

Observing patient rights in the area of psychiatric health care in the era of the COVID-19 pandemic

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Summary

Aim. The work concerns the assessment of compliance with patient rights in the area of psychiatric health care during the COVID-19 pandemic.

Material and method. The analysis of compliance with patients' rights was made on the basis of complaints submitted to the Office of the Patient Ombudsman. Reports sent to the Department of Mental Health regarding suspected non-compliance with patient rights were retrospectively analyzed. Structure and dynamics indicators were used to assess changes over time.

Results. After analyzing reports since 2020, we have observed a decrease in the number of cases considered by the Department of Mental Health. In 2021, for all rights, there was a decline in the number of applications processed. According to reports on the observance of patients' rights in the area of psychiatric health care, this may be due to the lack of possibility of personal contact with the Psychiatric Hospital Patient Ombudsman. In addition, during the pandemic, a reduction in the number of cases was observed, which was related to limited access to in-person contact. The scope of reported cases also changed during the pandemic. In the years 2018-2021, most cases concerned assistance in asserting rights in matters related to admission, treatment, conditions of stay and discharge from psychiatric hospitals.

Conclusions. Regarding the scope of applications and complaints considered under the provisions of the Act on Patient Rights and the Patient Ombudsman in 2018-2021, most cases concerned the right to health services, followed by the right to information about one's health and the right to consent to the provision of health services. In the case of applications and complaints considered under the provisions of the Mental Health Protection Act in the years 2018-2021, most cases concerned admission and treatment without consent in a psychiatric hospital, the use of direct coercion in accordance with specific regulations and discharge from the hospital of a person treated with consent.

Key words: psychiatry, patient rights, Patient Rights Act

Introduction

The Constitution of the Republic of Poland, pursuant to Article 68, provides every citizen with the right to health protection. It also provides legal protection of private and family life, honor and good name, as well as the right to decide about one's personal life (Article 47), protection against scientific and medical experiments without voluntary consent, personal inviolability and personal freedom with the limitations indicated in the Act (Article 41) and legal protection of life (Article 38). It is the duty of the public authority to ensure equal access to health care services financed from public funds to every citizen within the limits of the Act (Article 68(2)). According to the Act, special care is owed to children, pregnant women, persons with disabilities and the elderly [1]. A patient's access to health services in health care facilities should be based solely on medical criteria. The right to health protection is vested in the patient regardless of sex, age, social or economic position [2]. One of the documents protecting patients' rights is the Code of Medical Ethics. It defines the tasks and the attitude of doctors to patients. It is not a legal act, but a catalog of "principles of professional ethics and deontology", adopted at the 3rd National Congress of Physicians in 1993, and is a collection of several dozen rules of conduct in professional life, which physicians have committed themselves to follow [3, 4].

The first document in which provisions concerning patients' rights were included was the Act of 30 August 1991 on health care institutions. The amendment to this Act of 20 June 1997 defined many rights of the patient, such as the right to: health services that meet the requirements of medical knowledge, and in the event of limited possibilities to provide appropriate services – to use a reliable procedure based on medical criteria determining the order of access to these services; information about one's health; consent to the provision of health services or their refusal after obtaining appropriate information; privacy and respect for dignity during the provision of health services; and dying in dignity and peace. In addition, in health care facilities that are intended for people requiring 24-hour or all-day health services, the patient has the additional right to: additional nursing care provided by a close person or another person indicated by the patient; personal, telephone or written contact with individuals outside the facility; and access to pastoral care. For many years, clinics and hospitals also displayed the Patient's Rights Charter. It was a communiqué from the Minister of Health on the rights of patients and contained provisions from specific acts, including the Act on the Professions of Physician and Dentist, the Act on Mental Health Protection and the Act on Health Care Institutions. However, it had no legal basis.

An extremely important moment for the Polish health care system was the adoption of the Act on Patient Rights and the Patient Ombudsman in 2008. This act consolidated the patient's rights that had previously been "scattered" across various acts and regulations. In addition to the rights set out therein, the adopted act clearly defined a patient as a person who seeks assistance from a medical expert for diagnostic, preventive, therapeutic or rehabilitative purposes (an active attitude). It also states that a patient is also a person who is in a passive position, e.g., in the absence of discernment about one's own person or situation. Other key concepts are defined by terms such as close

relative, legal guardian and actual guardian. The act also lists information on the Ombudsman for Patients' Rights, the procedure for his appointment, as well as his tasks and powers; information on the operation of the Medical Committee for objections operating at the Ombudsman for Patients' Rights and information on the Provincial Committees for Adjudication on Medical Events. The Act provided the Ombudsman for Patients' Rights as a central government administration body with significant powers: oversight, education, promotion and procedural matters. The Patient Rights Ombudsman is responsible for respecting both individual and collective patient rights and has the authority to impose penalties on medical service providers [5-7].

The analysis of compliance with patients' rights in this article was made on the basis of complaints submitted to the Office of the Patient Rights Ombudsman. The authors' goal was to approach this issue as objectively as possible, without attempting to categorize the complaints by specific medical professions.

On 19 August 1994, the Mental Health Protection Act was passed. This document is a broadly understood guarantee of the protection of human rights for individuals with mental disorders. It defines what constitutes mental health protection and specifies who is responsible for providing it and under what conditions. The Act also introduces standards of conduct for psychiatric hospital admissions, regulating in detail the principles of applying direct coercion, as well as the conditions under which a psychiatric patient may be admitted to the ward without consent. The Act also applies to the discharge of patients from the ward, the use of social welfare homes, proceedings before family courts and the rules of secrecy of information obtained by staff during the course of patient treatment. Individual provisions of the Mental Health Protection Act shape the principles of respecting the rights and freedoms of a person staying in a psychiatric hospital [8-13].

Material and methods

Reports submitted to the Mental Health Department regarding suspected violations of patient rights were subjected to retrospective analysis and evaluation. The analysis was based on reports of the Ombudsman for Patients' Rights from 1 January 2018 to 31 December 2021. Structural and dynamic indicators were used to assess changes over time. The results were graphically illustrated using column charts and tables.

Results

The protection of the rights of patients in psychiatric hospitals is the task of the Patient Rights Ombudsman. He fulfills this role with the support of Patient Rights Ombudsmen of the Psychiatric Hospital. Their responsibilities include, in particular, assisting patients in asserting their rights in matters related to admission, treatment, conditions of stay and discharge from psychiatric hospitals; clarifying or helping to clarify oral and written complaints of these persons; cooperation with patients' families, statutory or actual representatives and initiating and conducting educational and informational activities concerning the rights of individuals receiving health services

provided by a psychiatric hospital. In order to fulfill their tasks, the Psychiatric Hospital Patient Rights Ombudsmen cooperate with the Ombudsman, the Ombudsman for Children, the national consultant and provincial consultants in the field of psychiatry. To effectively perform their role, the Patient Ombudsman of the Psychiatric Hospital has the right to enter the premises of the psychiatric hospital related to the provision of health services; submit requests to the staff of the medical entity within the meaning of the provisions on medical activity, in particular to the attending physician, the head of the psychiatric ward or the head of the medical entity and to the entity creating within the meaning of this Act, to take action to remove the cause of the complaint or existing violations, and access to medical records of the person concerned. The results of the conducted analysis are presented below.

The Department of Mental Health handles cases that fall into three categories: complaints, reports (these are signals received by the Department of Mental Health from clients) and actions undertaken on its own initiative (cases initiated by the employees of the Department, which are to protect the rights of people with mental disorders and are taken both in individual cases and towards a larger group of patients in psychiatric health care).

In 2018, the Psychiatric Hospital Patient Ombudsmen dealt with a total of 10,315 cases; in 2019 – 12,531 cases; in 2020 – 10,188 cases; and in 2021, the Department handled a total of 8,949 cases. In the years 2018-2021, the majority of cases concerned assistance in asserting patients' rights in matters related to admission, treatment, conditions of stay and discharge from psychiatric hospitals. Since 2020, a decrease in the number of cases handled by the Department of Mental Health has been observed. When analyzing this phenomenon, it should be noted that the number of reported cases does not directly reflect the overall scale of problems in psychiatric health care, because patients are not always able to articulate the problem or advocate for their rights for various reasons. Therefore, the activity of the Department of Mental Health in individual and systemic matters and the activity of the Psychiatric Hospital Patient Rights Ombudsmen are of particular importance through their presence directly in hospitals. The decline in the total number of cases since 2020 is undoubtedly also linked to the fact that the Ombudsmen worked during the pandemic mainly in a remote format due to the epidemiological situation caused by COVID-19 and were assigned to other tasks. For example, they supported the activities of other Departments of the Office, e.g., handling the nationwide Patient Information Telephone Service or assisting the activities of the Department of Explanatory Proceedings (Fig. 1).

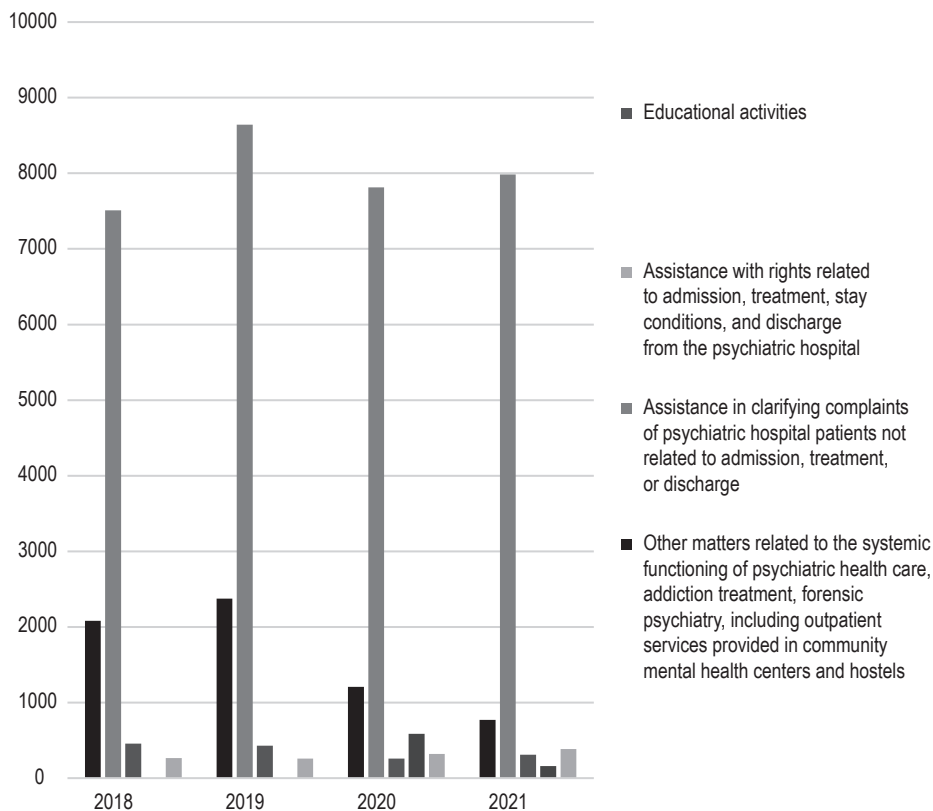


Figure 1. **Number and scope of cases handled by the Psychiatric Hospital Patient Rights Ombudsmen in the years 2018 – 2021**

The Department of Mental Health may undertake intervention cases on its own initiative in matters concerning the proper implementation of patient rights. In the years 2018-2020, an increase was observed in the initiatives undertaken to implement one of the statutory tasks, which is to assess compliance with patients' rights on their own initiative. In 2021, there was a decrease in the number of these initiatives, which may undoubtedly be related to the lack of direct contact with patients and the reassignment of employees of the Department of Mental Health to other previously mentioned tasks. Intervention activities undertaken on the Department's own initiative in the years 2018-2021 were primarily addressed to patients who were subjected to direct coercion or admitted to a psychiatric hospital without consent (Table 1).

Table 1. Number and type of actions undertaken on their own initiative by the Patient Rights Ombudsmen of the Psychiatric Hospital in the years 2018-2021

Scope of actions in relation to patients:	2018	2019	2020	2021
Subject to the use of direct coercion	674	649	268	224
Admitted to a psychiatric hospital without consent	260	162	202	47
Minors	239	418	0	0
Hospitalized under a court ruling imposing a preventive measure	152	184	233	99
Incapable of giving consent to admission or treatment	132	50	64	32
Other	1927	2910	4937	1167
Total number of actions	3384	4373	5704	1569

As a result of their own initiatives, Patient Rights Ombudsmen of the Psychiatric Hospital can determine the ratio of irregularities found to the total number of initiatives undertaken. In the years 2018-2021, a decrease in the number of identified irregularities is observed, which may be due to greater knowledge of the subject of patient rights among medical staff (Table 2).

In the reports from 2018-2019 on the observance of patient rights in the field of psychiatric health care, there is no information regarding which patient rights had the most irregularities. In the report for 2020, the majority of irregularities concerned the right to health services and the right to information; in 2021, the most frequent irregularities involved the right to health services, the right to respect for intimacy and dignity, and the right to medical records.

Table 2. Ratio of identified irregularities to the total number of own initiatives in the years 2018-2021

Own initiatives	2018	2019	2020	2021
Identified irregularities	543	426	273	96
Irregularities to total initiatives [%]	16%	11%	5%	3%

The Department of Mental Health accepts applications and complaints regarding possible violations of patient rights, which result from both the Act on Patient Rights and the Patient Ombudsman, as well as the Act on Mental Health Protection (Figs. 2-5).

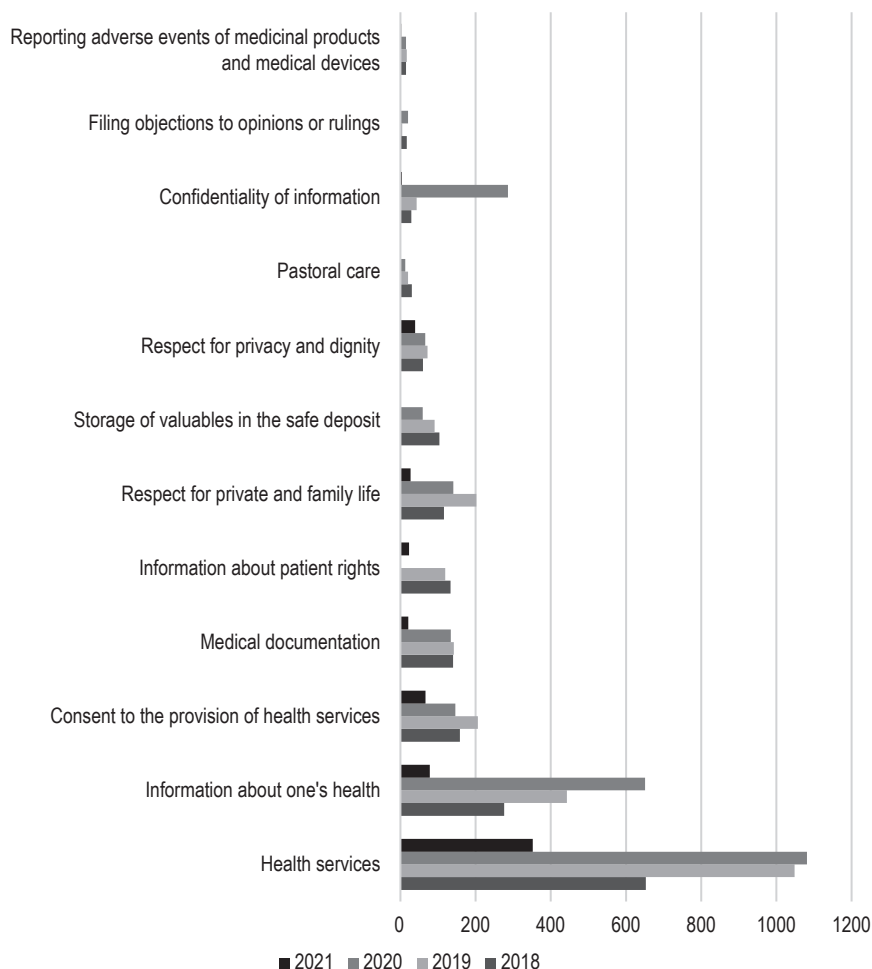


Figure 2. Number of applications considered by Patient Rights Ombudsmen of the Psychiatric Hospital in the years 2018–2021, in relation to specific patient rights defined in the Act on Patient Rights and the Patient Ombudsman

In the years 2018-2020, a systematic increase in the number of applications considered by the Commissioners was observed. However, in 2021, a decrease in the number of processed applications was noted across all rights. According to reports on the observance of patient rights in the field of psychiatric health care, this may have been due to the inability to contact the Patient Rights Ombudsmen of the Psychiatric Hospital in person; in 2018-2021, most applications were submitted orally. Difficulties caused by the COVID-19 pandemic resulted in a decline in reporting. In 2018-2021, most applications concerned the right to health services, followed by the right to information about one's health and the right to consent to the provision of health services.

In 2021, the only right for which the number and percentage of applications increased compared to previous years was the right to respect for privacy and dignity. This was undoubtedly influenced by the restrictions introduced in health care facilities due to the pandemic threat (Fig. 2).

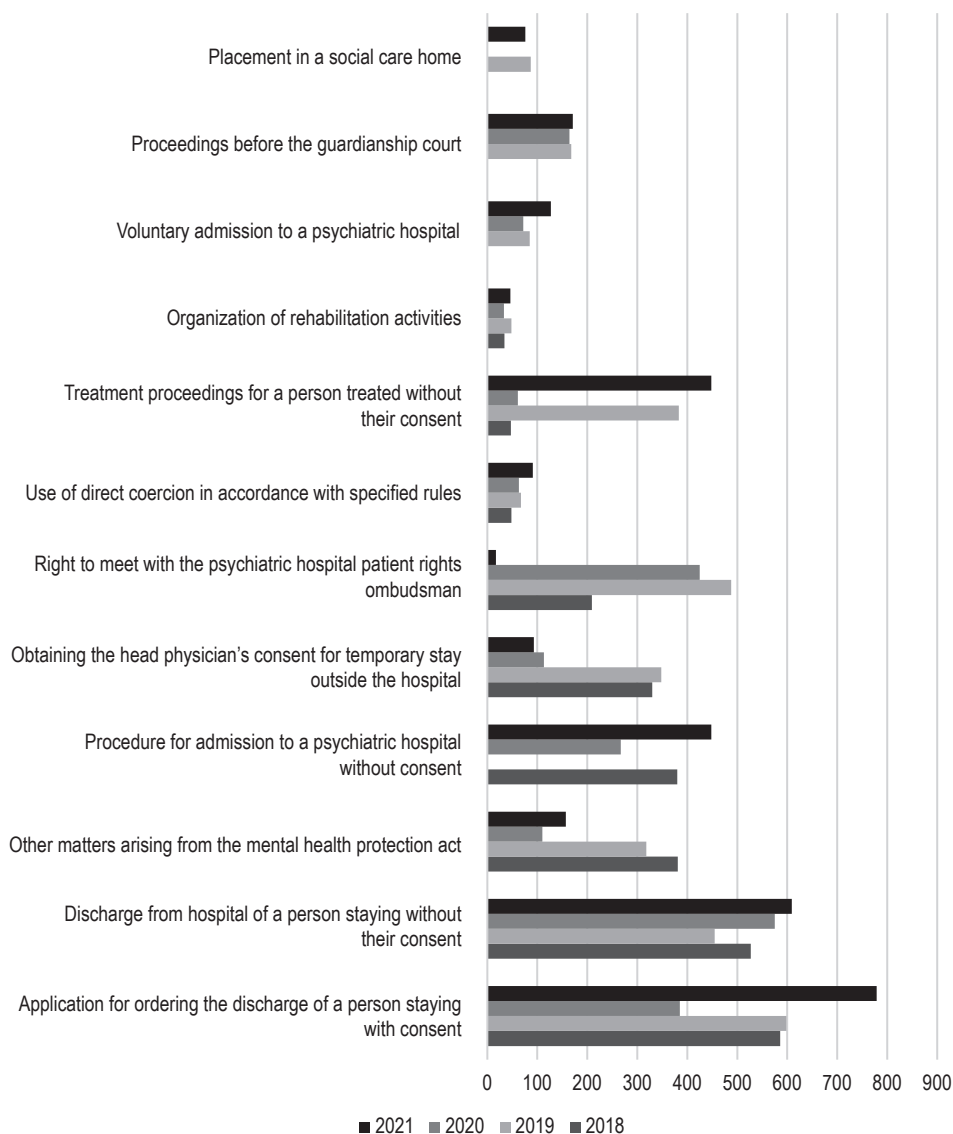


Figure 3. Number of applications considered by Patient Rights Ombudsmen of the Psychiatric Hospital in the years 2018–2021 in relation to the Mental Health Protection Act

Among applications related to matters regulated by the Mental Health Protection Act in the years 2018–2021, an upward trend in the number of applications considered can be observed. Most of these applications concern the discharge from hospital of a person staying with consent, discharge from a psychiatric hospital of a person staying without consent, and admission and treatment in a psychiatric hospital without consent (Fig. 3).

Between 2018 and 2021, the number of complaints handled by the Department of Mental Health increased. The method of reporting also changed – the number of written complaints increased and the number of oral complaints decreased, possibly due to reduced availability of Ombudsmen in health care entities. In the case of complaints concerning issues regulated by the Act on Patient Rights and the Patient Rights

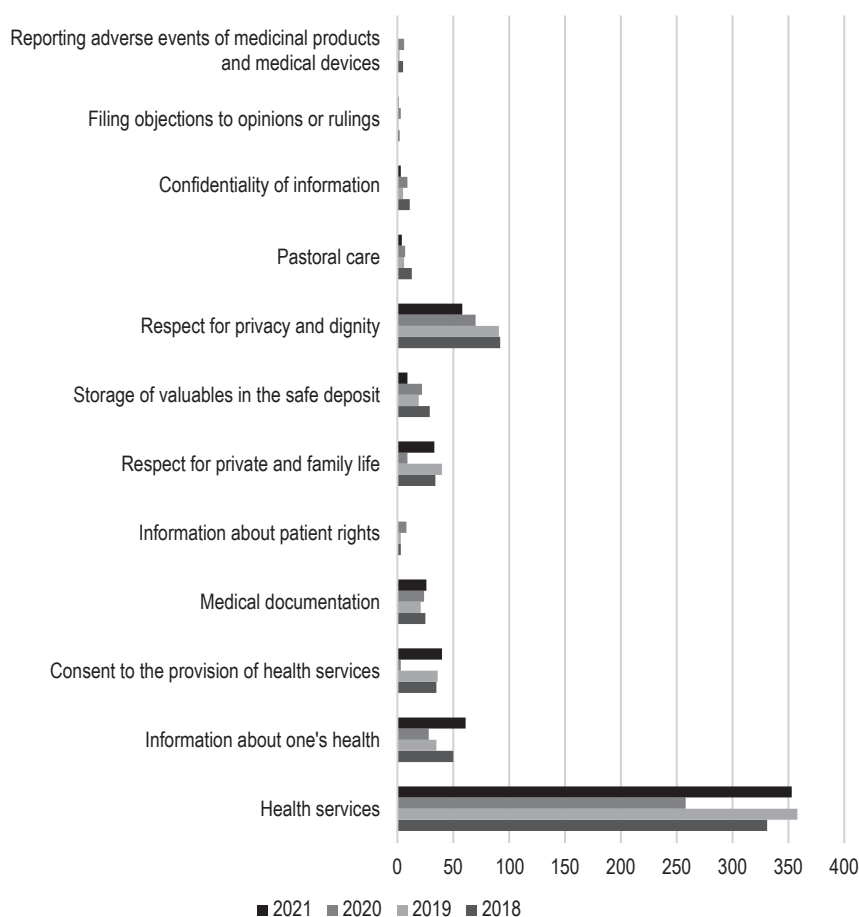


Figure 4. Number of complaints considered in the years 2018–2021 by Patient Rights Ombudsmen of the Psychiatric Hospital concerning issues regulated by the Act on Patient Rights and the Patient Rights Ombudsman

Ombudsman, complaints related to the right to health services, the right to information about one's health, and respect for privacy and dignity prevailed (Fig. 4).

Ombudsmen also consider complaints based on the provisions of the Mental Health Protection Act. In the years 2018-2021, an upward trend in the number of reported complaints was observed. During the COVID-19 pandemic, the largest number of complaints concerned admission and treatment without consent in a psychiatric hospital, the use of direct coercion in accordance with specified rules (in 2018-2020, the largest number of complaints concerned this right) and the discharge of a person treated with consent from the hospital (Fig. 5).

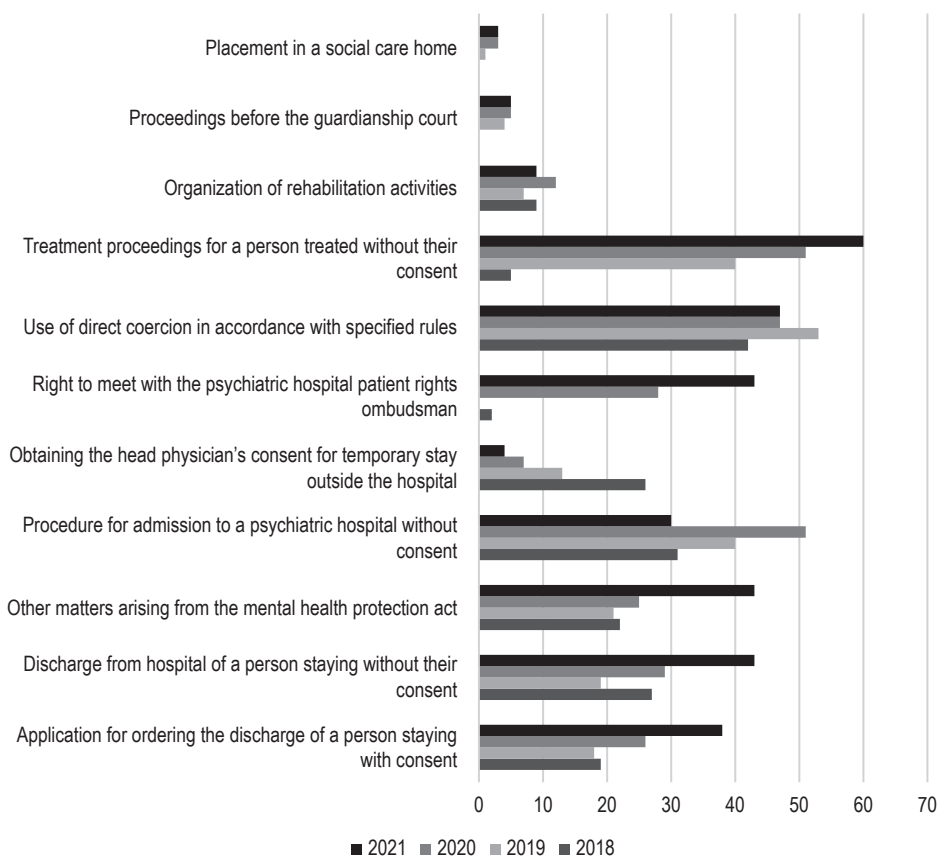


Figure 5. Number of complaints considered in the years 2018–2021 by Patient Rights Ombudsmen of the Psychiatric Hospital concerning issues regulated by the Mental Health Protection Act

The data was obtained from the analysis of reports on the observance of patient rights in the field of psychiatric health care [14-17].

Discussion

The main documents determining the rights of a psychiatric patient in Poland are the Act on Patient Rights and the Ombudsman for Patients' Rights of 6 November 2008 and the Mental Health Protection Act of 19 August 1994. These acts are intended to increase public awareness of their legal protection. They refer to patients using health services provided by any entity providing services or individual authorized to practice a medical profession [18-20].

One of the ways to assess compliance with patients' rights is to analyze their applications and complaints. Despite the fact that they are often a subjective assessment, as they are often written in moments of emotional turmoil, they can be a valuable source of information about the quality of health care [21, 22].

The degree of observance of patient rights is undoubtedly related to the level of knowledge of these rights among medical staff. In 1996 and 2001, the Center for Public Opinion Research Foundation analyzed the opinions of adult Poles regarding their knowledge of patient rights. In 1996, according to the analysis, the state of knowledge of Poles was insufficient. In 2001, 20% of respondents declared knowledge about patient rights. Research conducted by Domżał-Otmianowska et al. [24] and Golinowska et al. [25] showed that the number of patients who knew their rights increased significantly over the years and amounted to 11% in 1996, 19% in 2001 and 33% in 2003. A study conducted by Iwanowicz-Palus [26] revealed that only 33% of surveyed patients reported that they had been informed about their rights by hospital staff, despite the staff declaring in most cases that they had fulfilled this obligation. Patients indicated that nurses (46%) had a greater share in informing than doctors (18.3%). A study by Hajduk et al. [27] in 2013 showed that physicians (94%) were more familiar with patient rights than nurses. In this study, every fifth patient stated that he had not been informed about his rights [27].

The COVID-19 pandemic has raised serious concerns about the mental health of the population as a whole and the effective delivery of mental health services. Strict social measures that have been taken to reduce the number of infections have resulted in a significant barrier to access to the provision of services. As history shows, increasing social distance (e.g., during a flu pandemic) increases the incidence of psychotic disorders [28-30].

Since 2020, a decrease in the number of cases handled by the Department of Mental Health has been observed. The decrease in the total number of cases from 2020 may also be due to the fact that the Ombudsmen worked mainly remotely during the pandemic due to the epidemiological situation caused by COVID-19 and were delegated to other tasks mentioned earlier. These observations are confirmed by the reports of the Patient Rights Ombudsman regarding the observance of patients' rights in 2019-2020. In 2020, there were 110,025 notifications addressed to the Patient Rights Ombudsman via the Patient Information Telephone Service. Compared to 66,650 in 2019, this is an increase of 65%, i.e., 43,375 notifications. The pandemic has resulted in restrictions on access to many service sectors, including public administration offices. As a consequence, the main way of contacting the Patient Rights Ombudsman

has become the telephone. However, the number of cases does not directly reflect the scale of problems in psychiatric health care, because patients are not always able to articulate the problem and stand up for their rights for various reasons [15, 16, 31].

The patient's right that was not respected to a high degree in 2020 was the right to health services, while the right to medical documentation and the right to information about one's health condition were not respected to a medium degree [14-18, 31].

Mental health is inseparable from respecting human and patient rights. During the COVID-19 pandemic, numerous reports described violations of individual civil liberties and fundamental rights [32-45]. These rights include, among others, the right to mobility, the right to information and the right to access health services. The protection of patients' rights and mental health needs is not always sufficiently addressed in crisis management policies. Mental health problems are most common among vulnerable populations, including people with disabilities, children, the elderly and patients with pre-existing mental illness. Mental health professionals have long called for the human and patient rights of individuals and communities in psychosocially vulnerable situations to be respected. Without adequate legislation and remedial interventions, there is a significant risk that the needs of these communities will not be met. The Declaration of the Rights of the Child outlines specific guarantees, including the right to health care. Numerous studies have shown the negative impact of the pandemic (including reduced access to health services, limited mobility, decreased outdoor physical activity) on the mental, social and behavioral health of children. A survey conducted by Zhou et al. [37] among 8,140 students at various levels of education showed that the percentage of students reporting symptoms of depression and anxiety disorders was significant. Other aspects of children's rights also suffered, such as access to health care. This involved living in families that were struggling with financial stressors related to COVID-19 and had difficulty meeting basic life needs. Similar analyses were conducted in relation to the elderly population, showing that older people with reduced access to free movement – and thus to outdoor recreation or physical exercise – experienced deterioration of mental health and general well-being. A study conducted by Goodman-Casanova et al. [42] among people with mild cognitive impairment and dementia showed that social isolation, including limiting access to health services, exacerbated sleep problems in these individuals. Among psychiatric patients, limited access to medication and mental health professionals led to negative outcomes. During the restrictions on free movement during the SARS-CoV-2 pandemic, 80% of psychiatric patients missed their follow-up visits (in particular teleconsultations), 30% showed signs of relapse and 22% stopped taking psychiatric medications. Similar results were obtained by authors studying the problems of patients with obsessive-compulsive disorders in Italy [43]. The authors hypothesized that confinement and limited access to mental health professionals discouraged patients from seeking help and delayed necessary interventions. Research by Hao et al. [46] showed that psychiatric patients in China exhibited higher rates of anxiety, depression and stress symptoms compared to the general population.

Conclusions

1. In 2018-2020, an upward trend in the number of reported cases was observed. During the pandemic, a decrease in the number of cases was noted, which was associated with limited access to in-person contact.
2. In the years 2018-2021, most cases concerned assistance in pursuing rights in matters related to admission, treatment, conditions of stay and discharge from a psychiatric hospital.
3. In the case of applications and complaints considered under the provisions of the Act on Patient Rights and the Patient Rights Ombudsman, in the years 2018-2021, most cases concerned the right to health services, followed by the right to information about one's health and the right to consent to the provision of health services.
4. In the case of applications and complaints considered under the provisions of the Mental Health Protection Act, in the years 2018-2021, most cases concerned admission and treatment without consent in a psychiatric hospital, the use of direct coercion in accordance with specified regulations (in 2018-2020, most complaints concerned this provision) and the discharge from the hospital of a person treated with consent.

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