

INTERNAL REGULATIONS GOVERNING THE MEDIATION FUNCTION¹

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

JULES BORDET INSTITUTE BRUSSELS UNIVERSITY HOSPITAL (H.U.B.) ANDERLECHT CAMPUS

1. OBJECT

The object of these internal regulations is to establish the specific arrangements concerning organisation, functioning and procedure in the case of complaints submitted to the Mediation function within the Brussels University Hospital - Anderlecht Campus – Jules Bordet Institute.

These regulations are available from the Mediator, on the hospital's website and within the internal document management system for employees.

2. USEFUL DEFINITIONS

The Law: Law of 22 August 2002 concerning Patient Rights.

Patient Rights (general description):

- The right to quality services: effective, vigilant and high quality care on the basis of the available medical knowledge and technologies, aimed at guaranteeing the Patient's well-being and comfort while respecting the Patient's values;
- Right to free choice of professional practitioner;
- Right to information: for a better understanding of the care and reason for treatment, the act carried out or the examination the patient undergoes, including the financial repercussions;
- Right to consent;
- Right to keep, retain, consult and possess a copy of the patient's medical file;
- Right to protection of private life;
- Right of complaint to the Mediation function;
- Right to receive from the healthcare professional the most appropriate care aimed at preventing, being attentive to, evaluating, taking into account, treating and relieving pain suffered by the patient.

¹Approved by the hospital manager at the session of **24/10/2023**

The complaint: If the Patient (or the Patient's representative) feels, rightly or wrongly, that his or her Patient Rights have not been respected in the framework of the care and services, the Law foresees that the Patient can lodge a complaint with the hospital's Mediation Service.

Mediation: Process of consultation on a voluntary basis that is aimed at (re)establishing 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 does not in any way influence the results of this process, while guaranteeing the confidentiality of the exchanges.

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

The complainant : Patient, legal representative, proxy, trusted persons, family member.

Healthcare professionals in the sense of the Law of 22 April 2019 amending the coordinated Law of 10 May 2015 concerning the exercising of healthcare professions: doctors, psychologists, dentists, pharmacists, midwives, physiotherapists, nurses, psychologists, ambulance personnel, acupuncturists, homeopaths, osteopaths, chiropractors, paramedics (bandage makers, orthotists and prosthetists, dieticians, ergotherapists, pharmacy technical assistant, medical imaging technicians, medical laboratory technicians, speech therapists, orthoptists, podiatrists).

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

The principal mission of the Mediation Service is to ensure that patients of the Institution are able to exercise their Right to Complain as laid down in the law of 11 August 2002 concerning Patient Rights.

The mediation function has the following missions:

1. **Prevention** of issues and complaints by promoting communication between the Patient and Service Provider.
2. **Mediation** with a view to helping the parties to have smooth relations and to find a response to their request;
3. **Information** regarding means of resolving a complaint in the absence of a response to their request;
4. **Communication of information** on the organisation, functioning and rules of procedure of the Mediation function;
5. The **formulation of recommendations** making it possible to avoid any failings that could possibly lead to a complaint as referred to under n°1.

4. MEANS OF INTERVENTION BY THE MEDIATOR

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

The Mediator intervenes in connection with the Mediation of a complaint as an accompanier in an atmosphere of calm with a view to helping the parties to restore dialogue and improve the quality of communication between them, this to permit an outcome that is acceptable to the parties and regarding which they have the final decision

The Mediation process is completely free of charge.

Please note: Recourse to Mediation does not suspend the obligations regarding the payment of invoices. The general conditions of payment continue to apply failing specific intervention by the Mediator.

4.1. In exercising the Mediation function, the Mediator:

- makes every effort to exercise his or her function totally independently;
- shows proof of strict impartiality in relations with the parties in question. The Mediator does not therefore adopt a position in favour of either party during the mediation process;
- also shows proof of impartiality, that is, the Mediator cannot intervene in the result of a Mediation process;³
- is bound to respect professional secrecy;
- guarantees the confidentiality of data with which he or she is provided and that to which he or she has access in exercising the Mediation mission and in both verbal and written communications;
- can, if he or she considers it useful, enter into direct contact with all persons concerned by the complaint or with all persons able to provide useful information on the issue in question;
- cannot be punished for acts carried out in the correct exercising of the Mediation missions;
- can obtain information contained in the Patient's medical records and administrative file, by direct access or otherwise.

³ Due to the obligation of independence, neutrality and impartiality, the function of Mediator is incompatible with an executive or management function within the establishment; with the exercising, at the hospital, of a function in the framework of which healthcare is provided in the capacity of professional practitioner; with the exercising of a function or activity within an association whose purpose is to defend the patient's interests.

4.2. Situations in which the Mediator cannot intervene

The Mediator cannot intervene in exercising his or her legal missions in the following cases:

- When concerned by the facts or persons that are the subject of the complaint;
- In the case of any complaint that is the subject of judicial proceedings or that has given rise to a judicial decision. The consideration of any complaint that is in the process of being examined by the Mediator shall be terminated immediately if judicial proceedings are initiated.

5. SUBMITTING A COMPLAINT TO THE MEDIATION FUNCTION

5.1. When to submit a complaint to the Mediator?

Before commencing a Mediation process, the Mediator invites the Patient or Patient's representative to contact the healthcare professional directly. Recourse to the Mediation Service occurs in principle when direct contacts between the persons involved in the dispute fail to result in a satisfactory solution. The Mediator then intervenes as part of the mediation process.

Who can submit a complaint?

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

5.2. How to contact the Mediator?

By telephone: From Monday to Thursday, between 9 am and 4 pm: on +32 2 541 35 11 or +32 490 13 84 58

You can also leave a message on the Mediation Service answering machine, giving your first and last names.

By ordinary post addressed to:

Jules Bordet Institute
Patient Rights Mediation Service
Rue Meylemeersch, 90
1070 Bruxelles

By electronic mail addressed to: mediation-ombudsdienst@hubruxelles.be

Using the online form available on the Hospital's website

Via the reception secretaries to make an appointment (Wednesday only).

The complainant is invited to give contacts details.

5.3. Processing of the complaint by the Mediator:

Acknowledgement of receipt and contact

Irrespective of the method of submitting a complaint, a confirmation that the complaint has been taken into consideration will be addressed to the complainant who will be recontacted by the Mediator within three working days at the latest.

Please note: The fact that a complaint “has been taken into consideration” means only that a complaint has been addressed to the hospital’s Mediation function and that this complaint will therefore be examined by the Mediator. Under no circumstances does the fact that it has been “taken into consideration” imply that the complaint is admissible or well-founded.

Processing of the complaint by the Mediator

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

The Mediator hears the dissatisfaction of the Patient or of the Patient’s legal representative and examines the complaint.

Any complaint that appears to be clearly fanciful and vexatious, defamatory, racist or xenophobic shall be rejected. The same applies to a complaint that is identical to a complaint submitted previously that was dismissed by the Mediator and if there are no new elements to support the new request.

After having examined the admissibility of the complaint, the Mediator defines the limits of the complaint and inquires as to the complainant’s expectations. The Mediator informs the latter of the various steps to be undertaken.

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

The Mediator obtains from the persons concerned all elements the Mediator deems necessary for the correct processing of the complaint while respecting professional secrecy, impartiality and neutrality.

The Patient is informed orally or in writing, directly or indirectly, of the information obtained.

The Mediator can also organise a mediation meeting, in agreement with the parties involved.

The Mediator processes the complaint within a reasonable period given the various procedures needed to resolve the issue 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 satisfactory to the complainant, the Mediator is legally bound to inform the complainant of possible recourses available to the complainant to resolve the complaint.

The Mediator records the following data for every complaint submitted:

- the Patient's identity and the identity of the trusted person if applicable,
- the date the complaint was received,
- the nature and content of the complaint,
- the result of processing the complaint,
- the date of completing the complaint processing,
- other data recorded: Patient Right in question, result of the mediation, etc.

Personal data obtained as part of the complaint examination are only retained during the time needed to process the complaint and for the needs of drawing up the annual report (article 8 of the Royal Decree of 8 July 2003).

6. HOSPITAL SUPPORT FOR THE MEDIATION FUNCTION

The Mediator is supported in his or her mission by the Management Committee that (in accordance with article 4 of the Royal Decree of 8 July 2003):

- provides all the information required to ensure that the Mediation function is easily accessible (information via the central reception desk, website, display at main entrances);
- transmits to the Mediator information concerning the functioning of the "Patient Rights" Federal Commission;
- provides the Mediator with the necessary administrative and technical environment for the Mediator to fulfil his or her missions, these including a secretariat, means of communication and travel, documentation and archiving resources. The Mediator has a telephone number, own exclusive electronic address and a telephone answering machine indicating the times at which he or she can be contacted;
- makes an appropriate reception area available to the Mediator;
- ensures that the Mediator is able to freely enter into contact with all persons concerned by the complaint
- ensures that the Mediator completes the complaint processing within a reasonable period of time.

7. THE MEDIATOR'S ANNUAL REPORT

An annual report is drawn up by the Mediator. This records the number of complaints submitted, the subject of the complaints and the result of the actions taken during the previous calendar year.

The report mentions the Mediator's recommendations, in particular those aimed at avoiding failings of a nature to give rise to a complaint being repeated as well as action taken following these recommendations.

The report cannot contain elements on the basis of which the natural person or persons concerned by the complaint could be identified. The data included are anonymized.

The report is transmitted, no later than during the month of April of each year, to the manager, Head Doctor, the Board of Management and the Hospital Medical Council, and to the members of the executive body of the Commission communautaire commune [Joint Community Commission] (CoCom). The annual report can also be transmitted to the Hospitals Quality Unit.

Within the hospital the report can be consulted by the competent medical inspector.

A more detailed report containing a summary and analysis of complaints, recommendations and activities of the Mediation Service can be presented to other hospital bodies on request. In all cases these data remain anonymized.

PRINCIPAL LEGAL REFERENCES

Law on Patient Rights of 22 August 2002

RD of 8 July 2003 establishing the conditions that must be met by the Mediation function in hospitals.

Law of 13 December 2006 on various healthcare provisions.

RD of 2 February 2007 establishing the maximum amount per copied page that can be requested of the Patient in connection with the exercising of the right to obtain a copy of the file on the said Patient.

RD of 15 February 2007 establishing a special regime concerning the representation of the Patient in connection with the exercising of the right to complain as referred to in article 11 of the Law of 22 August 2002 concerning Patient Rights.

RD of 21 April 2007 determining the content and method of transmission of the information referred to in Article 17 of the Law on hospitals, coordinated on 7 August 2007.

Law of 22 April 2019 bringing amendments to the Coordinated Law of 10 May 2015 concerning the exercising of healthcare professions.