



**Submission by CHOICE  
to the Australian Commission on Safety and  
Quality in Health Care**

**Draft National Patient Charter of Rights**

**7 March 2008**

CHOICE is an independent, not-for-profit, non-party-political organization established in 1959 to provide consumers with information and advice on goods and services, health and personal finances, and to help maintain and enhance the quality of life for consumers. CHOICE provides consumer education, conducts surveys into consumer attitudes, lobbies for improved conditions for consumers and distributes unbiased consumer advice.

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CHOICE is pleased to provide this submission on the Draft National Patient Charter of Rights. In general, we think this is a good document and commend the Commission on its work.

## Scope of the Charter

We note that some have suggested expanding the proposed Charter from a *Patient* Charter of Rights to a *Health* Charter of Rights. This may satisfy healthcare professional groups who have concerns about how the Charter may affect their responsibilities. However, in our view it will seriously undermine the purpose of the document.

There is generally a power imbalance in the relationship between healthcare professional and consumer. Health consumers are reliant on healthcare professionals for information about their condition and care. Often this occurs at a time of high stress. Consumers may not be focused on their rights at such a time.

The Charter is intended to address this power imbalance. It should articulate to consumers, the rights that they do have. Any move to dilute this document by including the rights of others in the health system will detract from the rights of the health consumer. If there is a need to articulate rights of others in the health system then this should be done elsewhere.

The principles as they are currently drafted do not impose a significant burden on providers. They are a statement of practices which should be considered standard by all healthcare providers. It is an aspirational document which we hope will lead to cultural change in the health system. To ensure that it does this, the focus of the Charter should remain on the health consumer.

The Charter as it is currently drafted suggests it only applies to public hospital services. In particular, this is a result of the use of the term 'patient'. We do not oppose extending the Charter to cover other services provided it remains focused on the rights of the consumer. If 'patient' is seen as a restrictive term we would suggest the use of the term 'health consumer'.

## Responsibilities

We believe that health consumers have responsibilities as well as rights. These should be articulated in the Charter. However, we do not believe there are significant responsibilities beyond those already included. We would be cautious about the addition of further responsibilities because it may give providers a basis for denying access to rights.



Health consumers have a responsibility to show respect, dignity and consideration to their healthcare provider. If they wish to receive the best care possible, they also have the responsibility to provide information about their health status and follow agreed treatment plans. However, at all times it should be the health consumer's right not to provide information or follow agreed treatment plans.

Where health consumers choose to do this, they are accepting a level of risk. They need to recognise that this may affect the quality of the treatment they receive. They also need to recognise that it may affect their rights. This trade-off could be articulated more clearly in the document. This may address some of the concerns about the need for additional responsibilities.

Some have suggested the addition of responsibilities such as the responsibility to look after one's own health ie by not engaging in risky behaviour. We agree that people have a responsibility for their own health. We support consumers engaging in preventive activities and avoiding risky activities. We also campaign for a greater focus on prevention in the health. However, including this as a responsibility in the Charter may condone the restriction of services to certain people eg restricting access to thoracic surgery for smokers. In our view this undermines the notion of universality which underpins the right of access.

Furthermore, the Charter sets out people's rights and responsibilities at the time they are engaging with the health system. It is not appropriate to include responsibilities which relate to people's behaviour before the specific engagement.

## **Rights and Principles**

The rights included in the Charter broadly cover the range of health consumer rights. We do not propose the addition of any further rights.

The principles are important to explain the rights. This will improve the understanding of all users of the Charter. The rights and principles should not be seen as separate in any way. They form one document and should always be provided as such.

Our view is that the principles should be as short as possible but comprehensive enough to cover most aspects of health consumers' experiences. This prevents misunderstanding and provides more certainty to both health consumers and providers.



There are a number of principles which we believe should be added to the Charter. Many are implicit in the existing principles but may benefit by being explicitly acknowledged.

## **Respect**

The Charter addresses a health consumer's responsibility to respect a health care provider. However, it does not articulate a health consumer's responsibility to other health consumers. We believe this is one area where an additional responsibility could be included.

### **Suggested words**

A health consumer must respect the dignity, privacy and of other health consumers.

## **Information**

A health consumer must have the right to access their health records and correct any discrepancies. This should be accepted practice in all areas of the health system. It should not require Freedom of Information requests or a need to negotiate the Privacy Act. We believe the right should be recognised in the Charter.

### **Suggested words**

A health consumer is entitled to a copy of their health records at any time during or after their treatment and an opportunity to correct any discrepancies.

## **Participation**

Participation in decision-making and informed consent are fundamental rights of all health consumers. Often this involves difficult decisions which health consumers need to consider weighing up the risks. While it may be implicit, the Charter should explicitly provide an entitlement to reasonable time for a health consumer to consider options. In practice, reasonable time will be different depending on the circumstances and the urgency of the situation.

### **Suggested words**

A health consumer is entitled to:

- have a reasonable amount of time to consider options relating to their health care



## Privacy

The current principle under Privacy provides for the collection, use, disclosure and storage of personal health and other information to be undertaken in accordance with relevant privacy legislation. Health consumers are unlikely to be familiar with the privacy legislation. This section does not provide sufficient detail to enable a consumer to understand what they should expect. It could be expanded to provide examples of how the legislation operates in this context.

Beyond the legislative requirements, there are other aspects of privacy which should be observed out of respect for the health consumer. These are not articulated here or in the preceding section on Respect. In particular, it should be clear that health consumers are entitled to settings which allow for private and confidential consultation and performance of procedures.

## Redress

Consumers need to be aware of complaint mechanisms. In addition, they need to be sure that the process for dealing with those complaints will be fair. The existing principles acknowledge that a health consumer is entitled to have their concerns dealt with properly and promptly. Frequently, complaints can be dealt with satisfactorily 'in-house'. However, CHOICE believes that in some cases consumers need access to independent and external processes to resolve complaints. Such bodies make consumers feel more confident about making complaints and more confident that the process will be fair. While they already do exist, they should be explicitly recognised in the Charter.

### **Suggested words**

A health consumer is entitled to:

- Access to external and independent processes to resolve complaints.

If you wish to discuss our submission further, please contact CHOICE's Health Policy Officer, Michael Johnston, on email at [mjohnston@choice.com.au](mailto:mjohnston@choice.com.au) or phone on 0411 788 076.