

# FOR ETHICS IN THE FIELD

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Sensitive personal  
data management  
(Health-Life stories)





OUVERTURE

-CENTRE : 8H<sup>00</sup> - 16H<sup>00</sup>

-ABRIS : 18H<sup>00</sup> - 20H<sup>00</sup>

## **REFERENCE GUIDE**

**BY DOCTORS OF THE WORLD FRANCE  
ON THE MANAGEMENT OF DATA  
RELATED TO HEALTH AND LIFE STORIES  
OF PERSONS MET IN THE FIELD.**

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## KEEP US INFORMED!

We hope that this guide will provide you with the necessary information and tools to better protect sensitive personal data in your field. Do not hesitate to pass on to us your comments or suggestions, as well as letting us know how you use this guide!

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# PRESENTATION

→ **THIS GUIDE IS TO BE SEEN AS 'GUIDELINES', WITH THE AIM OF:**

- **Protecting programs users by securing personal data they confide to us.**
- **Increasing personnel's awareness of the key principles regarding data collection.**
- **Accompanying them is their data collection.**

You will first find a presentation of the notion of sensitive data, a reminder of ethical principles and the practical recommendations to be followed in the management of such collected data.

→ **DESTINATION :**

**The target audience of the guidelines are all persons who directly intervene or not in the care and support of Doctors of the World programmes users. Journalists/reporters and photographers are also concerned<sup>1</sup>.**

## ACRONYMS

<b>GC</b> .....	Geneva Conventions
<b>HIV-AIDS</b> .....	Human Immunodeficiency Virus-Acquired Immune Deficiency Syndrome
<b>HRL/IHL</b> .....	Human Rights Law/International Humanitarian Law
<b>ICRC</b> .....	International Committee of the Red Cross
<b>ITT</b> .....	Temporary Total Incapacity (Incapacité Temporaire Totale)
<b>MdM</b> .....	Doctors of the World (Doctors of the World)
<b>NGO</b> .....	Non Governmental Organisations
<b>P</b> .....	Protocol (Additional to the Geneva Conventions)
<b>S2AP</b> .....	MdM Analysis, Support and Advocacy Department (Service d'analyse, appui et plaidoyer)
<b>STD</b> .....	Sexually Transmitted Diseases
<b>UN</b> .....	United Nations
<b>WMA</b> .....	World Medical Association

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MINISTÈRE DE L'ENVIRONNEMENT  
PARC NATIONAL DU CANAPE-VERT  
ZONE PROTEGEE  
Selon les lois en vigueur  
formellement interdits :  
construction - agriculture - élevage - chasse  
sous peine de sanction



# NOTION OF SENSITIVE PERSONAL DATA

## 1. DOCTORS OF THE WORLD'S DEFINITION OF SENSITIVE PERSONAL DATA

**Sensitive personal data is all name-specific data<sup>2</sup>, or which enables an identification of the person by a cross-reference process<sup>3</sup>, related to his/her health condition or his/her life story.**

**Furthermore, it should be noted that MdM also considers as sensitive data all information related to security events<sup>4</sup> and security incidents<sup>5</sup>, especially when they are linked to a human right violation or an international humanitarian law violation. This last point is not dealt with in this guide which focuses on personal data.**

## 2. TYPOLOGY OF DATA LIKELY TO BE COLLECTED

### ■ A. MEDICAL DATA...

... all data related to a person's health condition.

#### Notably

- records of consultation, admission and discharge,
- medical files: consultation reports, medical images, examination results. . . ,
- medical certificates pertaining to acts of violence.

### ■ B. NON MEDICAL DATA...

... all data related to a person's life story (reasons for his/her presence, family history...), his/her life conditions, his/her 'physical characteristics' (scars, amputations...).

#### Notably

- life stories (collected in writing or by audio, video, photographs).



2

# 2

## THE KEY MEDICAL ETHICAL PRINCIPLES

In almost every culture, medicine respects the same basic principles: avoiding pain, treating the sick, protecting vulnerable individuals, and giving first aid to all patients without any discrimination, with the sole criterion being the emergency of care needed.

Such principles must be observed anyplace and anytime, whatever the nature of the sensitive collected data. You will observe that most of these principles are interdependent.

Throughout this chapter, we will refer to the works of the World Medical Association (WMA<sup>6</sup>), to international human rights law and to international humanitarian law. Most of the rules have a universal dimension. Nevertheless, States apply them in different ways. Therefore, it is necessary to enquire about the national law applicable in each field.

**Healthcare professionals who breach such principles will be held liable, as these breaches constitute malpractice.**

### 1. RESPECT OF DIGNITY<sup>7</sup>

**Respecting a person as well as his/her physical and moral integrity, his/her dignity represents a key element of human rights and one of a doctor's fundamental duties.**

According to the Universal Declaration of Human Rights adopted by the General Assembly of the United Nations in 1948 and its Article 1: 'All human beings are born free and equal in dignity and rights (...).'  
The Geneva Conventions outlaws 'outrages upon personal dignity, in particular humiliating and degrading treatment'<sup>8</sup>.

The notion of dignity and its key lines are to a large extent linked to the story, culture, education, religion of an individual. Behaviour which may seem to you both harmless and acceptable can be perceived by another as disgraceful or humiliating. Consequently, one must be very cautious in the way of approaching a person.



A physician reacts to the prudishness of a half-naked female patient on her hospital bed:  
'Don't worry Madam, I am used to seeing naked people.'  
The patient answers:  
'Perhaps Doctor. But I am not used to being seen naked by people!'<sup>9</sup>

### 2. THE DUTY TO TREAT PEOPLE WITHOUT DISCRIMINATION

**Healthcare personal have a duty to treat all people regardless of race, ethnicity, nationality, sex, religion or belief, social groups, political opinion, customs and mores, family situation, reputation, disability, property or wealth<sup>10</sup>.  
The only admissible and compulsory distinction is to treat first those whose health condition constitutes a therapeutic emergency<sup>11</sup>.**

Article 2 of the Universal Declaration of Human Rights also deals with the principle of non-discrimination.

Non-discrimination in healthcare is the cornerstone of medical ethics, human rights and international humanitarian law. It is therefore the basis for all humanitarian intervention.

It is important to understand that the principle of non-discrimination does not mean caring for all people in the same way. MdM believes that, in accordance with international provisions<sup>12</sup>, special care is justified towards children<sup>13</sup>, women in general and especially pregnant women, the old and disabled people.

**The spirit of the principle must be applied and common sense must prevail.**



Providing extra blankets to persons who cannot stand the cold, since they are not used to it or because of their origins, is not contrary to the non-discrimination principle.



### 3. THE DUTY NOT TO CAUSE HARM<sup>14</sup>

**Healthcare personal must not inflict any suffering that outweighs the anticipated benefits.**

This concerns the notion of not inflicting suffering – by deed as well as by omission – that outweighs the anticipated benefits as much on a physiological, psychological and social level.

Part of this principle is to inform the patient/wounded of the risks he/she incurs (see principle 4 below) during a surgical intervention. And that the implementation of a system guaranteeing the confidentiality of the patients' data (see principle 5 page 20) meets the condition of not harming a person. The respect of this principle depends on the observation of all other principles contained in this guide.

■ **Its goal is to protect program-users and not to harm them!**

### 4. FREE AND INFORMED CONSENT<sup>15</sup>

**Programme users must have an understanding of what we are going to do (consultation, examination, treatment, interview, film, photographs...) and must give their full and free consent.**

Consent<sup>16</sup> is considered free when freely obtained, i.e. without any threat, pressure or unlawful incitement. One of the conditions of informed consent is good communication between medical personal and patient.

#### ■ A. PREREQUISITES: DUTY TO INFORM

Healthcare professional must provide all information necessary for the patient to make his/her own decision.

Such information must be appropriate, fair and understandable<sup>17</sup>. The medical personal must ensure that the patient has fully understood the information he/she was given. Elements that a patient must be informed of are:

- the course of the diagnosis,
- the aim, methods, probable length and expected benefits of the proposed treatment,
- alternative treatments, including less invasive ones,
- possible inconveniences, pain, risks and side effects of the proposed treatments.

It is only once the information has been received that the patient/wounded can give his/her consent to the treatment being proposed.

#### ■ B. ADULT PATIENTS/WOUNDED

**Consent is necessary for all medical procedures even everyday or straightforward procedures.**

It is not always necessary, however, for consent to be given expressly: consent can be tacit or implicit, as long as it is unambiguous.



A patient who rolls up his/her sleeve and shoots out his arm for a blood test is giving an implied consent which cannot be considered anything but an acceptance of the procedure.

Silence can only be interpreted as consent when it is comprehensive and unequivocal, in other words, when it cannot be interpreted in any other way, in light of particular circumstances (nature and scope of the planned action, necessity and foreseeable consequences, the patient's behaviour indicating his/her consent to the planned medical action).

Generally, we are satisfied that tacit consent is sufficient for medical acts and examinations that pose no risk to the patient. However, when the act or treatment carries a serious risk (i.e. where the decision could have irreversible consequences on the patient's comfort of life or could lead to death) then express/explicit consent<sup>18</sup> is required (ideally in writing).

You will find in the 'tool box' section (pages 52 and 53), consent forms.

■ **The patient/wounded can always withdraw, at any moment, the consent he/she gave. Intervening against the consent of a conscious and capable adult patient against his/her is considered a professional negligence in which a doctor is liable.**

**The patient/wounded's welfare must always be the priority.**

### Special cases...

In some geographic areas, you need to be careful when treating women:

In contexts where women's free-choice is hindered by an unfavourable power structure, or when they have a low level of education, it may be difficult and sensitive to obtain a free and informed consent that meets the abovementioned requirements.

However, with regard to the healthcare given to these women, medical professionals must try as much as possible to meet the requirements of a free and informed consent.

Only the (woman) patient can decide whether the treatment procedure she is being proposed is justified given the likely risks and inconveniences.

When members of her family or relatives consider that she should accept or refuse the treatment, the physician has to make sure that the patient's choice really is of her free and informed consent.

In addition, in some contexts, the physician should be particularly careful during clinical examinations. If the medical personnel are male and there are no female personnel available, it would be wiser to:

- either obtain the patient's written consent for the clinical examination and allow her to be accompanied by a person of her choice,
- or seek assistance from a female member of staff at the medical centre. In either case, the person chosen to accompany the woman can also be present.

### ■ C. INCAPABLE PATIENTS/WOUNDED

Certain national laws limit or restrict, for certain so called 'incapable' persons, their right to free and informed consent.

Incapacity is the legal term which protects the incapable person, depriving him/her of exercising himself/herself, except when represented by a third party, all or a part of the acts of civil life, in other words, to exercise them on their own, without the authorisation of a third party.

Those who are usually considered as 'incapable': minors and adults who are incapable of deciding for themselves because, for example, they suffer from a mental disorder, are in a state of shock, or are deemed legal incompetent.

In such cases, the person who intervenes must ask for a legal representative's consent. The 'incapable' patient/wounded must be able to participate in the decision-making process as much as his/her capacities enable him/her to do so.

### → Incapable adult patients/wounded

**The adult patient/wounded incapable of giving consent is not able to express a free and informed consent. On the other hand, he/she must receive all the necessary information and participate in the decision-making process as much as his capacities enable him/her to do so.**

The contributing medical member of staff must seek to obtain consent from a third party (legally designated or if necessary a member of his/her family or a designated trustworthy person). In this case, consent must be written.

You will find in the 'tool box' section (pages 53 and 55) consent forms for surgical interventions and other treatment procedures for minors and adults incapable of giving their consent.

These consent forms are relevant for two reasons: they protect both the patient/wounded and the medical NGOs by attesting that the patient/wounded gave prior consent for the treatment.

### ■ The patient's interest must always be a priority.

### → Minor patients/wounded<sup>19</sup>

**It is important to note that minors have the right to receive clear and trustworthy information. In this regard, his/her opinion must always be sought after and taken into consideration given the patient's level of maturity and understanding<sup>20</sup>.**

The patient/wounded's consent alone is insufficient.

His/her parents or another legal guardian who has parental authority must be consulted each time the minor is proposed a consultation, a treatment, an examination, a meeting or he/she is recorded, filmed or photographed.

**A practitioner who treats a child must obtain the consent of his/her legal representatives (parents or guardians), having informed them of the nature of the illness, the proposed actions and treatment, the pros and cons of each one, the therapeutic alternatives, and the consequences of not accepting said treatment or refusing it (see principle 4 page 16).**

If the parents or legal guardian's presence or identification is impossible, trustworthy adults, whom the child acknowledged as such, must be found and all information must be collected regarding, for example, his/her medical background, way of life...

In very specific circumstances (child abuse, intra-family abuse, neglect, sexual violence), informing the parents/legal guardians in order to receive their

consent may be a threat in itself for the child. It is therefore appropriate, in these cases, to seek an alternative solution and to turn to another trustworthy adult to accompany the minor.

Medically speaking, every time a decision is made to refuse consultation/care and which could result in danger or the risk of danger to a child patient, the physician can decide to override the parents/legal guardian and/or child's refusal.

You will find in the 'tool box' section, in pages 53 and 55, consent forms for surgical interventions and other treatments for minors.

**In every instance, the child's best interests<sup>21</sup> must always be the primary consideration when making a decision.**

## 5. CONFIDENTIALITY

As stated in article 12 of the Universal Declaration of Human Rights: 'No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor attacks upon his honour and reputation.'

Confidentiality begins with staff training and the fitting-out of consultation premises guaranteeing basic privacy. Constant back-and-forths during consultations and/or examinations must be avoided.

**Each person, whether they are medical or not, who intervenes on a patient/wounded is bound to secrecy.**

### A. MEDICAL CONFIDENTIALITY

**Medical confidentiality constitutes a duty of confidentiality imposed on healthcare professionals and on every person who intervenes (medical or not, employees of Doctors of the World or its partners) on programs users.**

**Medical confidentiality covers not only the patient/wounded's health condition but also all data with names or allowing cross-reference identification of the patient/wounded of which MdM has knowledge.**

'Medical confidentiality' means 'the confidentiality of the patient or wounded'. In other words, healthcare professionals are only the possessors of data relative to the patient/wounded's private life. This duty is coherent with the respect of the

patient/wounded's right to privacy and aims to protect his/her personal data<sup>22</sup>. As it contributes to the relationship of trust between professionals-program users, respecting the duty of confidentiality enables a better treatment of the patient/wounded, and even his/her protection.

Thus, no personal data known by the persons who intervened is to be circulated to third parties, except for shared confidentiality (see below).



A journalist wishes to interview a woman who has been a victim of domestic violence. No member of the team involved in the care of the patient/wounded may take the decision as to whether the interview should go ahead. It is up to the patient/wounded to decide whether to accept, or not.

### → Confidentiality due to minors:

**You are also bound by medical confidentiality with regard to minor patients/wounded.** It is therefore important for the child that MdM or partner personnel to not disclose what he/she have been confided. In normal circumstances, it is in the interest of the child that his/her parents are informed of his/her health condition.

Special dispensations for medical confidentiality can exist.

### → Legal/compulsory dispensations:

In some cases national laws impose medical professionals to make certain declarations regarding programs users. These declarations may result in a conflict of interest with the interests of the patient/wounded. A compromise must therefore be sought to satisfy both the legal requirements and medical ethics.



If the law requires that the names of everyone who has been injured by a bullet during an armed conflict is declared, you will have to negotiate with the authorities to have their permission to make declarations without names but just statistics (number of persons injured by a bullet in November: 4 women, 16 men, 1 child).

In addition, some legal systems in certain countries compel healthcare professionals to inform the competent authorities of every underage victim of violence. Healthcare professionals therefore have no other choice but to override medical confidentiality in the child's interest. Whatever kind of abuse it concerns (physical, mental or sexual), medical professionals must protect the minor.

It is best to find out as much as possible about national legal requirements and to act in the best interest of the child.

➔ **Collective or shared medical confidentiality:**

In the field, healthcare is carried out in teams. Various people, medical or not, often share their complementary skills: physicians, nurses, midwives, psychologists, lawyers... To ensure complete healthcare coverage and to meet the patient/wounded's needs, people who intervene may need information protected by medical confidentiality. This exchange – which must only occur when strictly necessary and relevant – is perfectly acceptable; confidentiality is then shared and must be respected by all the persons involved and must not be shared with third parties. Interpreters (if they are needed) also have the duty to respect the patient/wounded's confidentiality. Collective/shared confidentiality is a sensitive issue, which requires each person's cooperation and discretion. The leader of the program in the field must permanently remind everyone of such requirements.

**If there is any doubt concerning which information is relevant and necessary deciding whether to share information about the programme user, it is always the legitimate interest of the patient/wounded that dictates whether information is shared or not.**

**If you need to use an interpreter, please find in the 'Tool box' section (page 63) an document 'Duty to preserve secrecy and confidentiality commitment', which must be signed at the same time as his/her work contract.**

**In most cases, it is better to have an excess of confidentiality rather than a lack of confidentiality.**

**Special case...**

Healthcare coverage of a patient affected by HIV/AIDS  
In most cases, a doctor is not authorized to inform the partner(s) of an HIV positive patient of the risks to which the latter's behaviour exposes them if the patient flatly opposes the disclosure of such information. The potential benefits of such an action are not guaranteed, and the conditions for having to act in order to avoid not assisting a person in danger are not met.



A patient affected by HIV/AIDS refuses to protect himself/herself as it will lead to him/her disclosing his/her disease to his/her partner. The latter thus risks being infected. Healthcare professionals are at the crossroads of the medical confidentiality they owe to their patients and the moral, sometimes legal (putting others lives in jeopardy), duty to warn his/her partner. Medical professionals must therefore ask themselves the following:

- Is the danger to the partner imminent, serious and irreversible? Is the partner him/herself infected by the same sexually transmitted disease (STD)?
- Is the violation of medical confidentiality the only solution for preventing the danger?
- Is the violation of medical confidentiality not in itself more dangerous for the patient (risk of being marginalised, voluntary stopping of treatment/follow-up care, and risk of death)?

In the event that the medical professional decides to break medical confidentiality in favour of the partner's protection, he/she must limit the information to what is strictly necessary. In the same way, medical professionals must honestly inform the patient about such disclosure.

**■ B. THE CONFIDENTIALITY OF WRITTEN DATA**

It is hard to balance the widespread use of consultation records (with names registered in them) with to the goal of protecting sensitive data. Yet, it should not be forgotten that such data is likely to be used to the detriment of the patient/wounded. Medical data (information on an individual's health condition) and life stories are considered as sensitive data in most national and international legislations.

Appropriate measures must be taken to protect such data against loss, theft, unauthorised access, disclosure, reproduction, use or modification in whatever form it is stored or recorded (see IV and V, pages 42 and 46).

Concerning geographical areas where violence is widespread or for programs related to victims of violence, written data confidentiality must be strengthened (see III in page 32).

## 6. DUTY TO PROTECT

**Doctors of the World's healthcare personnel have an obligation to protect patients and the wounded.**

### ■ A. GENERAL FRAMEWORK

**The duty to protect is an extended duty of assistance. People who intervene must always ensure that they preserve the patient/wounded's interest. MdM staff and their partners cannot actively or passively participate in any form of violence, nor tolerate it once they are become aware of it. Furthermore, MdM personnel cannot do nothing/remain impassive once they become aware of said violence.**

This does not mean that they have to openly denounce such acts and their authors by specifying their identities. MdM personnel must reflect in a concerted manner (field/head office) on what must be carried out in the best interests of the patient/wounded.

■ **Doing nothing can be considered as assent to mistreatment.**



MMdM and others contributors observed that displaced women living in a camp were recurring victims of sexual assaults during their displacements to collect firewood. They decide altogether on how to implement concerted lobbying actions which led to the establishment of African Union patrols to accompany the women when they collected firewood outside the camps. Some months later, households received stoves needing little wood with the aim of limiting as much as possible the women's displacements.

After collecting the person's consent, MdM staff and their partners must provide documentation of the cases/events and find a way to act in the person's interest, notably by weighing the risks of reprisals against the latter. MdM will often turn to previously identified association/sanitary/social network actors to best meet the person's needs (e.g., ICRC, a local social structure).

**Confidentiality and safeguarding are two ways of protecting programs users.**



A woman victim of violence goes to a health centre. Before she leaves, it is important to make sure, given the potential risks of violence, that she is no longer in immediate danger (isolated, repeated acts from an individual, an organised group, her family circle). A good understanding of the assault/violence context makes it easier to find suitable solutions (family, friends, third party structures...) to protect the person and avoid any repeat of the acts.

### ■ B. THE CASE OF CHILD MISTREATMENT

It is generally conceded that any form of abuse of a minor is to be reported to the relevant authorities.

When child abuse is suspected, intervening staff must ensure the child's safety by taking certain measures. For example:

- reporting all suspected cases to the social services in charge of childhood protection,
- when possible and consistent, hospitalising every child who has suffered from abuse and who needs protection during the initial diagnosis/examination phase,
- informing parents or legal guardians of the diagnosis if there is no conflict,
- reporting child injuries to childhood protection services<sup>23</sup>.

**Generally, one must be twice as careful and vigilant in front of child victims of violence (child abuse, prostitution, sexual violence, neglect).**

In some circumstances, informing the parents/legal guardians may represent a risk or even a danger to the child. In that case, an alternative solution regarding parent information must be sought and an individual of trust must be designated by the child to accompany him/her.

■ **The best interests of the child must guide the medical professionals.**

## ■ C. ACTS OF TORTURE OR CRUEL, INHUMAN OR DEGRADING TREATMENTS

The 1948 Universal Declaration of Human rights provides in its article 5 that 'No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.'

On an international level, it is conceded that medical professionals who intervene on imprisoned persons must report every victim of 'torture or other mistreatments'<sup>24</sup>.



A prisoner is subjected to mistreatment. After having cared for the patient/wounded, it can be appropriate to document information on this case and inform the ICRC<sup>25</sup>.

**Never forget that: a healthcare professional can, in no situation whatsoever, use his/her medical, or otherwise, knowledge or administer treatments, medical or otherwise, in order to facilitate the interrogation or manipulate the behaviour of one or several of human beings<sup>26</sup>.**

## 7. THE DUTY TO ATTEST TO THE REQUEST OF A VICTIM OF VIOLENCE

**If a person requests that his/her injuries and health condition be attested for, it is the doctor's duty to produce a medical certificate.**

**It is both a right for the patient/wounded and a duty for the physician. If the patient/wounded does not ask for a certificate, the physician must propose to write one.**

The certificate must be written in duplicate. If the person refuses to take his/her copy, the physician must keep it in archives and tell the person that he/she can return and pick it up at a later date.

In certain contexts, local doctors may refuse, notably for personal safety reasons, to draw up a medical certificate. In this case, an expatriate doctor must be contacted.

### ■ A. DEFINITION OF A MEDICAL CERTIFICATE

A certificate is a written document produced by a competent authority which attests to a condition. When this refers to a medical condition, this is called a medical certificate.

The medical certificate can therefore be defined as an 'official attestation of a medical fact/condition'<sup>27</sup>.

Drawing up these certificates is an important and integral part of the practice of professional medicine. The certificate attests to the state of a patient/wounded's health and gives his/her verdict whether it is compatible with the person's own description of his/her health.

### ■ B. THE USEFULNESS AND THE INTENDED PURPOSE OF THE CERTIFICATE

Medical certificates pertaining to acts of violence are useful in two ways.

Firstly, the person who has been a victim of violence and wishes to refer his/her matter to court in order to assert his/her rights and seek redress can produce his/her medical certificate as proof of the violence that he/she has suffered.

The medical certificate is effectively an instrument of proof (a medical-legal instrument) for any civil or criminal proceedings. It:

- describes the facts (the offence),
- indicates the type of competent court,
- describes the seriousness of the sustained injuries.

The medical certificate can also be used to strengthen a request for asylum or refugee status.

### ■ C. THE RISKS ASSOCIATED TO A BAD USE OF THE MEDICAL CERTIFICATE

It is not the document itself but the bad use of a medical certificate which can constitute a risk to the safety of the patient/wounded<sup>28</sup>. It is for this reason that it is forbidden to transmit the document directly to any third party.

### ■ D. WHO CAN ASK FOR A MEDICAL CERTIFICATE AND WHY?

The patient/wounded can use a certificate to defend his/her rights. Thus, any person who wishes for a doctor to certify his/her health condition at any given time has the right to request that a medical certificate be drawn up.

### ■ E. WHO CAN ISSUE A MEDICAL CERTIFICATE?

A person does not need to be a jurist or appointed by a Court to write a medical certificate. Normally, any qualified, licensed doctor who is authorised to carry out medical practice can issue a medical certificate.

However, in many countries where MdM operates, doctors are rare - whether they are local or expatriate. Some countries allow non-doctors to issue certificates, while others demand that the doctors are nationals and appointed by a Court.



In Liberia, an 'Officer in charge' is authorised to write a medical certificate. This 'Officer in charge' is not a doctor. He is a healthcare professional whose skills place him under that of a doctor.

Failure to adhere to these formalities does not entirely devalue a certificate \_legally speaking\_ that reports the facts about the events which the person says

he/she was a victim of; or one that describes the findings of a clinical examination which agrees with the person's description of his/her injuries during the events which occurred. A certificate issued by a doctor who has not been appointed by a Court will never constitute absolute proof but it is an important piece of evidence and is often the only one that a patient possesses.

**It should be specified that in any case, a medical certificate is a written document which is ultimately the personal responsibility of the issuer (whether they are a doctor or not).**

As is a matter of teamwork, it is possible that the examination and the writing of the certificate is carried out by members of the medical staff who are not doctors, and that the certificate is then co-signed by the programme's doctor. In this case, the two people involved in the procedure must agree on each other's duties and responsibilities.

### ■ F. ISSUING A MEDICAL CERTIFICATE

The medical certificate can be issued at any time from the moment that the patient was examined by a doctor at the time of the offence until the end of the statute of limitations. There may be several certificates:

- an initial certificate at the time of the first examination,
- one or more interim certificates as the case progresses and the person's condition changes,
- a medical certificate can be issued subsequent to the initial visit. It will therefore be based on the information contained in the medical file. The certificate is given the date in which it was written and specifies that it refers to information contained in the medical file.

### ■ G. THE PERIOD OF VALIDITY OF A MEDICAL CERTIFICATE

The certificate does not lose any of its validity with the passage of time. However, it is its use in legal proceedings against the presumed perpetrator of the violence which can be rendered impossible due to the statute of limitations. In many countries, a person can go the court for serious criminal acts at least 20 years after the fact, in an attempt to obtain justice and compensation.

The person must always keep his/her certificate(s) indefinitely.

Please find a worksheet on how to write a medical certificate pertaining to acts of violence in the 'Tool Box' section, page 46.

3





# 3

## PRACTICAL RECOMMENDATIONS

**These are not compulsory conditions but rather the best possible practices depending on the circumstances.**

If you collect data from victims of violence, please also consult section 2 (page 35) which deals with the measures applicable to 'care and support programs for victims of violence'.

If you have any doubts on the nature or terms of the management of data you have collected or are going to collect, please contact [medethic@medecinsdumonde.net](mailto:medethic@medecinsdumonde.net)

### 1. THE COMMON APPLICABLE MEASURES FOR THE COLLECTION OF SENSITIVE PERSONAL DATA

#### A. BEFORE THE CONSULTATION/INTERVIEW

As much as possible, make sure that this interview occurs in a calm place which is separated from any person or exterior activity, and that nothing can be seen or heard. Whatever the nature and subsequent use of data, it is vital to carry out such a consultation/interview in the best conditions of confidentiality and anonymity in order to avoid any stigmatisation of the person being cared for. If the person is still in shock due to an event, you can postpone the consultation/interview unless there is an emergency which you have identified.

Before starting, it is compulsory to inform the person of the risks he/she incurs as well as the limits of Doctors of the World's action. It is also important to remind the person that you are neutral and independent.

**It is equally important to remind the program user that he/she has a right to access, withdraw and change his/her words at anytime (even if we know the limitations of this exercise in the field).**

It is vitally important to collect the free and informed consent of the person (see principle 4, page 16).

If the person so requires, he/she can be accompanied by a person of his/her choice. It is advisable to make sure that this person does not influence his/her statement and is not a danger to the person (see principles 4 and 6, pages 16 and 24).

In any event, it is always advisable to respect the person's will, and to play close attention to the wishes and needs that he/she has expressed.

If the person does not understand the language in which the interview is being carried out, you must call upon an interpreter. You must ensure that the latter is reliable and skilled.

Take the necessary time to explain to the interpreter the work and stakes of such an interview. Once this presentation is over, the interpreter can refuse to take part in this kind of interview.

Prior training might be necessary, in particular for interviews with persons who are victims of violence. The interpreter must be able to overcome his/her fears, preconceived ideas regarding violence, as many interiorize the omnipresent tendency to refute the fault onto the victim of the event. They risk therefore not obtaining frank and complete replies from the persons during the interview. This training will also allow them to resolve their own issues with violence.

Just like you, he/she must be in a comfortable position, placed right next to you. During the interview, he/she may ask you and the person being questioned to speak louder and in shorter sentences (when this can be prejudicial to a literal translation).

He/she must always translate what is being said and, if understanding is difficult, interpret. You must always express your words differently to make sure you have been understood: 'If I understand you correctly...'

He/she must not ask for details which you have not asked. He/she must not pressure the interviewee for an answer if he/she does not reply spontaneously. At the end of the interview, you must remain vigilant regarding the interpreter's reactions and take the necessary time to have a further discussion with him/her. He/she can be affected by the violence of what he/she has listened to and translated.

You must always remind the interpreter that he/she is bound to professional secrecy concerning all what he/she has learnt about the programs user during the consultation/interview (see principle 5, page 20).

### **The specific case of collective interviews**

You might have to carry out collective interviews (in villages, beyond the walls of health centres...), especially when being in a group can free speech.

In this instance, you will soon realize whether the population is comfortable and willing to discuss with you: it is they who are in the best position to assess the risks it might incur.

### **B. DURING THE CONSULTATION/INTERVIEW**

**A consultation/interview is not a cross-examination.**

**Do not force people to speak, do not be directive; do not add trauma to the existing trauma.**

Refrain from being judgmental or taking a stand: adopt a neutral and empathic position.

You must be capable to react at any time when the conditions of the interview change (another person(s) suddenly emerges or the person's behaviour changes). You can prepare and bear in mind alternative questions, which are less sensitive in order to be able to suddenly change the subject of the conversation, to end the interview and/or to quickly interpret distress signals from the patient/wounded.

### **C. AFTER THE CONSULTATION/INTERVIEW**

Once collected, data must be kept under lock and key.

Make sure to regularly transfer data to the capital, or the head office.

Data will be stored at the head offices.

**MdM and its partners are only depositaries of the collected data. The patient/wounded remains the owner of the data.**

## **2. SPECIFIC APPLICABLE MEASURES FOR CARE AND SUPPORT PROGRAMMES FOR VICTIMS OF VIOLENCE**

**Because of the particularly nature of these programmes, you must be particularly vigilant and make sure that your protective measures are strengthened.**

**The common measures must obviously be applied scrupulously.**

**In addition, make sure you do not ignore any stage of the measures indicated below and that you strengthen as much as possible data security. Physical integrity or even the lives of persons whose data has been collected can be at risk.**

If you use a register for admissions/discharges or consultations, make sure you handle it discreetly. As much as possible, avoid filling it out in the reception area. It is preferable to use a more confidential place. Make sure the register is locked up every time it is no longer under surveillance (during breaks, at the end of the day).

You must always ask the person before he/she leaves if he/she is still in immediate danger. You should be able to have an idea of the circumstances of the violence and thus be in a position to assess the risk during the interview. You must ask yourself whether it is an isolated or repeated act by an individual or an organized group. Understanding the context of the violence should enable you to find adapted solutions to protect the person.

MdM can, after having making an assessment, inform the patient of the existence of others structures/organizations that can help him/her.

MdM must never transfer directly the information to one of these structures.

### **The specific case of women victims of sexual violence:**

If a woman victim of sexual violence comes in for a consultation and there is no female healthcare professional present, it is wiser to:

- either obtain the written consent of the person for the clinical examination and have the woman accompanied by a person of her choice,
- or be assisted during the consultation by a woman from the health centre - the accompanying person can also be present.

## ■ A. MEASURES APPLICABLE TO LIFE STORIES

### → Specific data collection methods

No name and no data enabling identification must be written on these documents: the contained data must remain anonymous.

Anonymous does not mean encoded! No name must exist on any document.

Data thus collected will be used for statistical purposes.

You must ensure that the interpreter (if needed) has received prior training.

### → Specific methods for conserving data in the field

Life stories are to be kept under lock and key in a secure place.

Access to such documents must remain limited and controlled by the person in charge of keys in the data storage premises.

The transcription of data in electronic files must be carried out as quickly as possible. Once transferred to a USB stick, the data must be deleted from the hard disk. You must not just transfer them to the trashcan but delete them from the PCs trashcan.

### → Transfer

Give expatriates the responsibility of transferring them to the head office when they return to France whilst respecting the document's confidentiality. They must not leave these documents unattended and must carry them in their hand luggage.

If particular circumstances require head office to be informed electronically via computer, it is then strongly recommended to record the data anonymously (without name) and anonymized (without any elements enabling the person's identification) in a compressed ZIP Word file; and to protect this ZIP file with a password. Ideally, the password will have been agreed upon beforehand, during the expatriate's departure briefing session for example. Otherwise, it is always possible to communicate the password by phone.

**Generally, the transfer of anonymous and anonymized data by email must remain an exception and be justified by emergency considerations.**

### → Data conservation at head office

These documents will be stored at the head office for an indefinite period of time.

## ■ B. APPLICABLE MEASURES FOR MEDICAL FILES

**MdM and its partners are only depositaries of collected data. The patient/wounded remains the owner of the data.**

### → Particular collection methods

No last name or first name must exist in the files. It is advisable to implement an encoding system.

### → Encoding

The name of the user must be associated with a unique code, which will appear on each part of his/her file.

There are two types of documents:

- the medical file and its different documents on which the patient's codes appear, with no identifying or identifiable data,
- a correspondence register (notebook) in order to associate the codes to the identifying and identifiable patients/wounded data.

### → The medical file and its documents:

The code which appears on each document of the file must be composed in the following manner:

- the first three letters of the place of consultation in capitals,
- the year, the month and the day of the first interview in figures (YY/MM/DD),
- the order of the interview in the day.



#### Some examples:

- The identification number of the 3rd interview carried out on February 12th 2009 in Lahore (Pakistan) would be: LAH-090212-3.
- The identification number of the 1st interview carried out on April 15th 2009 in Bel'tsy (Republic of Moldavia) would be: BEL-090415-1.

**No identifying data (Name, origin, address, telephone number, email) or identifiable data (parents, living area, age...) must appear on the file's elements.**

→ **Correspondence register:**

A notebook also lists the correspondence between the user names and their file code.



**Some examples:** to be written on the register<sup>29</sup>

-Adila NAWAB> LAH-090212-3.

-Dina CANTEMIR> BEL-090415-1.

→ **Specific data conservation methods in the field**

The medical file and its documents are to be kept locked up in a separate place (other cupboard, drawer, room,...) from the correspondence register, which holds the corresponding codes and identifying personal data, which is also held under lock and key.

Access to these documents must be very limited and controlled by the person in charge of the keys of the data conservation premises.

**The mere information that a patient/wounded came to see you can be sensitive per se.**

→ **Transfer of medical files to a health partner by MdM**

Confiding the files to an institution or an NGO is possible after having verified that the medical ethical rules have been respected.

■ **C. MEASURES APPLICABLE TO MEDICAL CERTIFICATES PERTAINING TO ACTS OF VIOLENCE**

Writing a medical certificate is a sensitive exercise. The writing of it is a personal act for which the person writing it can be held liable. It is advisable not to forget anything. To help you with regard to the form and content, please find a worksheet of how to write a medical certificate pertaining to acts of violence in the 'Tool Box' section, page 46.

**Healthcare professionals and their partners are only depositaries of such collected data. The patient/wounded remains the owner of the data.**

→ **The name**

The name must imperatively be recorded here, written on the certificate. This situation is without doubt the most dangerous for the programmes user since, if the author of the violence learns that the information has been transmitted to a third party, the violence can be repeated (risks of reprisals).

→ **Specific methods for issuing of a medical certificate**

There must be two copies of the certificate:

(You can either use a photocopy, carbon paper or scan it).

- one copy can be given to the patient. However, if you believe that he/she is not capable of keeping it in a safe place, try to convince him/her to let you keep it until he/she needs it. Once the programme is finished, all original certificates are transferred to MdM's head office in Paris,
- a second copy will be kept by MdM, on the premises until the end of treatment, before being transmitted to the head office.

As soon as the first consultation, inform the person that he/she can at any-time contact the teams at the head offices in order to:

- obtain the original certificate,
- obtain an authentication of his/her certificate from the duplicate kept by MdM.

→ **Data conservation in the field**

Medical certificates must be locked up in a cupboard with limited access.

→ **Transfer**

Give expatriates the responsibility of transferring files to head office when they return to France whilst respecting the document's confidentiality. They must not leave these documents unattended and must keep them in their hand luggage.

→ **Data conservation at the head office**

Certificates will be kept at the head office indefinitely.



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# 4

## SPECIFIC SITUATIONS: SPECIFIC CASES WHEN MILITARY AND POLICE FORCES ARE INVOLVED

### SITUATION 1

#### **Admitting soldiers in the hospital or health centre:**

They can only be admitted if they are unarmed<sup>d30</sup>.

**However, only healthcare professionals can be admitted to the surgical unit, recovery unit and emergency unit.**

### SITUATION 2

#### **Interrogations by the police of a patient/wounded:**

The hospital, which is supported by MdM is not a sanctuary where the law does not apply. If the legal history of patients is none of our business (treatment without discrimination), a patient cannot be cross-examined inside the hospital. But if a decision is taken, then we have to assume that MdM has checked that the patient's health condition is compatible with any questioning. Treatments have priority and it is possible that the patient has been given prior treatment, like morphine or tramadol within the four previous hours, thus hindering such an interview. His/her physical and psychological condition can make him/her vulnerable to pressure and limit his/her capacity of judgement when answering questions.

Please, make sure that:

- the opinion of the chief healthcare professional has been taken into account before the interrogation,
- the request for questioning respects the national legal provisions and thus allows doctors to lift confidentiality. The patient's name and therefore his/her physical presence at the hospital are covered by medical confidentiality. This interview must not be carried out while the patient is confined to bed because there is no guarantee of confidentiality. There must be prior negotiation to use a private space for all the medical equipment needed to monitor the patient's health condition (oxygen or drip for instance) and to ensure that there will be no mistreatment by, for example, leaving the door open.

### SITUATION 3

#### **Arrest of a wounded person or inpatient:**

In peacetime as in periods of conflict, a patient cannot be arrested inside the hospital except if his/her treatment is finished or if the patient has been transferred to another doctor, in exchange of a medical discharge.

You will find a discharge form in the 'tool box' section (page 50).

### SITUATION 4

#### **Questions concerning the examination of a person admitted by police forces:**

He/she must be given explanations regarding access to the data and how such data is going to be used. If the person refuses examination, and after having ensured that he/she is lucid (no trauma, no alcohol, no other drugs or medicine...), you must do your best to understand all the factors in play while respecting his/her will.

Faced with an insistent demand by police forces or the army to be present during the consultation, it is vital to remind them of its confidential nature.

If the police or the soldiers justify their presence by advancing the risk of escape, the consultation can take place in:

- a room with no windows and one single entrance,
- or a room with a single entrance and bars on the windows.

Whatever the designate space, you must, by all the means at your disposal, try to guarantee the confidentiality of the consultation. You can concede to having the door half-open but the police or soldiers must remain at a certain distance so that they cannot hear the conversation.

In the same way, you must discuss whether handcuffs (on wrists and/or ankles) will be kept on the patient during the consultation. Indeed, not every 'person under custody'/patient presents the same degree of dangerousness for himself/herself or against others. If the handcuffs are deemed to be necessary, they must be as loose and light as possible.

On the other hand, maintaining a hood or a blindfold over the eyes of a 'person under custody'/patient is completely unacceptable. It limits the contact between the person(s) treating and the person being treated and constitutes a bad treatment.

If a medical certificate attesting to aggravated assault must be drawn up and if it risks at the time to put the person in danger, then this document must be kept in a secure place by the doctor.



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# 5

## TOOL BOX

### 1. WORKSHEET: WRITING A MEDICAL CERTIFICATE PERTAINING TO ACTS OF VIOLENCE

#### ■ 1. Identification

I, Dr. X, Doctors of the World, certify that I have examined (or treated) Mr./Mrs./Ms. X... born on...

- Identity of the doctor signing the certificate, name of the non-governmental organisation.

*There is no need to list the doctor's diplomas unless doing so gives the medical certificate more credibility.*

- Surname, name, date of birth of the person being examined.  
*For security reasons, do not indicate the address of the examined person.*

#### ■ 2. The person's Statement

Mr./Mrs./Ms. X declares (or reports with or without the help of an interpreter):  
'.....'

*Using inverted comma allows you to indicate that you are directly quoting the patient/injured person.*

You can also use the format below:

*Facts declared or declaration made by the examined person:*

- Hit in the face.
- Threatened.
- Dragged by the hair.
- ...

- Note the date of the incident(s).
- Use the person's words to note the circumstances, the date and place of the assault. Use the template: Mr./Mrs./Ms. X declares that: '.....'.
- Do not judge the account in terms of how clear or coherent it is (that is the judge's responsibility).

- Only note the facts which have a direct impact on the person's health and any medical observations.
- Do not write down the entire account, you do not need to tell the person's entire life story.
- Use the present or past tense.
- Do not use the conditional tense or phrases such as he/she 'claims' or 'alleges' which could lead to the person reading the statement to believe that there are doubts about what the person is saying.
- Do not mention by name the person(s) who are responsible for the violence, it is preferable to use the generic term – the 'aggressor'.

#### ■ 3. Grievances/Clinical examination

- Do not draw up a certificate without having examined the patient.

Mr./Mrs./Ms. X is complaining of: .....

→ Emotional state: .....

- Only note the person's emotional state during the consultation (agitated, stressed, passive...); if you have the necessary competencies, note the facts relating to the psychological examination.

→ Physical state: .....

- During the clinical examination, only note information that is significant regarding the incident or the event(s).
- Do not mention so called negative symptoms or those which are irrelevant, such as blood pressure or weight (if they are normal)...
- Do not mention chronic illnesses which are unrelated to the incident (if you think that there is a link between the two the say so and document it).
- Give as much detail as possible regarding observations made during the clinical examination: type of wound (abrasions, scratches...), exact position, length and width, how recent the wound is (use drawings if need be). You can take photographs (it is advisable to attach them to the medical file and to treat them as sensitive data).
- In the case of sexual assault, note the information gathered during genital, anal and oral examinations.
- If it is relevant, take steps to check for pregnancy or to evaluate the risk of pregnancy and sexually transmitted diseases.



#### ■ 4. (Potential) Additional Examinations

- Please note any further examinations carried out for diagnostic or therapeutic purposes as well as their results (X-ray results, for example).
- Note whether the additional examination confirmed what had been previously observed or the clinical examination.

#### ■ 5. (Potential) Samples

.....

Note the medical-legal samples: the nature of the samples and their destination.

#### ■ 6. (Potential) Surgical report

.....

Potential surgical reports can be attached to the certificate. If this is the case, ensure that the certificate and the information on the surgical report match.

#### ■ 7. Conclusions

.....

- Indicate whether your observations of the person's condition and his/her development match the facts given by the person.  
The matching of facts can be graded ('The observations of the physical and mental examination are highly compatible with Mr... 's account' for example. You can also say 'The evidence authenticates the report of mental trauma' or 'The examination confirms the person's account').
- Do not qualify the facts in a legal manner: e.g. 'To conclude, Mr. X was tortured' or 'Ms. Z was raped'. It is up to the judges to make the rulings.
- If the person is asking for a rape confirmation certificate and you have not observed any physical injuries, conclude that 'The absence of physical injuries is not incompatible with the facts reported by Mrs./Ms./Mr. X. Y.'
- If you have observed psychological disorders without physical injury, write: 'Mrs./Ms./Mr. X. Y's psychological disturbance is compatible with the facts reported, the absence of physical injury cannot negate that'.
- Beware that a lack of physical signs during the clinical examination is not a reason to conclude that there has not been any sexual assault. This could either be because of the use of different forms of constraint or because of the delay between the date of the assault and the consultation. You should therefore not conclude that an assault has not taken place, or that the facts do not match up.
- You can state the potential seriousness of what you have observed from a medical perspective and the chances of recovery following treatment.
- If the law so requires, draw up an ITT (Temporary total incapacity).

- Personal judgement or assessment of the facts should not feature on the certificate (this is not part of the health professional's role). You should therefore not offer any opinion on whether or not you believe the person: e.g. 'I think Mr... is telling the truth'.

- Personal judgement or assessment of the facts should not feature on the certificate (this is not part of the health professional's role). You should therefore not offer any opinion on whether or not you believe the person: e.g. 'I think Mr... is telling the truth'.

#### ■ 8. Delivery of the certificate

This document has been delivered by hand to Mr./Mrs./Ms. '.....'

- Make a note of whom the certificate was given to. More often than not it is handed over to the person in question.
- If the person is under 18, hand the certificate over to the legal guardians (when possible).
- Do not give the document to a third party.

#### ■ 9. Date, Place, time

Drawn-up in..... (town, village, district),..... (country), on.././.... (DD/MM/YYYY), at..o'clock/min.

- Indicate the exact place, date and time of the clinical examination.
- Do not backdate or postdate the certificate.

#### ■ 10. Signature(s), printed name(s), stamp

- If the certificate is several pages long, the date and time and name of the person and the examiner must appear on all pages.
- Do not just use a stamp, the more information there is to identify the health professional, the more credible the certificate is.
- There is no need for the person being examined to sign the certificate.

Dr Buddy WHATSUP,



The signature must be handwritten

The stamp should not conceal the signature

## 2. PATIENT/WOUNDED RELEASE FROM LIABILITY-DISCHARGE OR REFUSAL OF CARE AGAINST MEDICAL ADVICE

I, the undersigned,

Name: .....

First Name: .....

Link with the patient/wounded .....

Declare taking full responsibility regarding the discharge or refusal of care (delete whichever does not apply).

Name of the patient/wounded: .....

First name of the patient/wounded: .....

Name and address of the health facility: .....

And consequently, the termination of care given to him/her by the MdM team.

I declare being aware that the patient's discharge or refusal of care (delete whichever does not apply) could incur medical risks for the patient/wounded and entail complications which could put his/her health and life in jeopardy.

Drawn up in/at: .....

Date : .....

Signature of the person who requested the discharge or termination of care of the patient/wounded:

.....

Witness signature #1:

.....

Witness signature #2 for MdM:

.....

Witness signature #3 for MdM:

.....

Document to be conserved in the medical file or kept in duplicate if the original file is removed.

## 3. ARREST AND DISCHARGE OF PATIENT/WOUNDED AGAINST MEDICAL ADVICE

I, the undersigned, [Name of the policeman or soldier]

.....

Acknowledges having undertaken the arrest and discharge of the following patient/wounded: .....

Name of the patient/wounded: .....

First name of the patient/wounded: .....

Name and address of the health facility: .....

And consequently, the termination of care/treatment given to him by the MdM team.

I declare being aware that the patient's discharge could incur medical risks for him/her and entail complications which could put his/her health and life in jeopardy.

Drawn up in/at: .....

Date: .....

Signature of the person of the police or military agent:

.....

Witness signature #1:

.....

Witness signature #2 for MdM:

.....

Witness signature #3 for MdM:

.....

Document to be conserved in the medical file or kept in duplicate if the original file is removed.

#### 4. ADULT PATIENT/WOUNDED CONSENT FORM

I, the undersigned,

Name: .....  
First Name: .....  
Date of birth: .....

Authorise [Name of the medical professional] ..... to carry out the following medical treatments, in the interest of my health:

Anaesthesia: .....  
 Surgical intervention: .....  
 Amputation: .....  
 Blood transfusion: .....  
 Medical treatment .....  
 Other: .....

*I am aware that such acts can entail risks and complications.  
I am aware that during the intervention, or right before it, depending on new information, the methods of anaesthesia and/or intervention may change.  
I declare having been able to ask all the questions I wanted to and to be aware that during or after the treatment, unforeseen decisions could become necessary and/or urgent, in conditions where obtaining my informed consent would be impossible.  
The explanations provided by the medical professional were clear and understandable enough for me to chose and decide freely.*

Drawn up at/in (with name and address of the health facility): .....  
Date: .....

Signature of the patient/wounded:.....  
Signature of the medical professional: .....  
Signature (in the event) of witnesses: .....

Document to be conserved in the medical file or kept in duplicate if the original file is removed.

#### 5. CONSENT FORM FOR MINOR PATIENT/WOUNDED OR ADULT PATIENT/WOUNDED INCAPABLE OF CONSENT

I, the undersigned,

Name: .....  
First Name: .....  
Link with minor patient/wounded or adult patient wounded incapable of consent: .....  
Declare representing the interests of minor patient/wounded or adult patient wounded incapable of consent:

Name of the minor patient/wounded or adult patient wounded incapable of consent: .....  
First name of the minor patient/wounded or adult patient wounded incapable of consent .....  
Date of birth of the minor patient/wounded or adult patient wounded incapable of consent .....

*I authorise the medical professional [Name] ..... to carry out the following medical acts in the interest of his/her health:*

Anaesthesia: .....  
 Surgical intervention: .....  
 Amputation: .....  
 Blood transfusion: .....  
 Medical treatment .....  
 Other: .....

*I am aware that such acts can entail risks and complications.  
I am aware that during the intervention, or right before it, depending on new information, the method of anaesthesia and/or intervention may change.  
I declare having been able to ask all questions I wanted to and I am aware that during or after the treatment, unforeseen decisions may be necessary and/or become urgent, in conditions where obtaining my informed consent would be impossible.  
The explanations provided by the medical professional were clear and understandable enough for me to chose and decide freely.*

Drawn up at/in (with name and address of the health facility):

.....

Date: .....

Signature of the patient/wounded:

.....

Signature of the medical professional: .....

Signature (in the event) of witnesses: .....

Document to be conserved in the medical file or kept in duplicate if the original file is removed.

## 6. EMERGENCY INTERVENTION ON A MINOR OR INCAPABLE ADULT PATIENT/WOUNDED

I, the undersigned, Dr. ....

Considering the absence of a representative of the minor or incapable adult patient/wounded's interest, declare that I have taken full responsibility for the following medical acts:

- Anaesthesia: .....
- Surgical intervention: .....
- Amputation: .....
- Blood transfusion: .....
- Medical treatment .....
- Other: .....

Carried out on the person of:

Name of the minor or incapable adult patient/wounded:

.....

First Name of the minor or incapable adult patient/wounded:

.....

Date of Birth of the minor or incapable adult patient/wounded:

.....

Done at/in [with name and address of the health facility]:

.....

Date: .....

Signature of the physician: .....

Signature (in the event) of witnesses: .....

Document to be conserved in the medical file or kept in duplicate if the original file is removed.

## 7. MEDECINS DU MONDE'S CHARTER ON THE COLLECTION OF TESTIMONIES BY THE PRESS [APRIL 2010]

### Why?

This document is an 'ethical charter' which aims to:

- protect users of Doctors of the World programmes who are called upon to bear witness,
- accompany and protect MdM actors in their bearing witness mission,
- raise awareness amongst journalists of the general principles regarding the collection of testimonies at a Doctors of the World program.

### For whom?

MdM personnel accompanying a journalist in the field or when raising his/her awareness regarding MdM's ethical principles.

Also journalists who collect information and testimonies on a MdM programme.

### 1) Reminder of MdM's ethical principles

- Respecting the dignity and rights of every person in every circumstance,
- informing and collecting free and informed consent,
- respecting medical confidentiality,
- respecting confidentiality and privacy, the right to be heard and protected against all forms of violence and reprisals,
- doing no harm,
- protecting: confidentiality is a means of protecting programmes users.

Example: following a journalist's request to interview a rape victim, no MdM member who shares this secret can reply in the affirmative without the person's consent.

For more details, see the Doctors of the World 'For Ethics in the field: sensitive personal data management' Guide, distributed by the support, analysis and advocacy department (S2AP).

### 2) General applicable measures for the collection of testimonies

This concerns an optimum framework which is advisable to use in specific circumstances.

- The security framework (security conditions, specific constraints in the field, sensitivity of the programme...) is outlined by the MdM coordinator to journalists before the beginning of a reportage/article.
- The MdM coordinator is the key contact person for journalists during the organisation of the reportage/article. He/she relies on the support of the MdM communication department before, during and after the reportage and coordinates with them if a problem arises: if it is necessary to bring the journalist into line, then this will be done by the press department.

### Before the interview:

- respect a press briefing period, without any camera crew,
- obtain the consent, without pressure, of the interviewee. Ensure the interviewee has received all the necessary information, including the fact that he/she will be talking to a journalist, that he/she is aware of the aim of the interview and how the interview will be used as well as its media impact,
- chose a place that guarantees, as much as possible, a certain amount of privacy and confidentiality (except when interviews are collective, in a village or in a waiting-room of a health centre),
- identify, with the interviewee, the risks which could compromise his/her security and, with the MdM team, the risks that could put in danger the durability of the Doctors of the World programme.

Example: a journalist cannot use the MdM vest and/or logo in the absence, or without the consent, of MdM teams, outside of the program's location, so that he/she cannot pretend to be a member of the MdM team in a sensitive site or to enter a hospital without the MdM teams.

### During the interview:

- avoid questions or behaviour which can reveal value judgements, put the person in danger, expose the person to humiliation or which violently revive the pain provoked by traumatic events. Respect the time given by the person for the interview and do not pressure the interviewee if he/she freezes up or does not want to pursue the interview,
- give the context of an article or an image (captions),
- do not 'direct a scene'.

Example: if the reportage/article is about a risk reduction programme: do not ask a drug user to shoot up before a journalist.

#### After the interview:

- Ensure that the security of the person will not be compromised (reprisals, ostracism) if pictures of his/her household, community or environment are broadcasted/printed. Do not publish any article or picture if a real risk has been identified.

### 3) High risk situations

In certain highly sensitive programmes (slavery, violence on minors), vigilance must be heightened. The general measures must be observed and completed, on a case-by-case basis and if a real risk to the patient exists, you should:

- respect the patients' anonymity – by changing his/her name, blurring his/her face, avoiding geographical details...
- choose an isolated place of meeting (outside of the health centre or of his/her village),
- carry out an in-depth study of the situation, on a case-by-case basis, by coordinating between the communication department and persons in the field.

Example: on a programme on human slavery: there is a high risk of reprisals from traffickers if the person dares to give his/her testimony openly, if he/she can be identified his/her living space can be recognised.

If you have any doubts, contact a person in charge of communication at Mdm's head office:

infomdm@medecinsdumonde.net

00 33 (0) 1 44 92 13 03 – 00 33 (0) 1 44 92 14 31

## 8. REMINDER OF GOOD COMPUTER PRACTICES

Here is a list of the five basic security principles which have to be respected, whichever platform is used (Microsoft Windows, Linux, Mac OS X):

Protect your workstation with a password

Make sure your system is kept updated

Install, use and keep updated antivirus software and a fire-wall

Be careful when receiving emails

Do not use peer-to-peer exchange software programmes (Kazaa, eDonkey, LimeWire...)

### 1) Protect your workstation with a password and lock it

A password is the first defence in protecting your computer against hackers, pranksters or carefree persons. If you do not use a password to connect to your computer, access to your information and confidential files is open to anyone. Configure your computer so that it consistently asks for an authentication when using it. Also remember to lock your computer when you leave it unattended, even for a short period. You can also configure an automatic locking system when your computer is in sleep mode (highly recommended for laptops) in order to strengthen your computer's degree of security.

#### Some advice when choosing a password:

it must be at least 8 characters long

you must use at least one character which is not a letter of the alphabet (a punctuation mark or a digit);

mix lower case and upper cases letters up;

regularly change your password and always after every virus infection!

choose a password that you can easily remember, without having to write it down or keep it somewhere, and in any event, never on your computer.

never use the same passwords in high risk environments (bank accounts for example) and for commonly used access.

Examples :

cH@peR0n: a mixture of upper and lower case letters, the 'o' is replaced by a 'zero', and the 'a' by '@'

1EZ2rpw: chose a short sentence which is easy to remember (in this case, 'One easy to remember password'), replace the 'a' by the digit '1', 'to' by '2'..., and use the first letter of the other words, which gives us '1EZ2rpw'. Afterwards, apply the same previously discussed techniques.

### 2) Make sure your system is kept up-to-date

Many attacks try to take advantage of the security shortfalls that exist in the operating system of workstations. It is therefore vital to keep your system up-to-date by applying the various updates suggested by the software/system publisher.

Modern operating systems offer an automated updating function: 'Windows update' for Microsoft Windows, 'Software update' for Apple Mac OS X. You can activate this application manually or, preferably, indicate to your system to carry out the update research automatically. When a new version of an element of your system or an update is available, the IT department will contact you and can install it, at your request, without any complicated manipulations on your behalf.

### 3) Install and keep your antivirus updated

Install an antivirus programme, chose a programme that automatically downloads updates with the latest virus definitions and activate this function.

Viruses, as well as worms and Trojan horses, are harmful programmes which can run on your computer. Some viruses delete or alter your files. Others monopolize your computer resources. Finally, others enable third parties to have access to your files. One of the most harmful characteristics of viruses is their ability to reproduce or copy. A virus can 'seize' addresses from a list of contacts and thus spread into other people's computers. Infected computers risk contaminating the whole IT network of your organisation and thus provoke breakdowns and data loss. You also risk infecting computers with which you communicate with by email.

#### Carry out regular 'scans' of your hard disk via your antivirus programme

Never open files which are attached to emails, unless you know and trust the person sending the file

Be careful when exchanging files: whether it is via peer-to-peer networks or via CDs, USB sticks,... Before you do so, analyze your files with your antivirus program.

Only accept the macro functions of a text or spreadsheet document if you know the person who wrote the document, and after having it analyzed beforehand by your antivirus program.

Activate the antivirus functions of your Webmail

Choose an antivirus program that monitors all programs, including instant messaging programmes and emails.

#### Use an Internet firewall

Use a 'personal firewall'. This software programme protects your PC against active attacks by controlling incoming and outgoing communication, and by warning the user to give his/her permission for the traffic.

If you use broadband Internet permanently, your network may from time to time be tested by hackers. If they discover a valid IP address, they will try to exploit the weaknesses of the software or to crack passwords in order to access your network, which means they will end up accessing the content of the connected computers.

### 4) Be careful when receiving emails

Si le message ne vous semble pas 'normal' (texte incohérent semblant provenir de quelqu'un que vous ne connaissez pas, titre attractif...) and if it contains an attached file, you must under no circumstance open the file and above all do not click on it! This is the traditional virus transmission method.

Also, never accept when you are surfing the web or when chatting via IRC, MSN, to download a file you have not explicitly ask for.

You should also know that no operating system publisher (Microsoft, Apple...) sends updates or patch programmes by email. If you receive such an email which looks like it comes from Microsoft, for instance, it is highly likely that is a fake and that the attached file contains a virus!

Once again, install an antivirus programme which is capable of checking incoming emails and downloadable files (see previous point).

#### Protecting yourself against spam:

Do not communicate your email address to people indiscriminately, never leave your email address on a public Website, forum or blog.

Never react to spam.

Never click on links contained in spam.

Install anti-spam filters on your computer.

'Train' your anti-spam filter by manually indicating as spam unsolicited emails which arrived in the 'good' emails of your inbox, or inversely.

In your email program, create a list of trustworthy contacts (address book).

Activate the anti-spam functions of your email and webmail applications.

Only use such advanced functions as removing images from your mail as an option.

Limit the number of your email addresses: the more you have, the more likely you are to receive spams and viruses.

Never communicate private data, passwords or account numbers in emails.

#### Do not use peer-to-peer file exchange programmes (Kazaa, eDonkey, LimeWire...).

Besides the legal aspects related to downloading files protected by copyright (music, films, software...), it is important to know that such peer-to-peer software programmes automatically transform your computer into a server.

Additionally, you can also find, on the Internet, 'special' versions of these applications on websites which boast of improved results, such as the possibility to pass before other users when there is a queue for a download... These 'miracle' versions are generally only enticements and in reality contain viruses, spywares (concealed software programmes that record what you type on your keyboard and especially your passwords, credit card details... and then send them towards a server), or even, services which enable the author of the software to take remote control of your computer...

### 5) Regularly back-up important data

Data loss following human error, a short power cut or a temporary instability of the operating system can very easily occur and can lead to the loss of several hours of work. Regularly back up your personal data on a reliable portable device (CD-ROM, DVD, backup tape...). If you use Windows XP, you can use the integrated backup software to organise data protection against information loss. You should also use an uninterruptible power supply to protect your computer against power cuts, even micro ones, voltage drops and lightning.

## 9. DUTY TO PRESERVE SECRECY AND EXAMPLE OF A CONFIDENTIALITY COMMITMENT FORM FOR CONTRIBUTORS

### Duty to preserve secrecy

Generally, the signatory of a work contract with Doctors of the World commits himself or herself to respect the duty to preserve secrecy towards MdM and its activities.

### Confidentiality commitment

Pursuant to Article 12 of the Universal Declaration of Human rights, adopted on December 10th 1948, by the General Assembly of the United Nations,

Pursuant to Article 17 of the United Nations' International Covenant on Civil and Political Rights, adopted on December 16th 1966, by the General Assembly of the United Nations,

Pursuant to Resolution 45/95, adopted on December 14th 1990, by the General Assembly of the United Nations,

*I, the undersigned, .....*

*Intervening as ..... in collaboration with the association  
Doctors of the World,*

*hereby swear to never disclose the existence and content of interviews during which Doctors of the World has collected personal information (health, identity, life stories, testimonies) concerning persons who I have met, heard or seen, in accordance with the laws in force in the territory in which I am intervening.*

*In the case of the non-respect of the above mentioned provisions, MdM may take legal proceedings against me, pursuant to the law of the country of intervention.*

*Drawn up in duplicate in ..... on the ... / ... / ...*

*Signature : .....*





# NOTES

1: A journalist's Charter is available in the 'Tool Box' section, p.56.

2: Name-specific data is data which gives a direct identification: name, address and phone number...

3: Data that enables the identification of a person by a cross-reference process can be: photographs, videos, information related to geographical origin, occupation, family origin, kinship...

4: All non-MdM events which can influence our safe surroundings.

5: Incident which directly affects MdM (its personnel, its equipment and materials) and which leads to an incident report being drawn-up.

6: See Website of the World Medical Association: <http://www.wma.net/>

7: As stated in the International Code of Medical Ethics (adopted by the World Medical Association). 'A physician shall be dedicated to providing competent medical service in full professional and moral independence, with compassion and respect for human dignity.'

8: See Article 3 common to the four Geneva Conventions (1949).

9: Testimony of a doctor, former expatriate of MdM programmes.

10: See International Code of Medical Ethics of the World Medical association, see Website of the WMA (footnote 6).

11: See the dispositions of the Geneva conventions (GC) of 1949 and their additional Protocols (P) of 1977: art.3, 12 GC I; art.3 12 GC II; art. 3, 14, 16 GC III; art.3, 13, 27 GC IV; art. 10, 75 P I, art. 4, 5, 7 P II.

12: Various international legal instruments are applicable concerning the protection and promotion of human rights and international human rights law. We can quote as an example the Universal Declaration of Human Rights (1948), the 1949 Geneva Conventions, the International Convention on the Rights of the Child (1989)... See Website of the Office of the High-Commissioner for Human Rights: <http://www.ohchr.org/>

13: 'A child means every human being below the age of eighteen years unless under the law applicable to the age of consent is reached earlier', Article 1 of the International Convention on the Rights of the Child.

14: In armed conflicts, international humanitarian law forbids all (medical) acts which are not justified by the patient's health condition, even if he/she has given his/her consent: art. 3, 12 GC I; art. 3, 12 GC II; art. 3, 13 GC III; art. 3, 32 GC IV; art. 11 P I.

15: See art. 11 of the 1977 Additional Protocol I.

16: 'Consent is a person voluntarily giving permission for an action, based on a good understanding of what the action involves and its likely consequences'. World Medical Association's Declaration on Ethical Considerations regarding Health Databases (2002).

17: The ethical duty to inform is a corollary of the free and informed consent principle.

18: Express/explicit consent is expressed in a formal and direct way, either orally or in writing.

19: The term 'minor' or 'child' is defined as 'every human being below the age of eighteen years unless under the law applicable to the child, the age of consent is attained earlier.' See Art. 1 of the International Convention on the Rights of the Child, 1989.

20: The Ottawa Declaration adopted by the General Assembly of the WMA, Ottawa, Canada, October 1998, and amended by the General Assembly of the WMA, New Delhi, India, October 2009 (see website of the WMA, footnote 6).

21: See The International Convention on the Rights of the Child (1989), Art. 3.1. founded on the best interest of the child principle: 'In all actions concerning children (...) the best interests of the child shall be a primary consideration'. This legal notion aims to ensure the child's 'physical mental and social' well-being.

22: The WMA Geneva declaration (1948) compels members of the medical profession to 'respect the secrets which are confided in [them], even after the patient has died.' (see website of the WMA, footnote 6).

23: WMA's pronouncement on mistreatments and neglect against children, 2006 (see website of the WMA, footnote 6).

24: See WMA's Resolution on doctors' responsibility in the documentation and denunciation of acts of torture or cruel, inhuman or cruel, inhuman or degrading treatments, Helsinki 2003 (see website of the WMA, footnote 6).

25: See Website of the International Committee of the Red Cross: <http://www.icrc.org/>

26: The inappropriate use of medicines, such as the prescription of excessive amounts of sedatives, could in itself constitute mistreatment. Treating a victim of mistreatment so that his/her torturers can continue torturing the detainee is not possible. In this case, the patient must be treated and everything must be done to ensure that the mistreatments stop. One must not remain passive.

27: Dr Jean Poullard, a retired consultant for Parisian hospitals, Vice-President of the Conseil National de l'Ordre des Médecins and member of the Société Française d'Histoire de la Médecine. [http://www.entremed.fr/doc/redaction\\_certificats.pdf](http://www.entremed.fr/doc/redaction_certificats.pdf)

28: Transferring the medical certificate to the wrong person/organisation/institution is likely to place the patient/wounded in danger. For example, handing over the medical certificate of a woman who is a victim of violence to her husband who is the perpetrator of the abuse.

29: These names are fictitious.

30: This is a customary disposition of the International Humanitarian Law

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Born of a long contemplation and nourished by varied field experiences, this reference guide reminds humanitarian actors of the key medical ethical principles. It aims to make them more aware of the need to protect sensitive personal data collected from programme users.

With the support of:

