

SMMC Complaints Regulation

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Complaints Regulation

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1. Introduction

A complaint can be an important signal. By dealing adequately with complaints, healthcare providers can maintain or regain the trust of the dissatisfied patient. Moreover, complaints can be a way to learn and they can lead to measures being taken to improve the quality of care.

The National Ordinance on Healthcare Institutions (NOHI) (in Dutch: “Landsverordening houdende regels ten aanzien van instellingen voor de gezondheidszorg”¹) obliges healthcare providers to make an arrangement for the independent handling of complaints about a behavior by the health care professional or by persons working in its healthcare institution towards a patient, their representative or family member.

The purpose of this regulation is to focus on an accessible and effective handling of complaints, which is aimed at achieving a satisfactory solution for the complainant and the healthcare provider.

2. Definitions

Article 1

For the purposes of this regulation, the following definitions apply:

- a. applicable law:
National Ordinance on Healthcare Institutions (NOHI) (in Dutch: “Landsverordening houdende regels ten aanzien van instellingen voor de gezondheidszorg”);
- b. care:
care within the meaning of this law is regarded as care provided under the responsibility of SMMC;
- c. complainant:
the patient, their representative or family member who submits a complaint;
- d. complaint:
an expression of dissatisfaction submitted in writing or electronically to the Complaint Officer about an action or omission towards a patient in the context of the provision of care;
- e. complaint officer:
the person within SMMC who, in accordance with the job description, is responsible for the impartial mediation and handling of complaints and supports and advises patients in this regard;
- f. damage claim:
a complaint in which the complainant seeks or requests financial compensation;
- g. decision:
a written notice from the Board of Directors stating its decision with regards to the complaint, if measures will be taken in response to the complaint, and if so, which measures, and within which period the measures will be implemented;
- h. defendant:
the person to whose decision or to whose action or omission the complaint relates;
- i. dispute:
a complaint that, after being handled in accordance with these regulations, is not resolved to the satisfaction of the complainant;

¹ AB 2015, no. 9 and AB 2013, GT no. 755.

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- j. healthcare professional:
a person who provides care professionally;
- k. healthcare provider:
Stichting Sint Maarten Medical Center (SMMC) represented by its Board of Directors;
- l. inspector:
an inspector from the Public Health Inspectorate;
- m. patient:
natural person who requests care or to whom SMMC provides or has provided care;
- n. Interisland Complaint Committee:
an independent committee to which SMMC is affiliated and consists of members from healthcare institutions in Sint Maarten, Saba and St. Eustatius. The Committee reviews complaints that could not be resolved internally within the healthcare provider to the satisfaction of the complainant, and gives advice to the complainant and the healthcare provider.
- o. manager:
person with a guiding role with regard to the healthcare professional or employee;
- p. representative:
the person or persons who, based on any legal provision, the healthcare provider has to involve in the fulfillment of obligations towards the patient;
- q. term:
the legal period of four weeks, within which the Board of Directors gives a decision on the complaint. This term can be deviated from, in which case the complainant is informed with a reasoned statement.

3. Expressions of dissatisfaction

Article 2

If a patient is dissatisfied, they can discuss their dissatisfaction with:

1. the healthcare professional or employee with whom they are not satisfied or the person who is responsible for the matter that the complainant expresses their dissatisfaction about;
2. the supervisor or manager, or a person designated for that purpose in the department charged with the treatment of complaints;
3. Service Desk employees;
4. the Complaint Officer.

Article 3

In the case of article 2.1, the dissatisfaction is discussed directly with the patient. If the dissatisfaction of the patient cannot be resolved or accommodated, the employee/healthcare professional ensures that the dissatisfaction is discussed with the patient by the manager or a person designated for this purpose.

Article 4

In the case of articles 2.2 and 2.3, the supervisor, manager or the designated person respectively the Service Desk employee discusses the dissatisfaction with the patient.

Article 5

If discussion of the dissatisfaction as referred to in articles 3 and 4 does not lead to a satisfactory solution for the patient, the patient is put in contact with the Complaint Officer.

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Article 6

All expressions of dissatisfaction referred to in articles 3 and 4 will be discussed structurally and anonymously in the team to which the employee/healthcare professional concerned belongs. The goal of this is to prevent dissatisfaction from reoccurring, and to improve the quality of care. The relevant manager of the concerned department ensures that improvements in response to expressed dissatisfaction are implemented and secured in the organization, supported by the relevant quality officer.

4. Service Desk

Article 7

The patient can express their dissatisfaction to the Service Desk employees. The employees take care of the receipt of the complaint, and as much and far as possible resolve the dissatisfaction in consultation with the patient. If the dissatisfaction concerns an action or omission of a medical specialist or if the Service Desk employees are of the opinion that the dissatisfaction will lead to a complaint, the patient will be brought into contact with the Complaint Officer.

Article 8

All expressions of dissatisfaction submitted to Service Desk are registered in the complaints registration system.

Article 9

Healthcare professionals/employees inform dissatisfied patients about the complaints' procedure.

5. The Complaint Officer

Article 10

The Complaint Officer performs their duties independently and impartially in accordance with the NOHI and the professional standards applicable to them and the job description. The healthcare provider refrains from interfering in the way in which the Complaint Officer performs their duties in a specific case.

Article 11

The Board of Directors provides a job description for the Complaint Officer and ensures that the Complaint Officer has the resources and facilities that are necessary for the proper performance of the function.

Article 12

The Complaint Officer has at least the following tasks:

- a. informs patients, employees and third parties about the complaints' procedure;
- b. advises those who are considering making a complaint and, if requested, assists them in formulating it;
- c. advises the Board of Directors about the complaint;
- d. helps the complainant and the person or the department to which the complaint is directed, with the resolution of the complaint, for example by mediation;
- e. if requested, informs the complainant about the way in which the decision of the healthcare provider has been established;
- f. informs the medical liability insurer as soon as possible, but no later than 10 (ten) working days, after the complainant has contacted the Complaint Officer, and has indicated which route (article 22 c, d) they have chosen and the complaint is suitable for submission to the liability insurer.

Article 13

When performing their duties, the Complaint Officer focuses on achieving a lasting resolution of the complaint and on restoring the relationship between the complainant and the person to whom the complaint relates.

Article 14

The Complaint Officer:

- a. registers the complaints that have been reported, the work performed as a result of complaints and the results thereof;

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- b. periodically reports on the basis of this registration in writing about their work and findings, to the responsible management;
- c. identifies structural shortcomings in healthcare and can make recommendations based on its findings;
- d. takes care of the file management of the complaint handling, whereby the storage and registration takes place in such a way that the privacy of the complainant, the defendant(s) and possibly other persons involved, is guaranteed and unauthorized persons cannot gain access.

Article 15

The Complaint Officer can turn directly to the Board of Directors if they are of the opinion that they are hindered in the performance of their duties or if they are harmed/disadvantaged in the performance of their duties. The Board of Directors investigates this and, if necessary, takes appropriate measures to ensure that the Complaint Officer can perform their duties in accordance with this regulation and ensures that they will not be disadvantaged because of the execution of those activities.

Article 16

If the action(s) of the Board of Directors as defined in article 15 does not stop the hindrance and/or it cannot be expected of the Complaint Officer that they turn to the Board of Directors in view of the circumstances, the Complaint Officer can turn to the Supervisory Council of the healthcare provider.

6. Complaint handling

Article 17

A complaint must be submitted to the Complaint Officer verbally, in writing or electronically (see also Article 12b).

Article 18

A complaint can only be submitted by:

- a. a patient or on behalf of the patient with their consent;
- b. the patient's representative;
- c. a patient's surviving close relatives.

Article 19

When submitting (and further handling) the complaint, the complainant can be represented by a person designated or authorized by them.

Article 20

A person who believes that they are wrongly not considered as a representative of a patient can file a complaint about it.

Article 21

After a complaint has been submitted as referred to in article 17, the complainant will receive a confirmation of receipt within three (3) working days. The Complaint Officer then discusses the complaint with the complainant and informs the complainant about the options for handling the complaint. If desired, additional written information can be provided to the complainant. If the complainant indicated that they want no telephone contact about the complaint, the complainant will be informed in writing about the options of complaint handling. If this is not possible or if no response is received, the Complaint Officer decides on the basis of the complaint and other circumstances the suitable route to take.

Article 22

After receiving information from and in consultation with the Complaint Officer, the complainant decides the course of action. A complaint can be handled in the following ways:

- a. **request for registration:** if the complainant does not want a decision from the healthcare provider, but does have a wish to give a signal or report of dissatisfaction, this complaint will be registered and analyzed in accordance with article 33;
- b. **request for a (practical) solution/mediation:** the Complaint Officer will handle the complaint;

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- c. **request for a decision:** the Complaint Officer investigates the complaint and gives advise to the Board of Directors. The Board of Directors then decides on the complaint;
- d. **request for financial compensation:** in general, the complaint is handled by the medical liability insurer in charge of the assessment of damage claims.

If the nature of the complaint lends itself to this, a combination of processes **a** to **d** is possible. Actions will be taken in close consultation with the complainant and the employees involved.

7. Handling by the Complaint Officer

Article 23

The handling of complaints as referred to in article 22 is handled in an expeditious, patient-oriented and solution-oriented manner. The Complaint Officer can agree with the complainant that the Complaint Officer will first, together with the complainant and healthcare professional, or with the department to which the complaint is directed, explore whether a solution to the complaint can be reached (e.g. through mediation). The Complaint Officer will confirm the chosen way of handling the complaint with the complainant, within two (2) weeks.

Article 24

When the complainant is of the opinion that the complaint has been resolved to satisfaction, the Complaint Officer finalizes the complaint and registers it (see article 22a). If the possibility of article 23 does not lead to a satisfactory result for the complainant, the complainant can still decide to request a decision (see art. 22c), after which the legal term starts from the moment of receipt of the written request from the complainant for a formal decision from the healthcare provider.

8. Decision by the Board of Directors

Article 25

The Board of Directors will not come to a decision until they and/or the Complaint Officer gave both the complainant and the defendant the opportunity to express their views on the complaint in question. The Board of Directors comes to a decision within four (4) weeks after receipt of the complaint.

Article 26

The Board of Directors informs the complainant, the defendant and the Complaint Officer within four (4) weeks (with a possible extension in consultation with the complainant) after receipt of the complaint, what decision the investigation of the complaint has led to, and if measures will be taken in response to the complaint, and if so, which measures, and within which period the measures will be implemented.

9. Damage claims

Article 27

If the complaint is treated as a claim for damages in accordance with Article 22d, the (whole or partial) treatment is either handled by the Legal department or transferred to the medical liability insurer of the healthcare provider, depending on the type of claim.

Article 28

In cases where the claim is handled by the medical liability insurer, the complainant is informed within ten (10) working days after receipt of the complaint that the claim will be handled by the medical liability insurer. The medical liability insurer is responsible for contacting and follow up with the complainant.

10. Consecutive complaints processes

Article 29

If the complainant has completed one of the processes referred to in articles 22 or 23 and opts for a follow-up process, the rules for that new process will apply. Information from the original process is only allowed to be used in the follow-up process if permission has been received from the complainant.

11. Unmediable complaints, withdrawal and discontinuation of the complaint handling by Complaint Officer

Article 30

- a. If a complaint cannot be (properly) investigated because a certain time has elapsed or due to other circumstances, the Complaint Officer can decide to not process the complaint. The complainant will be informed in writing about this and the reason thereof.
- b. A complaint will not be processed further if the Complaint Officer has found the complaint to be inadmissible or unfounded. The complainant will be informed in writing about this and the reason thereof.
- c. A complaint will not be processed further if the complainant withdraws the complaint. The complainant can withdraw the complaint by giving notice verbally or in writing/electronically that further processing of the complaint by the healthcare provider is not desirable. The withdrawal will be confirmed verbally, in writing/electronically to the complainant.
- d. If the complaint is withdrawn verbally, the withdrawal will be confirmed in writing to the complainant stating the date of the (telephone) conversation and, if applicable, the reason for withdrawal.
- e. In the event of an urgent reason, the healthcare provider may decide to stop handling a complaint. There is an urgent reason, for example, if the complainant is aggressive towards employees or otherwise seriously misbehaves, as a result of which continuation of the complaint handling can no longer reasonably be expected from the healthcare provider. The complainant will be informed in writing about the discontinuation of the complaint handling and the reason thereof.
- f. The complainant will be informed of the possibility of having the decision referred to under a of this article, submitted to the Interisland Complaint Committee.

12. Interisland Complaint Committee

Article 31

- a. If a complaint, after being handled in accordance with these regulations, is not resolved to the satisfaction of the complainant and the complainant does not agree with the outcome, the complainant can send their complaint to the Interisland Complaint Committee.
- b. The complainant can also directly – without requesting a decision from the healthcare provider – file a complaint to the Interisland Complaint Committee.

13. Confidentiality

Article 32

Anyone who is involved in the handling of complaints and has access to information of which they know or should reasonably suspect the confidential nature of such, is obliged to keep the information confidential, except if disclosure is obligated based on a legal requirement or if the need for disclosure is required in the execution of their duties in the complaints procedure.

14. Registration

Article 33

If the complaint is registered in accordance with article 8 and article 22a, it will be saved in a database set up for this purpose. This database will be analyzed on a regular basis with the goal to take measures to improve the quality of

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care. The database complies with current legislation and regulations in this area, such as the National ordinance on personal data protection (in Dutch: Landsverordening bescherming persoonsgegevens)².

15. Archiving and retention period of complaint file

Article 34

The healthcare provider keeps all documents relating to a complaint in a digital file, separate from the medical file. A complaint file is kept for at least two years within the Legal department. Documents related to a complaint are not kept in the patient's medical record.

16. Other complaint and reporting options

Article 35

This regulation leaves the possibility to submit complaints or to report them to other authorities unaffected.

17. Costs

Article 36

No costs will be charged for the handling of complaints to the complainant or the defendant. The costs for external or self-invoked support of representatives, witnesses or experts, at the initiative of the complainant or defendant in the complaint handling, are for the expense of the party/parties involved.

18. Annual report

Article 37

The Complaint Officer reports to the Board of Directors every month. At the end of the calendar year following the year under review, the healthcare provider issues an anonymized report on the number and type of complaints handled by the healthcare provider and the scope of its decisions. Improvement measures are also included in the annual report for the quality of care resulting from individual complaints or analysis of the complaints.

19. Publicity of complaints regulation

Article 38

The Board of Directors ensures that this regulation is adequately brought to the attention of patients and their representatives. The regulation will be made accessible to everyone on the website of the healthcare provider and upon request, a copy of the regulation will be provided to patients and their representatives.

20. Evaluation

Article 39

The Board of Directors evaluates this complaints regulation within three years after its commencement date and thereafter as often as it deems desirable. The Board of Directors involves the Management team, Complaint Officer and/or Legal Counsel in every evaluation.

21. Adoption and amendment of regulation

Article 40

This regulation is established and can be modified by the Board of Directors. The Board of Directors submits proposed decisions to adopt or amend this regulation to the Management team.

² AB 2019, no. 24 and AB 2010, GT no.02.

22. Effective date and title

Article 41

1. This regulation comes into effect on August 1, 2023.
2. This regulation is referred to as: Complaints regulation SMMC.

Cay Hill, July 20, 2023
Board of Directors Stichting Sint Maarten Medical Center,

Dr. F.A.C. Holiday
Medical Director