

Athens, 19-01-2018

Prot. No.: G/EX/500/19-01-2018

PRINCIPLE OF DATA PROTECTION

OF A PERSONAL CHARACTER

A P O F A S H 08/2018

(Plenary)

The Personal Data Protection Authority met in composition

Plenary meeting at its headquarters on Tuesday 16.1.2018 at 11:00 a.m., following the invitation of

Its President, in order to examine the case mentioned in its history

present. Konstantinos Menoudakos, President of the Authority and the regulars were present

members of the Authority Konstantinos Christodoulou, Antonios Symvonis, Spyridon Vlachopoulos,

Konstantinos Lambrinoudakis, Eleni Martsoukou, Charalambos Anthopoulos, and the

substitute member, Grigorios Tsolias, as rapporteur. They attended the meeting

also, by order of the President, Evangelia Vassilopoulou, legal auditor, as assistant

rapporteur, who provided clarifications and left before the conference and reception

decision and Irini Papageorgopoulou, an employee of the Administrative Department of

Authority, as secretary.

The Authority took into account the following:

With the no. prot. ADPPH G/EIS/8200/15.11.2017 his application, through the proxy

lawyer of Dimitrios Lapatonis, the private dentist A asks the Authority to

grant permission to use the details of the medical file that he keeps for the patient

of B, in order to support before the Magistrate's Court ... the action (remuneration

dentist) that he himself has brought against the patient regarding due from

his fee for the medical services provided (special procedure

property disputes no. 614 of the Civil Code - no. cat. file ... with a fixed trial date

...). According to the applicant doctor's claims, the patient in question owes him

balance of payment for the medical services described in detail in the above document
services provided to her.

The Authority, after examining the elements of the file, after hearing the rapporteur and the
clarifications from the assistant rapporteur, who was present without the right to vote and left
after the discussion of the case and before the conference and decision-making,
after thorough discussion,

THOUGHT ACCORDING TO THE LAW

1. Because the provisions of articles 2 par. b', 4 par. 1 and 7 par. 2 item. c' of Law 2472/1997
determine the terms and conditions for the legal processing of sensitive
personal data, including those related to health. With the
these provisions are established as fundamental conditions for the legality of each
processing of sensitive personal data, as well as for legality
of the establishment and operation of a file, the principles of the purpose of processing and
proportionality. The purpose of the processing must be lawful, clear and
defined, and the data does not exceed the purpose of the processing. In addition,
any processing of personal data which is not appropriate and
necessary to achieve the intended purpose is not legal. Especially for the
sensitive personal data, such as those related to health, processing
allowed after permission from the Authority when they are to be used for exercise or
defense of a right before a court or disciplinary body.

2. Because the provision of article 11 par. 3 item b' of the p.d. 39/2009 (Dentistry Code
of ethics) provides that "The removal of dental confidentiality is permitted when: b. THE
dentist aims to preserve a legal, or other justified, essential
public interest, or the dentist's own interest, or someone else's, which
it cannot be preserved otherwise."

3. Because according to the provision of article 11 par. 3 of Law 2472/1997 if the data are announced to third parties, the subject is informed of the announcement before them.

4. Because according to article 614 of the Civil Code "During the special procedure of property

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of disputes are tried ... disputes from fees" and according to paragraph 5 of the same of article "Differences from fees are a) differences for fees, compensations and expenses of ... doctors, dentists ... or the universal successors of all of them and the customers them or their universal successors, however the relationship between them is characterized and regardless of whether or not there is an agreement on the determination of the remuneration or its manner payment of"

5. Because, in the considered case, dentist A requests to use the necessary

at his discretion, information from the medical file of patient B, which he legally keeps

at his doctor's office, in order to support before the Magistrate's Court ... the action

(dentist's fee) that he has brought against the patient regarding a due

from that fee of his for his medical services rendered, as set forth in

present history. Through the use of said details of her medical record

of a patient that includes "photographs of herself and her oral cavity, v

her arrival (at the doctor's office), the progress of her treatment and her recovery,

which he obtained with her consent, and all the medical examinations he himself carried out for her

her treatment (x-rays, etc.), as well as medical data that she voluntarily handed over to him

of the School of Dentistry of the AUTH, and are legally included in its medical record

file" dentist A wants to prove that he performed the medical work in question and

provided the corresponding services without having been paid the entire fee

of.

6. Because the intended processing purpose is consistent with the aforementioned provision

of article 7 par. 2 item c' of Law 2472/1997, for this purpose, the conditions for exemption from the obligation to obtain a permit provided for in the provision of Article 7A of Law 2472/1997. At the same time, the principle of proportionality of data (article 4 par. 1 item b of Law 2472/1997), as through the evaluation of above data of the medical file the competent court will be able to decide on the subject of the lawsuit. Besides, dentist A owes, as controller, to inform in accordance with the provisions of the article 11 par. 3 of Law 2472/1997 to B for the use of her sensitive health data by the same before the competent Court before this usage.

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FOR THOSE REASONS

The Authority grants permission to dentist A to use her medical file patient of B before the Magistrate's Court ... and in the context of the above mentioned legal dispute as specified in the history of the present case, since previously o doctor inform B.

The president

The Secretary

Konstantinos Menudakos

Irini Papageorgopoulou

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