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Autoritat Catalana de Protecció de Dades

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RESOLUTION of the rights protection procedure no. PT 16/2018, urged against Hospital Clínic de Barcelona

Background

1.- On 23/3/2018 the Catalan Data Protection Authority received a letter from Mr. (...) (hereinafter, the person claiming), for which he made a claim for the alleged neglect of the right of access to his medical history,
which he had previously practiced at the Hospital Clínic de Barcelona (hereafter, Hospital Clínic). The claimant provided various documentation relating to the exercise of this right.

2.- In accordance with article 117 of Royal Decree 1720/2007, of December 21, which approves the Regulation implementing Organic Law 15/1999, of December 13, on data protection of personal nature (hereafter, RLOPD and LOPD, respectively), by means of an official letter dated 03/26/2018, the claim was transferred to the Hospital Clínic de Barcelona Consortium (hereafter, HCB), attached to the Catalan Service of the Health, so that within 15 days it formulates the allegations it deems pertinent.

3.- The HCB made allegations, once the request for a deadline extension was granted, by means of a letter dated 04/23/2018, in which it stated, among others, the following:

"That according to the documentation presented by Mr. (...), on February 2, 2018 he sent a burofax to the Hospital Clínic de Barcelona, for the attention of the Management General of the Hospital Clínic de Barcelona, to request access to his clinical history.

In this regard, Hospital Clínic de Barcelona, in accordance with what is established in the patient information sheet (attached to this document), informs its patients that to exercise their ARCO rights, they can do so through the Unit of Customer service. Hospital Clínic de Barcelona establishes this way to be able to comply with the legally established response deadlines.
However, any request to exercise rights received by any other means is redirected to the appropriate circuit, but in these cases it cannot be guaranteed that the deadline

of response is as agile as it should be, since the time that passes until it reaches the relevant Unit and the patient can be contacted cannot be guaranteed.
On March 9, 2018, the brother of Mr. (...) delivered to the Clinical Documentation Service of the Hospital Clínic de Barcelona, a copy of the burofax sent on February 2, and of which there was no knowledge until the moment. Once this letter was presented, the HCB began to carry out the relevant procedures to prepare and give a complete response to the letter presented by Mr. (...).
That according to what was indicated verbally, he communicated, within the legally established period of one month, with Mr. (...), to indicate to him that the exercise of his rights was proceeding and that his documentation was being prepared but that the required documentation was not yet ready due to the complexity and extent of the documentation request, since it was necessary to prepare a large volume of documentation, i

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review by the corresponding doctors a large volume of documentation.
The last communication with Mr. (...) it was in person on April 20th.

The Hospital Clínic wishes to express its intention to resolve as soon as possible
short the request of Mr. (...), but given the complexity and extent of the documentation of the order it has not yet been able to be satisfactorily completed, and that it is expected to be resolved in the coming days. We also want to highlight that at all times we have communicated this situation and the origin of the exercise of the right of access, and within the legally established term, to Mr. (...), and regretting the damage that the delay in the delivery of the documentation may cause."

4.- On 05/07/2018 the Authority received a new letter from the HCB, through which it was made clear that on 04/27/2018 a copy of the medical history of the person here claiming his brother, who acted on his behalf, in order to make effective the right of access exercised. At the same time, the hospital pointed out that in the document certifying the delivery of the documentation - of which it provided a copy, which included a list of the documents delivered -, the claimant's brother had noted: "not compliant due to lack of documentation alone ·licitada", which the Hospital repeatedly asked him about the documentation he was referring to, but he did not get any answer.

5.- In view of the indicated annotation, by means of official document dated 05/10/2018 the Authority request to the person making the claim to report on whether he considered that all the requested documentation had already been given to him, or otherwise, to indicate which were the specific documents from his medical history that he considered that the Hospital should have given him to have facilitated and had not done so.

6.- On 05/18/2018, the Authority received the response letter from the person making the claim, accompanied by various documentation, in which he pointed out the following:

"I explain: In relation to the rights protection procedure no. PT 16/2018, this party denies the fact that any person from the hospital has addressed me either verbally or in writing, which is how I would correspond, in order to ask about the documentation requested and not delivered, therefore it is attached the request that was sent via burofax to Mr. Director of the Clinical Hospital.

Request: In the absence of review due to the length of the Clinical History (1,500 pages), the documents that have not been delivered to date are requested: 1.- The diary of everything supplied by the pharmacy, dated supply, expiry, batches,
staff who supply, staff who administer, etc. 2.- All requests for informed consent signed by me, including those of the intrathecal administration, as well as the acceptance of the BURKIMAB14 protocol. 3. New report
of the head of the department of informatics and information security, where I certify that no record previously collected has been deleted, added or modified in access subsequent to the date of the current day in the medical history."

Among the documentation provided by the claimant was a letter issued by the HCB on 12/12/2012 entitled "Notice on the scope of the right of access", in which he was informed, among others, that the right of access did not involve knowledge of the identity of the

people who, within the scope of the hospital's organization, could have had access to their health data.

Fundamentals of Law

1.- The director of the Catalan Data Protection Authority is competent to resolve this procedure, in accordance with articles 5.b) and 8.2.b) of Law 32/2010, of October 1 , of the Catalan Data Protection Authority.

As a preliminary consideration, it is necessary to indicate that this act has taken into account the eventual application to the present case of the provisions of Regulation (EU) 2016/679 of the European Parliament and of the Council, of 27/4, relating to the protection of natural persons regarding the processing of personal data and the free circulation thereof (RGPD), which as of 05/25/2018 has displaced the LOPD in everything regulated by the RGPD. And as a result of this analysis, it is concluded that the eventual application of the RGPD would not alter the considerations made here.

2.- In relation to the regulations applicable at the time of the facts, article 15 of the LOPD, relating to the right of access, determined the following: "1. The interested party has the right to request and obtain free of charge information about their personal data being processed, the origin of the data and the communications made or planned to be made.

2. The information can be obtained through the mere consultation of the data through visualization, or the indication of the data that is the subject of treatment through writing, copying, telecopy or photocopy, certified or not, in a legible and intelligible form legible, without using keys or codes that require the use of specific mechanical devices.
3. The right of access referred to in this article can only be exercised at intervals of no less than twelve months, unless the interested party proves a legitimate interest for this purpose, in which case they can exercise it earlier."

For its part, article 27 of the RLOPD, in its first and second section provided the following regarding the right of access:
"1. The right of access is the right of the affected person to obtain information on whether their own personal data is being processed, the purpose of the processing that, if applicable, is being carried out, as well as the information available on the origin of the aforementioned data and the communications made or planned for this data.

2. By virtue of the right of access, the affected person can obtain from the controller information relating to specific data, to data included in a certain file, or to all their data subjected to processing.

However, when reasons of special complexity justify it, the person in charge of the file may request the affected person to specify the files in respect of which he wishes to exercise the right of access, and for this purpose he must provide him with a list of all the files."

Likewise, also on the right of access, article 29 of the RLOPD established the following:
"1. The person in charge of the file must decide on the access request within a maximum period of one month from the receipt of the request. The deadline has passed

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without expressly responding to the access request, the interested party can file the claim provided for in article 18 of Organic Law 15/1999, of December 13.

In the event that it does not have the personal data of those affected, it must also notify them within the same period.

2. If the request is approved and the person in charge does not accompany his communication with the information referred to in article 27.1, access must take effect within ten days of the aforementioned communication.

3. The information provided, regardless of the medium in which it is provided, must be provided in a legible and intelligible manner, without the use of keys or codes that require the use of specific mechanical devices.

The information must include all the basic data of the affected person, the results of any computer processing or process, as well as the information available on the origin of the data, the transferees of the data and the specification of the specific uses and purposes for which the data was stored."

Apart from the previous regulation, in the case analyzed here, it is also necessary to take into account the applicable health regulations. Specifically, Basic State Law 41/2002, of November 14, on Patient Autonomy (hereinafter, Law 41/2002) establishes in its article 18 the right of access to the clinical history in the following terms:

"Rights of access to the clinical history 1. The patient has the right of access, with the reservations indicated in section 3 of this article, to the documentation of the clinical history and to obtain a copy of the data contained therein . Health centers must regulate the procedure that guarantees the observance of these rights.

2. The patient's right of access to the clinical history can also be exercised by duly accredited representation."

3. The patient's right of access to the clinical history documentation cannot be exercised to the detriment of the right of third parties to the confidentiality of the data contained therein collected in the patient's therapeutic interest, nor to the detriment of the right of professionals who participate in its preparation, who can object to the right of access to the reservation of their subjective annotations.

4. Health centers and private practitioners must only provide access to the medical records of deceased patients to people who are related to them, for family or de facto reasons, unless the deceased has expressly prohibited it and be accredited in this way. In any case, a third party's access to the medical history motivated by a risk to their health must be limited to the relevant data. Information that affects the privacy of the deceased or the subjective notes of professionals must not be provided, nor that harms third parties."

Regarding the content of the clinical history, art. 15 of this legal body establishes the following:

"1. The medical history must incorporate the information that is considered important for truthful and up-to-date knowledge of the patient's state of health. Any patient or user has the right to record, in writing or in the most appropriate technical support, the information obtained in all their healthcare processes,

carried out by the health service both in the field of primary care and specialized care.

2. The main purpose of the medical history is to facilitate health care, recording all the data that, under medical criteria, allow truthful and up-to-date knowledge of the state of health. The minimum content of the clinical history must be the following:

a) The documentation relating to the clinical statistics sheet.
b) Entry authorization.
c) The emergency report.
d) History and physical examination.
e) Evolution.
f) Medical orders.
g) The interconsultation sheet.
h) The reports of complementary explorations.
i) Informed consent.
j) The anesthesia report.
k) The operating room or birth registration report.
l) The pathological anatomy report.
m) The evolution and planning of nursing care.
n) The therapeutic application of nursing.
ñ) The graph of constants.
o) The clinical discharge report.
Paragraphs b), c), i), j), k), l), ñ) io) are only required in the formalization of the clinical history when it is about hospitalization processes or it is arranged in this way. "

For its part, article 13 of Catalan Law 21/2000, of December 29, of Patient Autonomy and Rights to Information and Clinical Documentation (hereinafter, Law 21/2000) determines the following:

"Rights of access to the clinical history

1. With the reservations noted in section 2 of this article, the patient has the right to access the documentation of the clinical history described by article 10, and to obtain a copy of the data contained therein. It is up to the health centers to regulate the procedure to guarantee access to the clinical history.

2. The patient's right of access to the documentation of the clinical history can never be to the detriment of the right of third parties to the confidentiality of their data appearing in the aforementioned documentation, nor of the right of the professionals who have involved in the preparation of this, who can invoke the reservation of their observations, appreciations or subjective notes.

3. The patient's right of access to the clinical history can also be exercised by representation, as long as it is duly accredited."

Regarding the content of the clinical history, art. 10 of Law 21/2000 establishes the following:

"1. The medical history must have an identification number and must include the following data:

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a) Identification data of the patient and of the assistance:
Name and surname of the patient.
Date of birth.
sex
Usual address and telephone number, in order to locate you.
Date of attendance and admission, if applicable.
Indication of origin, in case of referral from another care center.
Service or unit in which assistance is provided, if applicable.
Room and bed number, in case of admission.
Doctor responsible for the patient.
Likewise, when it comes to users of the Catalan Health Service and care is provided on behalf of this entity, the personal identification code contained in the individual health card must also be recorded.

b) Clinical care data:
Physiological and pathological family and personal history.
Description of the disease or current health problem and successive reasons for consultation.

Clinical procedures used and their results, with the corresponding opinions issued in case of specialized procedures or examinations, and also the interconsultation sheets.

Clinical course sheets, in case of admission.
Medical treatment sheets.
Informed consent form if applicable.
Information sheet provided to the patient in relation to the diagnosis and the prescribed therapeutic plan, if applicable.
Epicrisis or discharge reports, if applicable.
Voluntary discharge document, if applicable.
Necropsy report, if available.
In the case of surgical intervention, the operating sheet and anesthesia report must be included, and in the case of childbirth, the registration data.
c) Social data:
Social report, if applicable.
2. In hospital clinical records, which often involve more than one doctor or healthcare team, the actions, interventions and prescriptions made by each professional must be recorded individually.

3. Health centers must have a standardized clinical history model that includes the contents set out in this article adapted to the level of care they have and
to the class of provision they make."

Finally, article 18 of the LOPD, regarding the protection of rights of access, rectification, opposition and cancellation, establishes in its sections 1 and 2 the following:

"1. Actions contrary to the provisions of this Law may be the subject of a claim by the interested parties before the Data Protection Agency, in the manner determined by regulation.

2. The interested party who is denied, in whole or in part, the exercise of the rights of opposition, access, rectification or cancellation, may bring this to the attention of the Data Protection Agency or, where applicable , of the competent body of each

autonomous community, which must make sure of the origin or impropriety of the denial."

In line with the above, article 16.1 of Law 32/2010 provides:

"1. Interested persons who are denied, in part or in full, the exercise of their rights of access, rectification, cancellation or opposition, or who may understand that their request has been rejected due to the fact that it has not been resolved within the established deadline, they can submit a claim to the Catalan Data Protection Authority."

3.- Having explained the applicable regulatory framework, it is then necessary to analyze whether the HCB resolved and notified, within the period provided for by the applicable regulations, the right of access exercised by the person making the claim, since precisely the reason for the complaint of the person that initiated the present procedure for the protection of rights was the fact of not having obtained a response within the period provided for the purpose.

In this respect, it is certified that on 02/02/2018 the HCB received a letter from the person here claiming, through which he exercised his right of access to his medical history.

In accordance with article 29 of the RLOPD, the HCB had to resolve and notify the access request within a maximum period of one month from the date of receipt of the request. About this, in the hearing phase before the transfer of the claim to the HCB
has admitted a significant delay in its response, attributing it to the fact that the person now claiming addressed the letter of request - which he sent by burofax - to the director of the HCB, and not to the Customer Service Client, which would be the unit in charge of processing requests for ARCO rights, including the right of access exercised by the claimant.

Well, the circumstances presented by the HCB do not preclude considering that the maximum deadline for responding to the request was breached. At the outset, it should be noted that the HCB was obliged to respond to the request for access made by the claimant, even if he had addressed the letter to the HCB Management.
This is clear from art. 24.5 RLOPD, which establishes that: "the person responsible for the file or treatment must attend to the request for access, rectification, cancellation or opposition exercised by the affected person even if he has not used the procedure specifically established for that purpose, as long as the interested party has used a means that allows the sending and receipt of the request to be certified (...)".

Secondly, with regard to the determination of the days a quo of the one-month term, it must be taken into account that, in accordance with article 21.3 b) of Law 39/2015, of October 1, of the common administrative procedure of the public administrations (hereinafter, LPAC) and article 41.7 of Law 26/2010, of August 3, on the legal regime and procedure of the public administrations of Catalonia (hereinafter, LRJPCat) , the calculation of the maximum term in procedures initiated at the request of a party - as is the case - begins from the date on which the request was entered in the register of the competent body for its processing. This legal provision makes it clear

that the erroneous indication of a recipient different from the intended one does not interrupt the calculation of the intended term, as long as the written request has an entry in the register of the competent body, as is the case, where it must be understood as referred to , at the very least, at the address of the central offices of the HCB. Finally, it cannot be overlooked that in the present case the request was addressed, albeit erroneously, to the HCB Management, so more rightly the HCB should have issued an express response within the deadline.

However, this was not the case, so that, once the period of one month had expired since he made the first request for access, specifically on 9/03/2018, the brother of the person here claiming - acting on his behalf - he reiterated the request for access to the clinical history, this time before the Clinical Documentation Service of the HCB, to whom he will deliver a copy of the burofax containing the request for access presented on 2/ 02/2018.

The HCB has pointed out that from that date (9/03/2018) it started "the relevant procedures to prepare and give a complete answer", and that it communicated this verbally to the now claimant "within the legally established term of one month".

The allegations made by the HCB are therefore not admissible, apart from the fact that the calculation of the maximum period of one month started from the date on which the HCB first received the burofax, this is, on 02/02/2018, the one month deadline was for resolve and notify (article 21 of the LPAC), so that before the end of this term the HCB should have notified the resolution, or at least the duly accredited notification attempt has occurred (art. 40.4 LPAC). The only case allowed by the regulations applicable to the case involving a delay in the delivery of the documentation is that provided for in art. 29.2 RLOPD, which precept indicates that: "if the request is estimated and the person in charge does not accompany his communication with the information referred to in article 27.1, access must be effective within ten days following the estimated communication". It does not seem, however, that this precept is applicable in the present case, since the indicated verbal communication would have taken place in any case once the period of one month had already expired. In relation to the fact that the HCB had given an answer verbally, it must be stated that, although it is a valid option, the fact that the HCB must be able to prove compliance with the duty to answer makes it more advisable written response option. In this sense, the art. 25 of the RLOPD establishes that: "it is up to the data controller to prove compliance with the duty to respond (...) (and for this purpose) he must keep the accreditation of compliance with the aforementioned duty" (art. 25.5 RLOPD). Be that as it may, the HCB has admitted, and the Authority has noted with the documentation provided by the HCB and the claimant, that it was not until 04/27/2018 that the HCB delivered the documentation to the here claiming, in response to the access request. So it is clear that he gave an answer once the legally provided term had expired, and that he delivered the documentation corresponding to the now claimant almost three months later, and therefore extemporaneously.

In conclusion, the passage of the period of one month without the claimant receiving any response to his request for access leads to the estimation of the claim for formal reasons, given that the HCB breached the deadline legally provided for resolve and notify

the response to the access request of the affected person. This notwithstanding what will be said below regarding the substance of the claim.

4.- Once the above has been established, it is appropriate to analyze the substance of the claim, that is to say, whether the response given by the HCB to the request of the now claimant conformed to the precepts transcribed in the legal basis previous

As a starting point, it should be borne in mind that articles 15 of the LOPD and 27.1 of the RLOPD configure the right of access as the right of the affected person to obtain information about their own personal data that is being processed and, if applicable, on the purpose of the treatment, as well as the information available on the origin of the aforementioned data and the communications made or planned.

The right of access is a very personal right, and constitutes one of the essential powers that make up the fundamental right to the protection of personal data. As has already been advanced, through the right of access the owner of the data can find out which data about his person are the subject of treatment. In addition, this right could be the basis for the exercise of other rights, such as those of cancellation, rectification or opposition.

This is why the limitations to this right of access must be minimal given that through its exercise the effectiveness of the fundamental right to the protection of personal data is guaranteed.

It is proven in the procedure that the HCB resolved in an estimative sense the request for access that the claimant had made in writing dated 01/31/2018, although the response from the HCB would have been made through verbal communication. In any case, it is certified that on 04/27/2018 the HCB delivered the corresponding documentation to the brother of the person making the claim, on his behalf.

However, the claimant considers that the HCB would not have given him all the requested documentation. Specifically, by means of a letter dated 05/18/18 addressed
The claimant has stated to the Authority that, "in the absence of review due to the length of the Clinical History (1,500 pages)", he would lack the following documents:

4.1. "The diary of everything supplied by the pharmacy, with date of supply, expiration date, batches, personnel who supply, personnel who administer, etc."
4.2. "All requests for informed consent signed by me, including those of the intrathecal administration, as well as the acceptance of the BURKIMAB14 protocol."

4.3. "New report from the head of the IT and information security department, where I certify that no record previously collected has been deleted, added or modified in access subsequent to the date of the current day in the medical history."

The documentation mentioned by the person making the claim will be analyzed separately below. Before, however, it should be noted, in general, that, when the

right of access has as its object the personal data appearing in a medical history, its exercise involves access to all the documentation appearing in the medical history (with the exceptions indicated by the sectoral health legislation), and this documentation will be, or should be, at least, that which constitutes the mandatory content of a clinical history, which are described in articles 15 Law 41/2002 and 10 Law 21/2000 that have been transcribed into the second legal basis.

Well, with regard to the documentation that the HCB would have delivered to the claimant here in response to his request for access, of the comparison between the content provided for in the indicated precepts and the documentation relationship that appears reviewed in the letter with which the HCB accompanied the proof of delivery of documentation to the present claimant, it is inferred that the HCB could not have given the claimant all the documentation of his medical history, at least, the one that should be included, and for this reason it is assumed that it existed in the medical history and proceeded give access to it

This is why, without prejudice to the considerations that will be made below about the specific documentation indicated in the last letter by the person now claiming, the omission of the documentation previously noted is sufficient to estimate the claim also from a background optics, and recognize the claimant's right to access all the documentation contained in his medical history. Excluded from the material scope of the right of access is only that information to which access, by the person making the claim, could harm the right of third parties to the confidentiality of their data, or the right of professionals who intervened in its preparation, who can invoke the reservation of their observations, appreciations or subjective notes. But in such cases, the denial of access must be motivated in writing, and in the case of reservations made by professionals, it is also necessary for these professionals to leave written evidence of their reservation. In the event that the HCB could not deliver certain documentation due to the fact that it had not been collected or prepared even though it is mandatory, in the answer it would also be necessary to refer to it, and to record this circumstance.

As far as the documentation mentioned by the person now claiming in his last letter presented to the Authority is concerned, the origin of accessing each of these will be analyzed separately.

4.1. Information regarding the daily pharmacological supply.

The information regarding the supply of the drugs prescribed to the person now claiming while he was admitted to the HCB is considered part of the mandatory content of a clinical history, as it could well be understood as included in the sections of art. 10 Law 21/2000 referring to the "medical treatment sheets", or the "information sheet provided to the patient regarding the prescribed therapeutic plan", as also in the sections of art. 15.2 Law 41/2002 referring to "medical orders", or "the evolution and planning of nursing care", or the therapeutic application of nursing. For this same reason, the HCB would be obliged to keep this documentation during the period indicated in the rules indicated (art. 12 Law 21/2000 and 17 Law 41/2002) and in any case while any legal proceedings are resolved.

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In the letter from the HCB that contains related documentation delivered to the claimant, both the nursing follow-ups during various admissions carried out in 2017, as well as the control of medication administration during various periods of the year 2017 and 2018. It is not clear whether or not this information provided corresponds to all the assistance processes, and whether it contains all the information mentioned and to which the claimant would have the right to access. In any case, if there was more information about it, it would have to be given to him.

On the other hand, the information requested by the now claimant regarding the expiration date of the drugs supplied, the identifying lots, the specific personnel who supplied them, and the personnel who administered them, is not part of the content minimum mandatory clinical history. Therefore, if it does not appear in the history of the now claimant, nor in the files with personal data of patients held by the HCB as information linked to the claimant here, it is clear that the HCB cannot deliver - him This is without prejudice to the HBC's duty to inform about such a circumstance.

4.2. Information regarding the provision of informed consent.

The information relating to the provision of informed consent forms part of the minimum mandatory content of a clinical history, in accordance with articles 10.1.b) of Law 21/2000 and 15.2.i) of Law 41/2002. Therefore, the HCB was obliged to deliver this documentation to the now claimant.

Another thing is that, despite the existence of this obligation, the HCB has not kept this documentation in the medical history of the person making the claim. In such a case, it is obvious that the HCB could not deliver to him, but in any case he was equally obliged to give an answer, although this would be limited to verifying the indicated fact. This, without prejudice to the responsibilities that the HCB could incur due to the fact that it has removed documentation that it had to keep for a period of time that does not seem to have passed.

4.3. Report of the head of the IT and Information Security Department.

With regard to the report requested by the now claimant, "where I certify that no previously collected record has been deleted, added or modified in access subsequent to the current date in the medical history", of entry, it should be noted that this is information that would not be part of the content of a clinical history, nor of the information that forms the material scope of the LOPD's right of access, in accordance with the transcribed precepts to the second right foundation. But in any case, it refers to information that should be elaborated, so it is clear that it does not fall within the right of access.

Consequently, through this procedure to protect the claimant's right of access, the right to issue this report cannot be recognized.

In short, and from the perspective of the right of access regulated to the LOPD and the RLOPD, in force at the time of the facts, it is appropriate to partially assess the present claim and recognize the claimant's right to access: (A) all the sheets of

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informed consent that he had signed, (B) any information about the drugs that would have been prescribed and supplied to him daily and that, appearing in his medical history or in any file of the HCB linked to the herein claimant, have not yet had been delivered to him; and (C) all the other documentation mentioned in articles 15 Law 41/2002 and 10 Law 21/2000 as minimum mandatory content of a clinical history, and which had not yet been given to him. This, except for the exceptional cases indicated in articles 18.3 Law 41/2002 and 13.2 Law 21/2000 (that information access to which, by the person making the claim, could harm the right of third parties to the confidentiality of their data, or the right of the professionals who intervened in its preparation, who can invoke the reservation of their subjective observations, appreciations or annotations). On the contrary, it is appropriate to dismiss the claim with regard to the request for access to: (D) the information on the people who supplied the drugs, their expiry date and the information relating to the identification batches of those; (E) the report of the head of IT and related to any changes to the records made in your medical history.

5.- In accordance with what is established in articles 16.3 of Law 32/2010 and 119 of the RLOPD, in cases of estimation of the claim for the protection of rights, the manager of the file must be required so that in the term of 10 days make effective the exercise of
right In accordance with this, it is necessary to require the claimed entity so that, within 10 counting days from the day after the notification of this resolution, provide the person making the claim with access to the information mentioned in the basis of previous law (A, B, C). Regarding the information that is not available, either because it was never collected, or because it has not been preserved, in the response that is issued it will still be necessary to refer to it, although the mention will be limited to indicate the reason justifying its non-delivery. Likewise, in the case that the HCB has appreciated that certain information may harm the right to confidentiality of third parties, or the professionals who would have intervened in the assistance would have made reservations regarding access to subjective assessments or annotations, likewise it will be necessary to indicate this and keep the supporting documentation. Once the right of access has taken effect in the terms set out, within the same period of 10 days the claimed entity must report to the Authority.

For all that has been exposed,

RESOLVED

First.- Partially estimate the guardianship claim made by Mr. (...) against the Consorci Hospital Clínic de Barcelona, and recognize his right of access to the information mentioned in the fourth legal basis.

Second.- Request the Consorci Hospital Clínic de Barcelona so that, within 10 counting days from the day after the notification of this resolution, it makes effective the right of access exercised by the person making the claim, in the manner indicated to the
fourth and fifth fundamentals of law. Once the right of access has taken effect, within the same period of 10 days the claimed entity must report to the Authority.

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Third.- Notify this resolution to the Consorci Hospital Clínic de Barcelona and the person making the claim.

Fourth.- Order the publication of the Resolution on the Authority's website (www.apd.cat), in accordance with article 17 of Law 32/2010, of October 1.

Against this resolution, which puts an end to the administrative process in accordance with articles 26.2 of Law 32/2010, of October 1, of the Catalan Data Protection Authority and 14.3 of Decree 48/2003, of 20 February, by which the Statute of the Catalan Data Protection Agency is approved, the interested parties can file, as an option, an appeal for reinstatement before the director of the Catalan Data Protection Authority, in the period of one month from the day after its notification, in accordance with the provisions of article 123 et seq. of Law 39/2015 or directly file an administrative contentious appeal before the administrative contentious courts of Barcelona , within two months from the day after its notification, in accordance with articles 8, 14 and 46 of Law 29/1998, of July 13, regulating administrative contentious jurisdiction.

Likewise, the interested parties may file any other appeal they deem appropriate for the defense of their interests.

The director,

M. Àngels Barbarà and Fondevila

Barcelona, (on the date of the electronic signature)