



# Comisión Nacional de los Derechos Humanos

## México

### **Recommendation 028/2010**

The following is a synopsis of the recommendation emitted by the CNDH . The complete version may be consulted on this institution's web page.

**Mexico City, May 28th, 2010**

**Subject: About the case of medical malpractice in Mexico's General Hospital**

**Authority Responsible:**

**Secretary of Public Health**

The events took place on June 23rd 2009, when V1, a 66 year old woman, spouse of Q1, went to Mexico's General Hospital pertaining to the Public Health Secretariat. Once there, the doctors who attended her diagnosed a pseudo intestinal occlusion, a condition requiring an urgent surgery to be treated, which was scheduled but never performed due to the lack of available operating theaters, causing V1 to perish on June 25th, 2009. This led Q1 to file a complaint before the Human Rights Commission of the Federal District on the 11th of August, 2009 which was forwarded on to the Mexican National Human Rights Commission on the same day due to jurisdictional limitations. This caused the initiation of the corresponding file and the request of information from the Public Health Secretariat regarding the attention given to V1 at the aforementioned General Hospital.

It is important to point out that when the attending doctors asked the hospital's administration for an operating room, there were no rooms available; however, given the urgency of V1's condition, the doctors should have taken the necessary steps to arrange for her transfer to another health clinic or hospital in the area which had an available operating room; this delay and omission considered as a form of abandonment caused a more serious deterioration of V1's health, which culminated in her death on the 25th of June 2009.

Based on the logical juridical analysis performed on the entirety of the evidence which makes up the file of complaint, the Mexican National Human Rights Commission concluded that there are sufficient elements to prove the infringement on the rights to the protection of health and to life, to the detriment of V1. This resulted from an inadequate provision of the public health service in accordance with what is established by the laws on the subject and is attributable to the medical staff of Mexico's General Hospital which belongs to the Public Health Secretariat.

Therefore, the Mexican National Human Rights Commission respectfully presents you, Mr. Secretary of Public Health, with the following Recommendations:

First. Instruct whomever it may concern so that the necessary measures are taken to repair the damages and compensation is given to the relatives of V1, as a result of the institutional responsibility incurred on by the doctors of Mexico's General Hospital who treated her, based on the considerations set forth in this recommendation and sending proof of compliance to the National Commission.

Second. Give orders to whomever it may concern so that comprehensive human rights education and training programs are designed and imparted within the hospitals of the Secretary you command, especially in Mexico's General Hospital. These programs should focus primarily on the content, handling and observance of the Official Mexican Norms on health related matters in order to make the public service offered both by medical and infirmary personnel become one which conforms to the legal framework and the rightful administrative procedures they must adhere to whilst performing their duties, guaranteeing the execution of precise intervention protocols and sending proof of compliance to the National Commission.

Third. Fully collaborate with the Mexican National Human Rights Commission in the initiation and processing of the complaint it presents before the Internal Control Body of the Public Health Secretariat against the doctors who participated in the treatment of V1, sending proof of compliance to this national body as required.

Fourth. Adequately collaborate with the investigations derived from the formal complaint which the Mexican National Human Rights Commission presents in light of these events before the Attorney General's Office, given that those involved are federal civil servants. It must also forward any proof of compliance requested on to the National Commission.