



## Patient Law: New Legal Field

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### Opinion

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### Opinion

The recognition of patients as subjects of law dates back to the 1970s. Annas points out that “the idea that patients have rights was strange and even quixotic until the early seventies” [1]. At that historical moment, patients’ rights movements gradually began to change the healthcare landscape [1]. The civil rights movement in the United States, aligned with feminism and the activism of psychiatric hospital inpatients, has called into question the idea of medical power over the patient’s body and brought to light the ethical-legal obligation to respect the patients’ self-determination. Similarly, in the 1960s, consumer law movements embraced health issues and challenged medical paternalism [2]. In this context, the avant-garde publication in 1970 of the book *The Patient as Person*, written by the American bioethicist Paul Ramsey, draws attention, placing the patient not only as a decision maker but principally as the author of their life. The seventies also saw the adoption of the first Charter of Patients’ Rights, in the hospital sphere, by the American Hospital Association in 1973. This Charter was revised and replaced by the Partnership in Patient Care in 2001 [3]. In Europe, the movement for patients’ rights has drunk from the source of human rights, not only from the point of view of individuals but also from the social activism in which they are inserted. Thus, before the 1970s, there was no demand for patients’ rights to be legally established.

The patients’ rights movements were based on two premises: a) individuals have rights that are not automatically withdrawn from them when they are admitted to a hospital or when they are in healthcare; b) most health professionals and health service providers fail to recognize these rights and protect them, and they limit their exercise. It is important to emphasize that these movements did not start from the idea that patients’ rights would entail an opposing view of the relationship with health professionals. But on the contrary,

it was understood that the lack of care for patients’ rights led to the dissatisfaction of patients and their families and, consequently, to an adversarial relationship. The reason is that if health professionals and the patient acted in partnership, with mutual respect and understanding, the articulation of patients’ rights would improve this relationship [1].

Patients rights establish moral minimums in healthcare [4] because they are derived from human rights and are anchored in the human dignity of patients, which offers a comprehensive moral structure evoked to promote the well-being and self-determination of the patient. Thus, having the patient’s dignity as a guide of conduct imposes specific moral duties on the health professional, such as respecting and promoting patients’ self-determination and acting by the patient’s values, beliefs, and life plans. According to Andorno [5], the conception of dignity applied to the context of healthcare contributes to each patient being seen not only as someone who is sick but as a person, that is, a unique and irreplaceable human being, with their intrinsic value. This idea requires health professionals to consider the patient’s experiential knowledge, encompassing their personal history and life experiences that make them distinct from others [6].

### References

1. Annas GJ (2004) *The rights of patients*. New York University, NY.
2. Peled RM (2017) Human rights in patient care and public health—a common ground. *Public Health Review* 38(29).
3. Chan HY (2018) *Advance Directives: Rethinking Regulation, Autonomy & Healthcare Decision-Making*. Cham 76.

4. Albuquerque A (2016) Patients' Human Rights. Jurua, Curitiba. Ethics. In: Manuel T, et al (Eds.), Oxford University Press, UK.
5. Andorno R (2019) Oxford Handbook of Psychotherapy
6. Albuquerque A (2021) Patient Law Manual. CEI, Brazil.

