KNOW YOUR RIGHTS:
DISCOVER THE PROVISIONS OF
THE RWANDAN LAW ON
MEDICAL LIABILITY INSURANCE

LAW N°49/2012 OF 22/01/2013
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INTRODUCTION

The government of Rwanda has been at the forefront of instating laws and regulations aimed at protecting the rights of the Rwandan people against poor quality services in a wide range of public and private sector service domains.

In 2013, the government, in consultation with its health sector partners, established the law No. 49/2012, which instituted medical professional liability insurance.

This law elaborates medical service users’ rights and the responsibilities of health service providers. Additionally, it identifies compensation benefits for health care users who, due to medical service(s) that was provided to them, were rendered incapable of leading the life they used to live prior to receiving care.

Unfortunately, most service users lack knowledge of their legal rights, which hinders improvement of service quality. This barrier to delivering quality services has been noted by several organizations, including the government of Rwanda.

Motivated by its mission of increasing accessibility and quality of health care to all Rwandans, Health Development Initiative (HDI), a nonprofit organization, has taken the initiative to disseminate this well-presented reader friendly document of the main articles of the law No. 49/2012 of 2013.

The purpose of this endeavor is to increase the medical service users’ knowledge of legal rights as explained in the aforementioned law. Increased awareness of these rights would have a positive impact on users’ ability to demand that their rights be respected, which could subsequently ensure quality health care service delivery.

This document aims to reach as many Rwandans for it is HDI’s hope that the information shared is used by all to ensure respect for the rights enshrined in this law and the improvement of the quality of health care services.

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INTRODUCTORY ARTICLES

Article 1: Purpose of this Law
This Law establishes medical professional liability insurance and Committees for Conciliation and Compensation for Health Risks.

Article 2: Definitions of terms
In this Law, the following terms shall have the following meanings:

1. healthcare setting: any state-owned or private place authorised by the Ministry of Health to serve as a site for the treatment of diseases or provision of other medical services;
2. medical procedure: an act performed by a health professional for the purpose of treatment, consultation, prevention and/or improvement of the health state of a patient or any other medical service user;
3. excusable error: a risk of which the patient or any other medical service user is victim with no clear responsibility of a health professional or health facility;
4. health risk: hazard, accident, negligence or error of which the patient or any other medical service user is victim because of a health professional or healthcare setting;
5. medical harm: harm caused by a medical procedure that renders a harm caused by a medical procedure that renders a person incapable of leading the life they used to live prior to receiving that procedure;
6. health professional: a state-authorized doctor, dentist, pharmacist, nurse, midwife or any other person having a required degree engaged in the practice of a paramedical profession;
7. trusted person: Any person, who has reached the age of majority and capable of making a decision, selected by a patient or any other health service user in order to help him/her with his/her choice.
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FUNDAMENTAL RIGHTS OF A PATIENT AND ANY OTHER HEALTH SERVICE USER

Article 3: Right by a human person to dignity and privacy
The health professional shall discharge his/her duties with due respect for the human person’s life, privacy and dignity.

Article 4: Right of access to medical procedures
No one shall be subjected to any form of discrimination while accessing consultation, healthcare services or other paramedical procedures. Health professionals, health facilities, health insurance organizations or any other healthcare setting shall contribute to the establishment of mechanisms that facilitate equal access to health care for all and the highest health safety possible for all.

Article 5: Patient’s right to safety
The patient or any other health service user shall have the right:

1. not to suffer from poor functioning of health services;
2. not to suffer from adverse events or errors occurring in the healthcare setting;
3. to have access to medical procedures that meet such an acceptable standard as set by the Minister of Health;
4. to have access to reliable results when subjected to tests, to have a prosthesis done, to be administered compulsory vaccinations and/or to use medical devices and products.

Article 6: Right to free choice of a health professional
Except for emergency cases, the patient or any other health service user shall have the right to freely choose a health professional.

Article 7: Right to information
The health professional shall be required to provide the person benefiting from his/her examination, treatment and advisory services with:

1. accurate, reliable and appropriate information on his/her health state and proposed medical procedures;
2. information on their usefulness and frequent or serious normally predictable risks;
3. information on medical procedure costs;

A patient must be regularly informed of his/her health state except in the following circumstances:

1. in case of an illness requiring an emergency intervention;
2. where he/she is not in full possession of his/her mental faculties;
3. if it proves impossible to find him/her;
4. in case he/she expressed his/her wish not to be informed of his/her illness or its outcome, except in cases where he/she may put others at risk of transmission.

Such information is communicated during a one-on-one discussion while written information shall be considered as a supplement if need be.

**Article 8: Freedom of choice of a trusted person**

A patient or any other health service user who has reached the age of majority may designate a trusted person of his/her choice who can assist him/her.

The trusted person shall be designated in writing and may be revoked at any time.

The trusted person shall be provided with necessary information on the health state of the patient or any other health service user and remain subject to the obligation of secrecy regarding the information made available to him/her.

**Article 9: Right to consent**

The prior consent of the patient or any other health service user to be examined or treated must be sought in all cases.

When the patient or any other health service user who is able to accept or refuse any proposed procedure within a health facility, refuses to undergo an examination or treatment, the health professional must respect such refusal after having informed the patient of the consequences thereof.

If the patient is not in condition to express his/her will, the health professional cannot intervene. The service provider can intervene if the patient’s trusted person has been warned and informed, unless
in case of an emergency or if the trusted person cannot be found. During these exceptions, intervention is subject to prior favourable opinion from another competent health professional or from the management of the health facility.

The prior consent of the patient or any other health service user is sought in any cases, but its relevance is specifically observed in case of potentially serious health-threatening situations for the patient.

**Article 10: Right to refuse treatment and withdraw consent**

The patient or any other health service user shall have the right to refuse treatment or any medical procedure, to withdraw consent during treatment or to refuse the continuation of the medical procedure performed on him/her.

Refusal of treatment or withdrawal of consent shall be made in writing and documented in the patient’s medical record.

Where, in an emergency case, uncertainty exists about the existence or nonexistence of prior consent of the patient or his/her representative, any necessary intervention may only be performed, in the interests of the patient, after favourable opinion from another competent health professional or from the management of the health facility where health care services are being provided.

All information on this intervention must be entered in the patient’s medical record by the physician receiving him/her.

**Article 11: Consent of minors or other incapable persons**

The health professional who intends to provide healthcare services to a minor or an incapable person must endeavour to inform his/her parents or his/her representative or his/her guardian and obtain their prior consent.

In case of emergency and in the absence of his/her parents, legal representative or guardian for their consent, the opinion of another competent health professional shall be required before making a decision.
**Article 12: Right to consult and be given a copy of the patient’s medical record**
The patient or any other health service user shall have the right to consult his/her medical record and receive a copy thereof if need be.

**Article 13: Right to sue for compensation**
The victim of health risks shall have the right to sue for compensation provided that the causal link between the health risk and the medical procedure is established.

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**INSURANCE AGAINST HEALTH RISKS/MEDICAL PROFESSIONAL LIABILITY INSURANCE**

**Article 14: Insurance by a health professional**
Every health professional, whether public or private, must take out insurance from a state-authorized insurance company.

**Article 15: Insurance by a health facility**
Any health facility, whether public or private must take out an insurance.

**Article 16: Disciplinary action against a person who fails to comply with the provisions of articles 14 and 15 of this Law**
In the event of failure to take out an insurance provided under this Law, the competent organ shall take disciplinary action against those who fail to comply with such an obligation.

**Article 17: Payment of insurance premiums in case of several employers**
In case of several employers, the health professional must ensure that each employer has paid his/her share of compulsory insurance premiums.
An Order of the Minister in charge of Insurance shall determine the contribution of each party to the insurance policy.

**Article 18: Compensation for health risks not covered under insurance policy**
The obligation to pay compensation for health risks not covered under insurance policy shall rest with the employer. In the event of shared liability between the employer and the insured, liability for health risks not covered under insurance policy shall rest with both the employer and the insured in proportion to their respective liabilities.

**Article 19: Liability for pharmaceuticals and other devices having caused adverse events on the patient**
Subject to the provisions of other laws, when liability originates from pharmaceuticals and other devices having caused adverse events on the patient, the victim shall be protected under this Law.

**Article 20: Risks not covered under this Law**
The victim of a risk having made an excusable error which is the sole cause of the health risk may not invoke protection under this Law. The provisions of Paragraph One of this Article shall not apply to the victim under fourteen (14) years of age, a mentally disabled person or to any other person incapable of judgment.

**Article 21: Commencement of insurance**
The insurance shall become effective upon the signing of the insurance policy by the parties concerned.
COMMITTEES FOR CONCILIATION AND COMPENSATION FOR HEALTH RISKS

Article 22: Committees for Conciliation and Compensation for Health Risks

There is hereby established at the administrative District and national level Committees for Conciliation and Compensation for Health Risks. An Order of the Minister of health shall determine the composition, organization and functioning of these Committees.

Article 23: Responsibilities of the Committee at the District level

The responsibilities of the Committee at the District level shall be the following:
1. receiving and considering, in the first instance, claims related to health risks occurring in the District;
2. determining compensation for health risks;
3. providing mediation and carrying out amicable resolution of disputes arising from health risks.

Article 24: Responsibilities of the Committee at the national level

The responsibilities of the Committee at the national level shall be the following:
1. receiving and considering, in the first and last instance, disputes related to health risks occurring in referral hospitals;
2. determining compensation for health risks;
3. providing mediation and carrying out amicable resolution of disputes arising from health risks;
4. serving as an appellate body for disputes considered by Committees at the District level.

Article 25: Referral to courts

Any health service user victim of health risks shall have the right to bring an action before courts without the need to put the matter before Committees for Conciliation and Compensation for Health Risks or in case of dissatisfaction with the decisions of such Committees.

Article 26: Limitation of legal action

Subject to the provisions of laws on judicial procedures, the legal action resulting from health risks under this Law shall have a limitation period of five (5) years from the date of the occurrence of the risk or the date when the risk has been known.