPCSA and the law. This also means that economic endeavours should not amount to perverse activities, or undermine good patient care.	To respect the occupation of medicine.
To fulfil their employment duties. The heads of facilities have the responsibility to facilitate and harmonise the employment rights of doctors employed by them. Doctors who are HIV positive have the duty to modify their practice of medicine to such an extent so as not to endanger the lives of their patients.	To respect doctors exercising their employment rights in, for example, the form of leave. Employers have the duty not to place doctors in ethically difficult positions in relation to their employees who are patients as such doctors.
To ensure that medical waste are disposed appropriately and that appropriate protocols are followed in terms of infectious disease control. Doctors have the responsibility to inform their patients of the harmful effects of medicines and how to store and use it properly.	To create an environment that is not detrimental to the health and wellbeing of others, by ensuring that medicines are stored safely and used correctly, as indicated by their doctors.
To pay their dues, to fairly remunerate their own employees and to respect the property of others.	To pay for services rendered by doctors and to take personal responsibility for accounts, even where a medical scheme is involved. Where a patient is unable to pay immediately, she/he has to make appropriate arrangements with the doctor so as to repay any debts.
Not to unreasonably refuse a patients access to health care, especially where there are no state facilities available to assist patients. Doctors may not refuse emergency treatment of patients. Doctors have a responsibility to assist in realising the right of access to health care, which may include issuing prescriptions ensuring access to the best available treatment.	To pay for health care services received, where such services cannot be provided for free in terms of the public or charitable system. Patients have the duty to follow the advice of their doctors and to fully inform their doctors of their health status.
To ensure that medical reports are fair and accurate and that only particulars that are authorised by law are disclosed to insurance and assistance agencies	To make provision for their own social security, to ensure that their dependants are covered and to pay the required premiums or contributions, where applicable.
To ensure that she/he is informed about the latest developments in their fields and take part in educational activities.	To act in accordance with public and private education received.
To tolerate and respect linguistic and cultural diversity. Doctors have to recognise that language and culture may serve as barriers in health care.	To tolerate and respect linguistic and cultural diversity and to speak out when these constitute barriers to good health care. Authorities and individuals have the responsibility to ensure that their cultural practices are not detrimental to the subjects thereof.
To provide access to information requested by their patients and to ensure that health data is stored safely and not sold or passed on without the patient's informed consent.	To respect the privacy and information belonging to others, including family members. Patients have to deal with their health information in a responsible manner and realise that they may need expert advice on the interpretation thereof.
To assist in legal proceedings when called upon as expert witnesses. Doctors have a particular responsibility in relation to crimes such as child abuse, domestic violence and abuse of the elderly	Not to be vexatious in taking doctors to court.
To assist in the realisation of the right of access to health care of all arrested, detained and accused persons and to bring to the attention of the authorities or inspecting judge any irregularities or needs in relation to health care.	To look after his/her own health and to ensure that she/he is not endangering the health of others when in detention.

Source: https://www.samedical.org/drs-patients-rights.html

6. Conclusions and implications for research

In order to understand the importance of patients' duties we first must understand the essence of patients' rights and the relationship between duties and rights in general. The concept of patients' duties has not so much attention as the concept of the rights of the patient. The title of the paper indicates that the patients' duties are strongly connected with the responsibility of individual and further on, with responsibility of society. We can conclude that when patient is living and acting responsibly, his/her actions have a positive effect on "healthier society" and "vice versa". A legal duty is usually imposed by some type of formal written law and is generally created in order to maintain order in a society. The article 54 of the Patients' Rights Act grounds the specific duties of each patient. Doctors are expected to make their patients' needs the first priority, but accomplishing this requires a holistic approach which is emphasizing the importance of the whole and the interdependence of its stakeholders (doctors, patients, health organizations and society). This is where law and ethics go hand in hand.

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