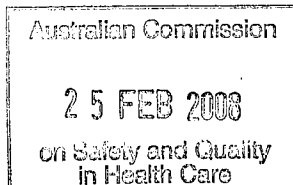


National Patient Charter of Rights

Health and Community Services Complaints
Commissioner SA (HCSCC)

Submission February 2008



Response to Consultation questions

1. National Patient Charter of Rights and National Patient Charter Principles

- *Whether the existence of both the Charter and Principles is useful*
The Charter is a concise and clear statement about what people can expect from a health service. It provides an enduring foundation for the promotion of rights.
- *Suitability of the Charter and Principles for use by patients and providers*
The Principles provide detailed elements to assist providers to comply with the Charter rights. The Principles could be revised and further developed periodically. For example, every 3 years linked to the Medicare Agreement negotiation cycle. They could also form the basis for benchmarking and evaluation.
The Charter and the Principles substantially reflect provisions that the majority of organisational health service providers are already familiar with through the Medicare Agreement linked Charters and other health industry standards. This makes them suitable as a starting point for expanding the scope and details of the Charter Rights through their application, and monitoring and reporting on the Charter Principles.
- *Whether the language used in the Charter and the Principles is appropriate*
The language used in the Charter and the Principles may need to be adapted to local needs, for example, for specific populations of vulnerable people, to promote local application.
- *Preferred options (including structure, style and presentation) for articulating patient rights and entitlements for patients and providers*
Good practice approaches to promoting and ensuring adherence to the rights set out in the Charter and the Principles should be sponsored by the Commission.

2. Rights included in the Charter

- The 8 key patient rights reflect the predominant expectations and concerns of people who raise concerns and complaints about health services.
- The only recurrent complaint that is not reflected in the proposed Charter Rights and the proposed Charter Principles is the entitlement to access records concerning their own health, or other relevant information, created or held by a health service provider. This right is reflected in the Health and Community Services Complaints Act 2004 SA (H&CS Act 2004 SA) section 22(e) Charter Principles.

3. Points included in the Principles

- *Whether the explanations included in the Principles assist in understanding the rights and responsibilities of patients and providers*
The explanations included in the Principles will promote greater understanding about the application of the rights in practice.

4. Rights and responsibilities

- *Whether the balance between the roles, rights and responsibilities of patients and providers is appropriate in the Principles*
Conceptually, human rights, and patient rights, as a derivative of human rights, are fundamental entitlements of every person, without regard to their responsibilities.
- *Whether the Charter could have more of an emphasis on patient responsibilities as well as rights*
Rights are not conditional or qualified on the basis of responsibilities, all the more so as substantial amounts of health care are provided to people when they are not capable of meeting responsibilities due to cognitive impairment, acute illness, special needs or other factors.
- *Whether there are other rights, roles and responsibilities that impact on patients and providers that should be included in either the Charter or the Principles*
Roles and responsibilities come into play when considering how best to realise rights in practice. The proposed Charter and Principles provide an adequate framework for considering rights, roles and responsibilities in practice.

5. Existing charters

- *The relationship between existing charters, the new Charter and Principles*
The only element missing from the proposed Charter and Principles in comparison to the H&CSC Act 2004 SA is section 22(e) access to health records and personal information cited at 2. above.
- *The extent to which the National Charter and Principles creates gaps or overlap with other charters*
Ideally, a National Charter and Principles should serve as a consistent base / default expression of patient rights, an irreducible minimum Australia wide.
HCSCC has indicated to the SA Minister for Health that the proposed National Charter and Principles could be adopted as the basis for the statutory charter required under H&CSC Act 2004 SA - Part 3 Charter of Health and Community Services Rights.

6. Possible uses of the charter

- The Charter and Principles would be applicable for all the purposes outlined in the Consultation paper January 2008.
- In particular, consumer evaluation of health services, and health service performance reporting linked to the Charter and Principles, could provide impetus to orienting health services towards the recognition and promotion of patient rights.
- The Charter and Principles would also serve as a benchmark to resolving complaints under the H&CSC Act 2004 SA to determine whether or not a health service provider had acted reasonably - H&CSC Act 2004 SA - section 85.

7. How the charter applies in different sectors and settings

- HCSCC opened on 4 October 2005. Section 19 of the H&CSC Act 2004 SA required the development of a draft Charter of Health and Community Services Rights within 12 months. Work to develop this statutory Charter has yet to be commenced due to resource constraints.
- The development of a National Patient Charter of Rights provides an opportunity to consider the adoption of a nationally consistent charter under the H&CSC Act 2004 SA.
- Section 85 of the H&CSC Act 2004 SA requires the Part 3 Charter of Rights to be taken into consideration, as one of a number of factors, when determining whether or not the action, or inaction, of a service provider has been reasonable - see comment at 6. above, about the application of the Charter and Principles to section 85.
- My responsibilities under the H&CSC Act 2004 SA also extend to community services, including child protection services. The Charter and Principles appear to be sufficiently broad to be applicable in these contexts.



Leena Sudano
Health & Community Services Complaints Commissioner
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