



Office of  
the Health  
Complaints  
Commissioner

Guidelines  
for Health  
Service Users  
and Providers

# **Tasmanian Charter *of* Health Rights *and* Responsibilities**

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DEPARTMENT *of*  
HEALTH *and* HUMAN SERVICES

## **PREFACE**

This Charter of Health Rights came into being in 1999, in accordance with the procedure in Part 3 of the *Health Complaints Act 1995*. The statutory procedure requires development of the Charter by the Health Complaints Commissioner in a process involving public consultation, and then approval by the Minister administering the Act, and approval by the Parliament.

It is important that the Charter reflect contemporary values with respect to the provision of health services, so as to maintain its relevance as a statement of the principles which should apply to health service provision in the State. The Act intends accordingly that the Charter be kept under review, and any review must also take place with public consultation.

Any user of the Charter who has a suggestion for the improvement of the Charter is invited to forward that suggestion to my Office, and it will be taken into account when the next review is undertaken.

My present intention is to commence the first review of the Charter in late 2006.

**SIMON ALLSTON**  
**HEALTH COMPLAINTS COMMISSIONER**

**JULY 2006**

# **Charter of the Rights and Responsibilities of Health Service Users and Providers**

The Charter of Health Rights and Responsibilities has been developed following consultation with health service users, referred to as consumers in this Charter, and health service providers.

When viewed as a partnership, the relationship between the health service consumer and the health service provider is more likely to benefit the health outcomes of the service consumer. While the health service provider has a responsibility to meet certain rights of the health service consumer, the consumer in turn, should also assume some responsibility for their own health care.

This Charter is intended to be used as a guideline to maintain the balance of rights and responsibilities, and strengthen the relationship between, health service users and health service providers.

## ***Who is covered by the Charter?***

The Charter is in place for any person who gives or receives a health service including those who are under age or whose capacity to be self determining is limited. Under the Health Complaints Act 1995, someone who is not yet 14 years of age is considered to be under age.

The parent or guardian of a child who has not attained the age of 14 years, claims the rights and responsibilities listed in this Charter on behalf of that child. Similarly, if the carer of a person with limited capacity has guardianship in the area of health care, they too can claim the rights and responsibilities listed in this Charter on behalf of that person.

## ***Do the rights described in the Charter always apply?***

Sometimes health service providers may not be able to meet all of the rights of the health service consumer. Similarly, consumers may not always be in a position to meet all of the rights of the provider. However, both providers and consumers should always do what they reasonably can under the circumstances.

## ***What services are covered by the Charter?***

The Health Complaints Act 1995 sets out the requirement for a Charter of Health Rights. Under Schedule 1, Part 1 the Act also describes services that are recognised as health services for the purpose of the Act. These services are covered by the Charter.

1. A service provided at a hospital, health institution or nursing home.
2. A medical, dental, pharmaceutical, mental health, community health, environmental health or specialised health service or a service related to such a service.
3. A service provided in association with the use of premises for the care, treatment or accommodation of persons who are aged or have a physical disability or mental dysfunction.

4. A laboratory service provided in support of a health service.
5. A laundry, dry cleaning, catering or other support service provided to a hospital, health institution, nursing home or premises referred to in item 3, if the service affects the care or treatment of a patient or resident.
6. A social work, welfare, recreational or leisure service, if provided as part of a health service.
7. An ambulance service.
8. Any other service provided by a provider, for or purportedly for, the care or treatment of another person.
9. A service provided by any of the following:
  - audiologist;
  - audiometrist;
  - optical dispenser;
  - dietitian;
  - prosthetist;
  - physiotherapist;
  - dental prosthetist;
  - psychotherapist;
  - radiographer;
  - podiatrist;
  - therapeutic counsellor; or

any other service of a professional or technical nature provided for, or purportedly for, the care or treatment of another person or in support of a health service.

10. A service provided by a practitioner of massage, naturopathy or acupuncture or in another natural or alternative health care or diagnostic field.
11. The provision of information relating to the promotion or provision of health care or to health education.
12. Any other service provided by a person registered by a registration board.

# RIGHT 1

## ACTIVE PARTICIPATION IN HEALTH CARE

### *The Rights of the Health Service Consumer*

The health service consumer has the right to take an active role in his/her own health care. This role includes making decisions about his/her own health care and being responsible for those decisions.

- The health service consumer has the right to choose a health service provider subject to several conditions including the treatment required and whether the consumer is a public or private patient.
- The right to be provided with information enables the consumer to make informed decisions about his/her own health care. This information might include:
  - ◊ diagnosis, the possible nature of the illness or disease;
  - ◊ test results and their implications;
  - ◊ the approach to proposed treatment or further investigation as well as,
    - a) what that entails;
    - b) the expected benefits;
    - c) any likely side effects that may occur;
    - d) any recognised risks associated with that investigation and/or treatment;
  - ◊ other options for investigation and/or treatment;
  - ◊ the likely consequences of any treatment option available;
  - ◊ the likely consequences of not having any particular treatment or procedure;
  - ◊ an estimate of the costs of any particular treatment or procedure or other health service fees; and
  - ◊ advice regarding additional services, facilities and support groups.

This information should be presented in a way to best ensure the consumer's understanding. The information should be simple and straightforward. If necessary diagrams, models or other visual aids should be used.

Those with physical or intellectual limitations such as visual, auditory or verbal difficulties and those who have other difficulties with language or communication have the right to be offered alternative means of information dissemination. These alternatives may include, among others, interpreters and/or translation services, large print or audio tapes. In these cases and where a health service consumer has limited capacity, information can be provided to a guardian or person authorised by the consumer.

- The right to feel comfortable and at ease and be encouraged to take an active role in his/her own health care in being consulted about options and by participating in decisions.
- The right to take notes, ask questions and expect honest, comprehensive and direct answers in order to clarify information provided by health service providers.
- The right to take sufficient time to absorb and consider information, seek advice and additional information from other sources, and discuss issues with family, friends and supporters.

It may not always be possible to fully exercise this right particularly in emergency situations where there is often little time to consult and consider.

- The right to not only be informed by the provider about his/her condition and options, but to offer suggestions and feedback and discuss these with the provider.
- The right to choose any treatment option available and have the provider respect that decision, even if they prefer a different option.

It is important to note that the provider is not required to provide any treatment with which he/she does not agree and has the right to withdraw from the provision of treatment.

- The right to grant, withhold or withdraw consent for treatment or performance of a procedure at any time.

### ***The Rights of the Health Service Provider***

- The provider has the right to inquire about all aspects of the health of the consumer so that he/she is able to provide the highest level of quality health care possible. The information about which the provider might inquire includes:
  - ◊ condition, symptoms and health history;
  - ◊ outside factors that may impact on health care provision such as work, sport, family, home life and life style choices;
  - ◊ changes to circumstances;
  - ◊ expectations of the provider;
  - ◊ outcomes for health and well-being; and
  - ◊ the level of involvement the consumer wants in making decisions about his/her own health care.

The provider has the right to have this information presented openly, with honesty and in a straightforward manner.

- The right to be told if the consumer does not understand the information provided or if he/she would like more information.
- The right to be informed if the consumer is consulting, or receiving treatment from, another health care provider.
- The right to be informed if the consumer is unable or unwilling to proceed with any care or treatment.
- The right to express any concerns if he/she does not agree with a decision made by the consumer about his/her health care, and have those concerns acknowledged.
- The right to withdraw from the provision of care if the consumer elects to proceed with an option for health care about which the provider expresses concerns.
- The right to be given notice if the consumer is unable to attend an appointment.

## RIGHT 2

### INDIVIDUALISED SERVICE THAT IS FREE FROM DISCRIMINATION

Discrimination generally refers to unfair or less favourable treatment of a person based on a range of personal attributes or criteria that might include gender, age, race, ethnicity, physical or intellectual disability, religion, sexual orientation, political belief or activity, cultural belief or activity, situation, circumstance, economic or social status.

#### ***The Rights of the Health Service Consumer***

- The health service consumer has the right to receive health services regardless of gender, age, race, ethnicity, physical or intellectual disability, religion, sexual orientation, political belief or activity, cultural belief or activity, situation, circumstance, economic or social status.
- The right to receive health services where the values and beliefs and associated judgements, attitudes, opinions and behaviours of the provider in relation to the areas listed above, do not impact on the provision of care.
- The right to receive health services free from any harassment, exploitation, abuse, deception, assault or fraud.
- The right to receive health services free from physical intimacy unrelated to the health service or medical treatment and free from unwarranted attention of a sexual nature.
- The right to be treated with dignity, courtesy and respect.
- The right to receive health services where the needs, wishes and background of the consumer are known, and considered in the provision of his/her health care.
- The right to withdraw from service provision if the provider behaves in an unacceptable way or places the consumer under duress.

#### ***The Rights of the Health Service Provider***

- The provider has the right to request information about the consumer's background, needs and wishes so that he/she can consider the impact of these on the provision of health care, for example:
  - ◊ if the consumer feels that his/her gender, age, race, ethnicity, physical or intellectual disability, religion, sexual orientation, political belief or activity, cultural belief or activity, situation, circumstance, economic or social status will have an impact on his/her health or provision of care, the consumer should inform the provider.
- The right to be informed if the needs or wishes of the consumer are not being met or if the provider has been intrusive, insensitive or inconsiderate of the background of the consumer.
- The right to be informed if the consumer wishes to seek a second opinion.

- The right to expect reasonable courtesy and respect from the consumer.
- The right to provide health services free from any harassment, exploitation, abuse, deception, assault or fraud.
- The right to refuse to provide a health service if he/she has a conscientious or other objection.

In these circumstances the provider should refer the consumer to another provider who may be able to provide the service or to a support group or organisation who can assist the consumer in seeking appropriate service provision.

- The right to refuse service if the consumer behaves in a threatening or unacceptable way or places the provider or those working with the provider under duress.



## RIGHT 3

### CONFIDENTIALITY, PRIVACY AND SECURITY

#### ***The Rights of the Health Service Consumer***

- The health service consumer has the right to have his/her personal health information and any matters of a sensitive nature kept confidential.

No identifying information about the consumer, his/her condition or treatment may be disclosed without his/her consent unless the disclosure is required or authorised by law.

In some cases, the provider is legally required to disclose health issues under mandatory reporting requirements or in the public interest.

- The right to be informed if the provider is required to disclose information about his/her health due to mandatory reporting requirements or in the public interest.
- The right to know who may have access to his/her personal health record, within the bounds of confidentiality.
- The right to know what sort of information is kept on his/her health record.
- The right to nominate another person who may receive information about the consumer's health status and care. This person does not necessarily have to be a next of kin.
- The right to have information about his/her health status and care passed on to another provider, at his/her request.
- The right to expect that staff of health service facilities are bound by confidentiality agreements, and will be disciplined if these agreements are breached.
- The right to health service facilities which ensure his/her privacy when receiving health care.
- The right to be treated with sensitivity as regards his/her confidentiality and privacy.
- The right to expect that information about his/her health is kept securely and cannot be easily accessed by unauthorised persons.

Any record that contains personal information about the consumer's health should not be left in reception areas or treatment rooms. When the provider or another authorised person does not have a file, it should be stored securely. The same applies to computer or electronic records.

Similarly, health service providers should not talk about consumer's health or care where other unauthorised persons can overhear them.

#### ***The Rights of the Health Service Provider***

- The provider has the right to discuss the health care and treatment of a consumer with other providers for advice and support, in the best interest of the consumer's health and well-being.

## RIGHT 4

### ACCESS TO COMPLAINTS MECHANISMS

#### ***The Rights of the Health Service Consumer***

- The health service consumer has the right to complain about health services and health service providers if he/she has reason to be dissatisfied with the service that he/she has received.
- The right to be informed about complaints procedures.

Complaints procedures might be internal to the health service that the consumer has been using or external like the Registration Boards or The Health Complaints Commissioner.

- The right to access complaints procedures that are easy to use.
- The right to have his/her complaint dealt with promptly, fairly and without any adverse effect or discrimination arising as a consequence of having made a complaint.

#### ***The Rights of the Health Service Provider***

- The provider has the right to be made aware of complaints about him/her or the service provided.
- The right to have a complaint against him/her, lodged with the appropriate authority in accordance with established complaints procedures with supporting documentation as required.

An appropriate complaints procedure might be internal to the health service or a Registration Board, or the Office of the Health Complaints Commissioner.

- The right to be made aware of the outcomes the consumer would like to achieve in making his/her complaint.

## RIGHT 5

### CARERS

#### ***The Rights of Carers***

The relationship between the health service consumer and the provider is the primary relationship. While those who provide care for health service consumers have rights and responsibilities as part of their role as carer, their rights are secondary to the rights of the health service user in the consumer/provider relationship. However, carers have the right to be treated with respect.

The parent/s of a child under 14 years of age is not considered to be a carer. However, the carer of a person with limited capacity for self determination does possess the rights listed in this section.

- Carers have the right to have their particular knowledge about the person in care considered and included in the health service provision for the person in care.
- Carers have the right to be involved in care planning and delivery, especially where it impacts on their role as carer.
- Carers have the right to information about the care of the health service user, support services and equipment, including support services and training for themselves as carers.

#### ***The Rights of the Health Service Provider***

- The provider has the right to be informed when changes in the health status, circumstances, needs or treatment outcomes of the consumer impact on his/her health or treatment.

## RIGHT 6

### THE CONTRIBUTION OF THE HEALTH SERVICE PROVIDER

#### *The Rights of the Health Service Provider*

- The provider has the right to be acknowledged for their contribution to health care and their commitment to providing quality care.
- The right to recognition and respect for the level of training undertaken by providers and for the knowledge, skills and experience providers bring to the provision of consumer's health care.
- The right to expect that the advice provided and the treatment he/she dispenses will be considered and followed, and if this is not possible or does not occur, he/she will be informed.
- The right to feedback on the health services provided including positive and negative comment where appropriate or necessary.

This might include participating in evaluation exercises or questionnaires about services.

- The right to reasonable expectations from consumers about the level of care and treatment that can be provided.

Consumers should realise and acknowledge the limitations of health services and health service providers. For example, consumers may have to wait to receive service, attend a different provider or be referred.

- The right to expect consumers to pay accounts promptly or if there is any difficulty in doing so, to discuss the matter with the provider.

This booklet contains the complete  
Tasmanian Charter of Health Rights and  
Responsibilities.

For copies of the Charter or brochure/poster,  
Or for more information,  
Or to comment on the Charter,  
Call, phone or write to:

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