

17 MAR 2008

on Safety and Quality
in Health Care

9

Ms Nicola Dunbar
Policy Team Manager
Australian Commission on Safety and Quality in Health Care
GPO Box 5480
SYDNEY NSW 2001

RE: NATIONAL PATIENT CHARTER OF RIGHTS

Dear Ms Dunbar

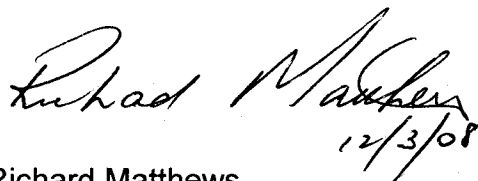
Thank you for the opportunity to comment on the draft National Patient Charter of Rights Consultation Paper. It is encouraging to hear that work is being undertaken in this area at a National level.

I have distributed the Consultation Paper to Branch Directors within the Department. The attached table consolidates Branch comments and provides the NSW Department of Health response. Comments have been grouped into your consultation questions.

Should you wish to discuss these in further detail, please contact Carly Lewis, Senior Policy Officer, via email, carly.lewis@doh.health.nsw.gov.au or on (02) 9391 9353.

I look forward to reviewing the National Patient Charter of Rights once it is finalised.

Yours sincerely



Richard Matthews
12/3/08

Dr Richard Matthews
Deputy Director-General, Strategic Development

**NSW Health Feedback
Draft National Patient Charter of Rights Consultation Paper**

Consultation Question	Feedback
<p>National Patient Charter of Rights and National Patient Charter Principle</p>	<p>It is useful to have both documents as the principles underpin the charter, giving staff direction in meeting the patient's rights.</p>
	<p>Although the National Patient Charter Principles "recognise the important role that families and communities play in receiving and delivering care", this overarching attitude needs to be explicitly stated within a preamble. It is recommended that the recognition of the rights of families, carers and other support persons be explicitly recognised in a preamble of the National Patient Charter.</p>
	<p>Although the National Patient Charter Principles "recognise the important role that families and communities play in receiving and delivering care", this overarching attitude needs to be explicitly stated within a preamble. It is recommended that the recognition of the rights of families, carers and other support persons be explicitly recognised in a preamble of the National Patient Charter.</p>
	<p>The authors note in their introduction that a specific purpose behind the development of this document is that it will "... articulate a nationally agreed set of principles to underpin the provision of health care, wherever the care is delivered" and, that there is support from State and Territory Health Ministers for extending the coverage of current patient's hospital charters "to all designated health services outside the traditional hospital sector."</p>
	<p>These statements, could be reflected in the language used throughout the draft document which refers to patients in "public hospitals" and to the proposed application of the draft document to "specific jurisdictional, disease and health service charters".</p>
	<p>It is recommended that the language throughout the document be amended to replace "public hospitals" with "public health services" and "disease" with "condition", thereby incorporating a health prevention, promotion and primary health care focus.</p>
	<p>It is also recommended that health promotion, health prevention, health maintenance and primary care be reflected in the document. For example in point 5 of the draft National Patient Charter Principles "Information: being informed about services, treatment and care".</p>
	<p>The draft document uses the term "patient", while this is the accepted term for the recipient of care in the majority of acute care settings, some service settings use different language. For example Mental Health use the term "client", Midwifery and Women's Health prefer "the woman", and Health Researchers would use "Participant".</p> <p>It is recommended that a statement be included in the Introduction to the document identifying the possible need</p>

<p>Consultation Question</p>	<p>Feedback</p>
<p>National Patient Charter of Rights and National Patient Charter Principle</p>	<p>to replace the term "patient" with a more appropriate term for local application and usage.</p>
	<p>The Charter could be more straight forward and in a more user friendly format than that of the current draft National Charter. The Queensland Health Public Patients' Charter is a good example of a plain language style document (www.health.qld.gov.au/qhpppc/).</p>
	<p>It is recommended that this information be available in a number of community languages as well as English.</p>
	<p>Consideration might be given to defining some terms used in the Charter such as 'access in terms of waiting times', 'distances', and 'excellence'.</p>
	<p>The text used in the Principles contributes to a better understanding of the Rights within the charter. The language used is generally clear and concise and could be understood by a wide audience.</p>
	<p>In the section of the draft Charter dealing with patients rights' on page 5, the Charter sets out the first right relating to access in the following terms: "I am entitled to have access to public health care". Further, it explains what this right means in the following terms: "Access to public health services based on clinical need, not the ability to pay".</p>
	<p>The expression of the right in terms of a right to "access to public health care" is not strictly correct, as a matter of law. Under the Australian Health Care Agreement 2003-2008 (AHCA), all Australian residents are entitled to free access to public hospital services. However, the draft Charter, by referring to "public health care", states a broader proposition, which is not underpinned by any legal right. Further, the Charter does not appear to limit this right to Australian residents.</p>
	<p>In the section of the draft Charter dealing with the principles underpinning the right to access health care, on page 6, it is stated that patients are entitled to:</p> <ul style="list-style-type: none"> "care that is appropriate, timely, and based on need, not the ability to pay"; "be admitted to a public hospital as a public or a private patient"; and "equitable access to public health services regardless of place of residence".
	<p>Again, these statements are a summary or paraphrase of provisions of the AHCA. However, as stated above the AHCA applies only to public hospital services, and entitles only Australian residents to access such services free of charge.</p>

<p>Consultation Question</p>	<p>Feedback</p>
<p>National Patient Charter of Rights and National Patient Charter Principle</p>	<p>Consideration should be given to reformulating the principles so that they are consistent with the provisions of the AHCA. It is also noted in this regard that the AHCA is to be renegotiated this year, which means that these elements of the draft Charter may be need to be reviewed.</p>
	<p>In the section dealing with privacy (page 8), the wording "unless legislation requires disclosure or they direct otherwise" could be misleading.</p>
	<p>Privacy legislation generally allows use or disclosure of personal information for a purpose other than that for which it was collected, without "requiring" it. Therefore, it is suggested replacing the word "requires" with the word "allows" in this sentence.</p>
	<p>There is a good balance between duty of care to patients and duty of care to staff. The principles highlight responsibilities of patients in the health care system, a key feature in NSW Health strategies for a zero tolerance approach to violence.</p>
	<p>Although information about the costs of health care is mentioned under principle 5, this also needs to be stated in the table of rights on page 5.</p>
<p>Points included in the Principles</p>	<p>The third right to 'Safety' mentions appropriateness but not effectiveness. It is recommended that consideration is given to including "evidence based practice or best/good practice."</p>
	<p>The principle of "Participation: informed decision making and informed choices" outlined in the draft document recognises the right of patients to "withdraw consent or refuse further treatment, even if previous consent has been given to treatment or a procedure". However a clear statement needs to be made in regard to the inalienable right of all patients to have their basic care and comfort needs met even when they fully or partially withdraw consent for treatment.</p>
	<p>It is therefore recommended that a statement be included under the principles of "Participation" and "Respect" that identifies the right of each patient to have basic care and comfort needs met even when they fully or partially withdraw consent for treatment.</p>
	<p>Right 3 'Safety', notes that 'health care services provided with professional care, skill and competence'. This could be interpreted to mean that services will receive these things. It is proposed changing it to, 'health care services are provided to the patient with professional care, skill and competence'.</p>
	<p>Right 3 'Safety', the point that deals with "Effective continuity of care... " could include "including full consideration</p>

Consultation Question	Feedback
<p>Points included in the Principles</p>	<p>of safety following transition from hospital to home". Alternatively there could be an introductory sentence to point (3) as there is with point (2), such as: "There must be full and proper attention to safety of the patient at all stages of care and treatment and particularly at points of transition from one care environment to another".</p>
	<p>Right 4 'Communicate' - Consideration should be given to adding some additional points:</p> <ul style="list-style-type: none"> • Some reference should be made to the need to communicate with patients in a respectful and compassionate way and in a timely manner. • There is no clear articulation of the effort that will be made to communicate in an appropriate manner with individuals who may have particular needs, such as those with intellectual issues, or for particular populations, such as children and adolescents. • Reference should be made to the need for clear communication and information about the treatment that has been provided throughout the period of care and also future care.
	<p>In the section of the draft Charter dealing with principles relating to Participation on pages 7-8, patients are said to be entitled to:</p> <p>"be involved in making informed decisions about treatment and care to the degree and extent that they choose"; and</p> <p>"give informed consent prior to any procedure, with discussion of options available, expected outcomes for each option, and success rates and incidence of side-effects for each option".</p> <p>It is noted that these principles do not acknowledge that there are some situations, such as emergencies, where patient consent is not required. Further, these passages do not refer to the fact there are contexts in which legal guardians may provide consent on behalf of a patient (such as in relation to children or incompetent adults). However, it is assumed that the rider on page 6 that the word "patient" "includes, as appropriate, families, carers and other nominated people", is intended to cover circumstances in which consent is provided by a legal guardian.</p>

<p>Consultation Question</p>	<p>Feedback</p>
<p>Rights & Responsibilities</p>	<p>As noted in the draft document Patients' Charters of Rights have been in existence for some years across the healthcare sector. However recently there has been considerable discussion regarding the development of a Human Rights Charter for Australia. Part of this discussion included the debate around charters of responsibility as well rights. While reference is made in the draft to the Principles highlighting responsibilities of patients it is desirable that these be more explicit.</p> <p>In most Australian jurisdictions, the public, private and residential aged care sectors now have patient charters that contain patient responsibilities as well as patient rights. The articulation of these responsibilities becomes increasingly necessary as models of care emerge enabling consumers to take control of some aspects their care that have traditionally been the domain of the health care provider/s. For example, the introduction of hand held medical records.</p> <p>Whilst the draft document states, "... in some cases expectations of patients have been described in the Principles", it is felt that these expectations are not sufficiently explicit for the average reader to specifically identify their requirements when participating in a caring relationship.</p> <p>The argument for the inclusion of responsibilities as well as rights into a charter is based upon the notion of entering into a caring partnership whereby the cooperation and goodwill of both parties is required in order for care to be received, as well as given.</p> <p>In order to recognise this caring partnership and the inherent obligations for both providers and recipients of care, it is recommended that principles governing patients' responsibilities also be incorporated into the National Patient Charter.</p> <p>Further delineation of rights/responsibilities is required. (5) Information combines the rights of patients with the responsibilities of patients, which is confusing. If the responsibilities of patients is to be included, they should appear under every Principle; not just (5) Information. For example, patients, families and carers also have a role in promoting the safety of themselves and others, promoting their own recovery, and in clear communication.</p> <p>If the responsibilities of patients are included, consideration should be given to changing the name of the document to 'Patient Charter of Rights and Responsibilities'.</p>

Consultation Question	Feedback
<p>Existing Charter</p>	<p>NSW Health has an existing Public Patient Hospital Charter that is consistent with the broad principles referred to in the draft National Charter. NSW Health's Charter provides greater detail about specific rights and responsibilities and makes reference to legislation where appropriate. However, this type of detail is best placed with States and Territories as they have individual processes and procedures in relation to the delivery of health care.</p> <p>Perhaps the use of 'unitary' at the bottom of page 2, might best be substituted for 'single' to take away connotations that the Commonwealth is promulgating a universal charter to replace existing State and Territory Charters</p> <p>The Department's Quality and Safety Branch are currently developing a CareSafe Charter, which articulates to NSW Health Staff the principles on which care is to be delivered. This document aligns to the draft National Charter.</p> <p>Current standards for mental health care in NSW that may be impacted upon by this charter include:</p> <ul style="list-style-type: none"> • NSW Department of Health Charter for Mental Health Care in NSW • UN Principles for the Protection of Persons with Mental Illness and for the Improvement of Mental Health Care • National Standards for Mental Health Services • Australian Health Ministers National Statement of Rights and Responsibilities of Consumers of Mental Health Services. <p>A National Charter would support a consistent approach to the review and modification of existing charters or standards. A matrix of existing charters and standards should be developed to show how the National Charter fits with or supports these.</p>
<p>Possible uses of the Charter</p>	<p>In terms of standard setting the document could be used as a guide, which could be incorporated and acknowledged for accreditation, education and training.</p> <p>If the charter were accepted as a model it would be useful to incorporate it in the next Australian Health Care Agreement (AHCA), especially if the terminology is broad enough to allow flexible implementation and provide broad coverage.</p> <p>The Charter has potential to be used when framing questions in a patient survey.</p> <p>The Charter could be used to enhance health service performance in the public sector through Key Performance Indicators and accreditation.</p>

Consultation Question	Feedback
<p>Possible uses of the Charter</p>	<p>The Charter's purpose should be to improve the quality and safety of care across Australia. Adequate promotion of the National Charter is required to both staff and patients if it is to be meaningful, such as through agencies outside of health services.</p> <p>Training should be provided to support health staff to understand and utilise the National Charter within existing health settings to improve the standard of care offered to patients.</p> <p>A review period should be set for all existing charters to ensure they take account of the National Charter within an agreed period of time.</p>
<p>How the charter applies to different sectors and settings</p>	<p>The basic principles and rights outlined in the draft document appear useful and easily applied to the large proportion of consumers who are able to participate and feel confident and safe to advocate for themselves or their family member in difficult or complex situations. However their application to more vulnerable persons whose ability to comprehend or participate in the framework of the charter might be restricted.</p> <p>It is recommended that provisions be made in the document mandating that an independent advocate be provided for vulnerable persons. In addition, it is suggested that guidelines for advocates be included.</p>