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POOBLAŠČENEC

# The Patient's Rights Act and personal data protection in the health system



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DR. ROMANI...



MRAČNI SREDNJI VEK...

You know, since the files are here in the hall, the patients don't complain about the waiting lists anymore!!





## Patients Rights Act (PRA)

- **Two basic principles of lawful personal data processing:**
  - If provided so by law
  - On the basis of the individuals consent
- PRA provides legal basis for personal data processing in a number of articles:
  - If provided by law the individual-patient does not have the right to decide whether he/she will provide personal data
    - The law in this case overrules personal consent





# Waiting lists



- When put on a waiting list, the patient has the right to know about the reasons for the waiting list and the time it will take. The patient also has the right to consult the waiting list, however privacy of other patients must be protected:
  - Other patient's personal data must be anonymized
    - Patient's number, date and hour of waiting list registration, social security number, the expected date of the health service, the date the service was delivered, the code of the health service, urgency degree, the health service provider who put the patient on a waiting list.





## Waiting list

- Exchange of data with the Institute of Public Health of the Republic of Slovenia (IPH)
- If the exchange is electronic, data must be sent with the use of cryptographic methods and electronic signatures (as provided by the Personal Data Protection Act)
- IPH is connected with the Central Population Register (CPR)
  - IPH has the right to acquire data on deceased to update the waiting lists
  - IPH will have to cooperate with health institutions to harmonise the data on patients included in more than one waiting list or patients that have already received medical service.





## Waiting list and other filing systems

- Examination of data is provided by the provider of medical services as a first instance body
- The appellate body is the Information Commissioner
- Identification of the individual requesting the information (careful with answers via e-mails and telephone)
  - Can't confirm the identity of the person on the other side
  - For the purpose of identification you may request a valid personal identification document





## Patient's right to information

- The institution has to decide in 5 days
- IC is the appellate body
  - Does not interfere with the Commission's rights
    - Only decides on questions of data protection – consultation of medical documentation, abuse of personal data, the charges of consultation
- The right to consult all filing systems
- Minors (under the age of 15 their parents may exercise their right to consultation)







# Patient's right to information on his/her medical documentation



- Charging costs
  - According to the Instructions may only charge for material costs
    - A4 photocopy 0,10 € for instance
- The right to erase, correct, object to the documents in the medical documentation
  - The patient may not demand correction of a diagnosis!





## Patient's right to information on his/her medical documentation

- “Ownership” documentation concept
  - The patient does not have the right to receive originals
    - Only photocopies
- Transfer of documents between the doctors
  - Not in patients hands – from one data controller to another





# Who is authorised to access our medical data in the course of our life?

## Article 45 of PRA

- If the patient does not specify, PRA gives authorization to a wide circle of people
  - Family members: spouse, cohabiting partners, civil union partners, parents, adoptive parents, grand parents, children, adopted children, grand children, brothers and sisters
  - Persons who can prove to be in close relationship with the patient (a boyfriend of girlfriend for example)

That is why the patient may specify who is prohibited to access his/her medical data

- on his/her health condition
- access to documentation





# Who is authorised to access our medical data in the course of our life?

## Article 45, Paragraph 3 of PRA

The doctor may disclose information o patient's health condition if it is necessarily required for protection of patient's life or prevention of serious consequences for the health condition of other persons.

This means that the doctor may disclose the data to a third person, however, he is not obliged to do so. The doctor has to consider by himself whether disclosure of data on for example HIV status of a patient is really necessary for protection of patient's life or prevention of serious consequences for the health condition of other persons like the patient's partners or another HIV positive person. The question is whether mere assumption of a sexual intercourse justifies application of the above Article 45 provision.

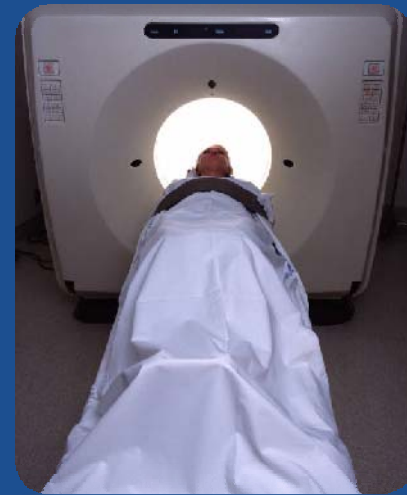
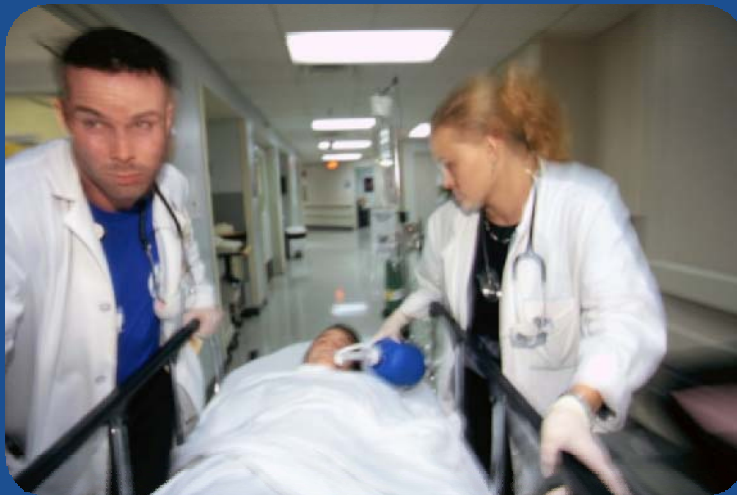
- **Consideration solely in the doctor's competence**





## Rights of others after the patient's death

- Recipients who are authorised by law
- Recipients who have been authorised by the patient before his/her death





## Rights of others after the patient's death

- After the patient's death the following persons are authorised to access his/her medical documentation:
  - spouse, cohabiting partners, civil union partners, children and adopted children; in the event the above persons are missing, the data may be disclosed to the patient's parents
- The above persons may only access the data necessary to fulfil the lawful purpose of access to the data





# Rights of others after the patient's death

- Access is permitted if:
  - It concerns data that may crucially impact the health of an individual
  - Access is conducted indirectly – through a doctor





# Rights of others after the patient's death

- Who are the right holders?
- The circle of right holders is closed (patient's parents, patient's offspring of any order, patient's spouse, cohabiting partner, civil union partner, brothers or sisters or other persons that can prove to be in a special close relationship with the patient)







## Patient's right to privacy

- Who may be present when the patient is being treated?
  - The person in charge of treatment
  - The persons the patient wishes to be present
  - Students or other persons for the purpose of education only with the patient's consent
- Professional secrecy
  - Discharge (at the age of 15)
    - May forbid his/her parents





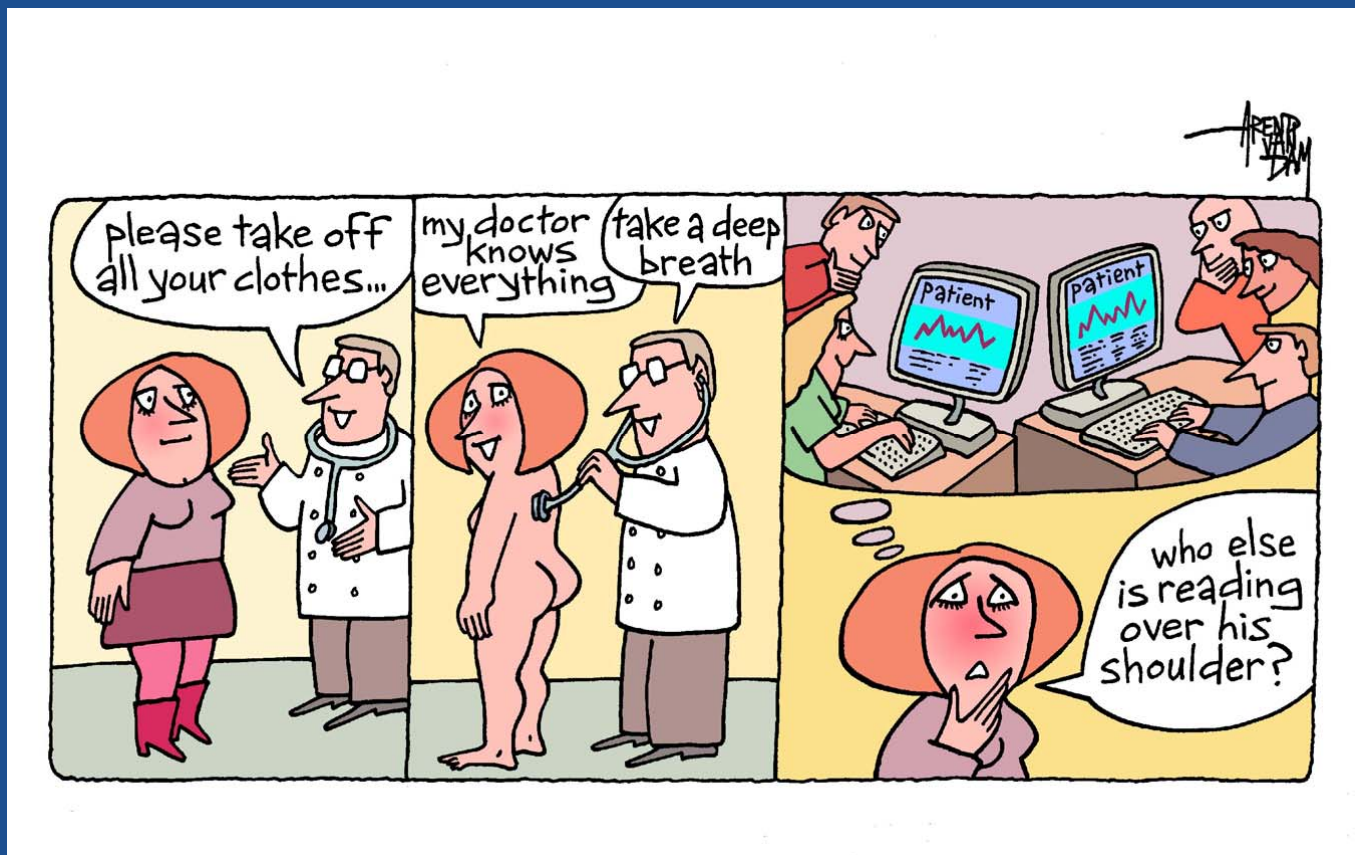
## Patient's right to privacy

- Self-declaration provided by law, if a medical institution comes across a breach of the right to personal data protection
  - Representative of patient's rights
  - Information Commissioner





# Traceability principle



**Thank you for your attention!**

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