22. Right to Communication Disclosure and Right to Associate

Upon admission to a facility, where federal law prohibits unauthorized disclosure of patient identifying information to callers and visitors, the patient, or the legal guardian or conservator of the patient, shall be given the opportunity to authorize disclosure of the patient’s presence in the facility to callers and visitors who may seek to communicate with the patient. To the extent possible, the legal guardian or conservator of the patient shall consider the opinions of the patient regarding the disclosure of the patient’s presence in the facility.

The patient has the right to visitation by an individual the patient has appointed as the patient’s health care agent under chapter 145C and the right to visitation and health care decision making by an individual designated by the patient under paragraph 22.

Upon admission to a facility, the patient or the legal guardian or conservator of the patient, must be given the opportunity to designate a person who is not related who will have the status of the patient’s next of kin with respect to visitation and making a health care decision. A designation must be included in the patient’s health record. With respect to making a health care decision, the health care directive or appointment of a health care agent under chapter 145C prevails over a designation made under this paragraph. The unrelated person may also be identified as such by the patient or by the patient’s family.

Additional rights in residential programs that provide treatment to chemically dependent or mentally ill minors or in facilities providing services for emotionally disturbed minors on a 24-hour basis.

23. Isolation and Restraints

A minor patient who has been admitted to a residential program as defined in Section 7 has the right to be free from physical restraint and isolation except in emergency situations involving a likelihood that the patient will physically harm the patient’s self or others. These procedures may not be used for disciplinary purposes, to enforce program rules, or for the convenience of staff. Isolation or restraint may be used only upon the prior authorization of a physician, psychiatrist, or licensed consulting psychologist, only when less restrictive measures are ineffective or not feasible and only for the shortest time necessary.

24. Treatment Plan

A minor patient who has been admitted to a residential program as defined in Section 7 has the right to a written treatment plan that describes in behavioral terms the case problems, the precise goals of the plan, and the procedures that will be utilized to minimize the length of time that the minor requires inpatient treatment. The plan shall also state goals for release to a less restrictive facility and follow-up treatment measures and services, if appropriate. To the degree possible, the minor patient and his or her parents or guardian shall be involved in the development of the treatment and discharge plan.

Federal Rights


Patients have the right to:

1. file a grievance and information on whom to contact to file a grievance;
2. participate in the development and implementation of his or her plan of care;
3. make decisions regarding his or her care;
4. be informed of his or her status, involved in care planning and treatment, and the ability to refuse treatment;
5. formulate advance directives and to have hospital staff and practitioners who provide care in the hospital comply with these directives, in accordance with §§489.100, §489.102, and §489.104;
6. personal privacy;
7. receive care in a safe setting, free from verbal or physical abuse or harassment;
8. confidentiality of his or her clinical records and the ability to access information contained in his or her clinical records within a reasonable time frame; and
9. be free from restraints and seclusion of any form used as a means of coerced, discipline, convenience, or retaliation by staff.

Patients who believe they have been aggrieved under their federal rights should refer to Right #1 in this document. The text of the federal law can be obtained by contacting the hospital business office.

If you have any questions about your medical care in this facility, contact:

Minnesota Hospital Association

Inquiries or complaints regarding medical treatment or the Patients’ Bill of Rights may be directed to:

Minnesota Board of Medical Practice
2520 University Ave. SE, Suite 300
Minneapolis, MN 55414-3246
(612) 677-2188 • (800) 857-3700
Office of Health Facility Complaints
85 E. Seventh Plaza, Suite 220
P.O. Box 64970
St. Paul, MN 55164-0970
(651) 201-4201 • (800) 369-7904
Office of Ombudsman for Long-Term Care
P.O. Box 64971
St. Paul, MN 55164-0971
(651) 431-2555 • (800) 687-2861

21. Protection and Advocacy Services

Patients shall have the right of reasonable access at reasonable times to any available rights protection services and advocacy services so that the patient may receive assistance in understanding, exercising, and protecting the rights described in this section and in other law. This right shall include the opportunity for private communication between the patient and a representative of the rights protection service or advocacy service.
Legislative Intent
It is the intent of the Legislature and the purpose of this statement to promote the interests and well-being of the patients of health care facilities. No health care facility may require a patient to waive these rights as a condition of admission to the facility. Any guardian or conservator of a patient or, in the absence of a guardian or conservator, an interested person, may seek enforcement of these rights on behalf of a patient. An interested person may also seek enforcement of these rights on behalf of a patient who has a guardian or conservator through administrative agencies or in probate court or county court having jurisdiction over guardianships and conservatorships. Pending the outcome of an enforcement proceeding the health care facility may, in good faith, comply with the instructions of a guardian or conservator. It is the intent of this section that every patient's civil and religious liberties, including the right to independent personal decisions and knowledge of available choices, shall not be infringed and that the facility shall encourage and assist in the fullest possible exercise of these rights.

Definitions
For the purposes of this statement, “patient” means a person who is admitted to an acute care inpatient facility for a continuous period longer than 24 hours, for the purpose of diagnosis or treatment bearing on the physical or mental health of that person. “Patient” also means a minor who is admitted to a residential program as defined in Section 7. Laws of Minnesota 1986, Chapter 326. For purposes of this statement, “patient” also means any person who is receiving mental health treatment on an individual basis or in a community support program or other community-based program.

Public Policy Declaration
It is declared to be the public policy of this state that the interests of each patient be protected by a declaration of a patient’s bill of rights, which shall include but not be limited to the rights specified in this statement.

1. Information About Rights
Patients shall, at admission, be informed that there are legal rights for their protection during their stay at the facility or throughout their course of treatment and maintenance in the community and that these rights are described in an accompanying written statement of the applicable rights and responsibilities set forth in this section. In the case of patients admitted to residential programs as defined in Section 7, the written statement shall also describe the rights of a person 16 years old or younger to request release as provided in subdivision 3. Subdivision 3, and shall list the names and telephone numbers of individuals and organizations that provide advocacy and legal services for patients in residential programs. Reasonable accommodations shall be made for those with communication impairments, and those who speak a language other than English. Current facilities policies, inspection findings of state and local health authorities, and further explanation of the information stated in this section may be included in their guardians or their chosen representatives upon reasonable request to the administrator or other designated staff person, consistent with Chapter 13, the Data Practices Act, and Section 625.557, relating to vulnerable adults.

2. Courteous Treatment
Patients have the right to be treated with courtesy and respect for their individuality by employees of or persons providing service in a health care facility.

3. Appropriate Health Care
Patients shall have the right to appropriate medical and personal care based on individual needs. This right is limited where the service is not reimbursable by public or private resources.

4. Physician’s Identity
Patients shall have or be given, in writing, the name, location, and address of each physician responsible, in whole or in part, of any procedure or treatment a patient receives. Each physician shall have an identifying number or, of any, the physician responsible for coordination of their care. In cases where it is medically inadvisable, as documented by the attending physician in a patient's care record, the information shall be given to the patient’s guardian or other person designated by the patient as his or her representative.

5. Relationship With Other Health Services
Patients who receive services from an outside provider are entitled, upon request, to be told the identity of the provider. Information shall include the name of the outside provider, the address, and a description of the service which may be rendered. In cases where it is medically inadvisable, as documented by the attending physician in a patient’s care record, the information shall be given to the patient’s guardian or other person designated by the patient as his or her representative.

6. Information About Treatment
Patients shall be given by their physicians complete and current information concerning their diagnosis, treatment, alternative treatments, risks and prognosis as required by the physician’s legal duty to disclose. This information shall be in terms and language the patients can reasonably be expected to understand. Patients may be accompanied by a family member or other chosen representative, or both. This information shall include the likely medical or major psychological results of the treatment and its alternatives. In cases where it is medically inadvisable, as documented by the attending physician in a patient’s medical record, the information shall be given to the patient’s guardian or other person designated by the patient as his or her representative. Individuals have the right to refuse this information. Every patient suffering from any form of breast cancer shall be fully informed, prior to or at the time of admission and during her stay, of all alternative effective methods of treatment of which the patient is capable, including surgical, radiological, or chemotherapeutic treatments or combinations of treatments and the risks associated with each of those methods.

7. Participation in Planning Treatment
Notification of Family Members
a) Patients shall have the right to participate in the planning of their health care. This right includes the opportunity to discuss treatment and alternatives with individual caregivers, the opportunity to request and participate in formal care conferences, and the right to have a family, friend, or other chosen representative be present or both. In the event that the patient cannot be present, a family member or other representative may be chosen by the patient may be included in such conferences. A chosen representative may include a doula of the patient’s choice.

b) If a patient enters a facility’s unconscious or comatose or is otherwise unable to communicate, the facility shall make reasonable efforts as required under Paragraph (c) to notify other a family member or other person designated by the patient as the person to contact in an emergency that the patient has been admitted to the facility. The facility shall allow the family member to participate in treatment planning, unless the facility knows or has reason to believe that the patient has an effective advance directive or to the contrary or knows that the patient has specified in writing that he or she does not want a family member included in treatment planning. After notifying a family member but prior to allowing a family member to participate in treatment planning, the facility must make reasonable efforts, consistent with reasonable medical practice, to determine if the patient has executed an advance directive relative to the patient’s health care decisions. For purposes of this paragraph, “reasonable efforts” include:
• examining the personal effects of the patient;
• examining the medical records of the patient in the possession of the facility;
• inquiring of any emergency contact or family member contacted whether the patient has executed an advance directive and whether the patient has a physician to whom the patient normally goes for care; and
• inquiring of the physician to whom the patient normally goes for care, if known, whether the patient has executed an advance directive.
If a facility notifies a family member or designated emergency contact or allows a family member to participate in treatment planning in accordance with this paragraph, the facility is not liable to the patient for damages on the grounds that the notification of the family member or designated emergency contact or the participation of the family member was improper or violated the patient’s privacy rights.

8. Continuity of Care
Patients shall have the right to be cared for with reasonable regularity and continuity of staff assignment as set forth in this section.

9. Right to Refuse Care
Compliant patients shall have the right to refuse treatment based on the information required in Right No. 6. In cases where a patient is incapable of understanding the circumstances but has declared in writing that he or she does not want treatment, the facility shall make reasonable efforts as required under Paragraph (c) to notify other a family member or other person designated by the patient as the person to contact in an emergency that the patient has been admitted to the facility. The facility shall allow the family member to participate in treatment planning, unless the facility knows or has reason to believe that the patient has an effective advance directive or to the contrary or knows that the patient has specified in writing that he or she does not want a family member included in treatment planning. After notifying a family member but prior to allowing a family member to participate in treatment planning, the facility must make reasonable efforts, consistent with reasonable medical practice, to determine if the patient has executed an advance directive relative to the patient’s health care decisions. For purposes of this paragraph, “reasonable efforts” include:
• examining the personal effects of the patient;
• examining the medical records of the patient in the possession of the facility;
• inquiring of any emergency contact or family member contacted whether the patient has executed an advance directive and whether the patient normally goes for care; and
• inquiring of the physician to whom the patient normally goes for care, if known, whether the patient has executed an advance directive.
If a facility notifies a family member or designated emergency contact or allows a family member to participate in treatment planning in accordance with this paragraph, the facility is not liable to the patient for damages on the grounds that the notification of the family member or designated emergency contact or the participation of the family member was improper or violated the patient’s privacy rights.

10. Experimental Research
Written, informed consent must be obtained prior to patient’s participation in any experimental treatment, therapy, or clinical research. Patients have the right to refuse participation. Both consent and refusal shall be documented in the patient’s individual record.

11. Freedom From Maltreatment
Patients shall be assured freedom from maltreatment as defined in the Vulnerable Adults Protection Act. “Maltreatment” means conduct described in Sections 199A.44, 199A.45, 199A.455, or the intentional and nontherapeutic infliction of physical pain or injury, or any persistent course of conduct intended to produce mental or emotional distress. Every patient shall also be free from nontherapeutic chemical and physical restraints, except in fully documented emergencies, or as authorized in writing after examination by a patient’s physician for a specified and limited period of time, and only when necessary to protect the patient from self-harm or injury to others.

12. Treatment Privacy
Patients shall have the right to respectfulness and privacy as it relates to their medical and personal care plans. Casual discussion, consultation, examination, and treatment are confidential and shall be conducted discreetly. Privacy shall be respected during bathing, bathing, and other activities of personal hygiene, except as needed for patient safety or assistance.

13. Confidentiality of Records
Patients shall be assured confidentiality of their personal and medical records, and may approve or refuse their release to any individual outside the facility. Copies of records and written releases shall be made available in accordance with this subdivision and Section 144.335. This right does not apply to complaint investigations and inspections by the department of health, where required by third party payment contracts, or where otherwise provided by law.

14. Disclosure of Services Available
Patients shall have the right to know, prior to or at the time of admission and during their stay, of services which are included in the facility’s basic, semi private or daily room rate and that other services are available at additional charges. Facilities shall make every effort to assist patients in obtaining information regarding whether the Medicare or Medical Assistance program will pay for any or all of the aforementioned services.

15. Responsive Service
Patients shall have the right to a prompt and reasonable response to their questions and requests.

16. Personal Privacy
Patients shall have the right to every consideration of their privacy, including the right to maintain their cultural identity as related to their social, religious, and psychological well-being.

17. Grievances
Patients shall be encouraged and assisted, throughout their stay in a facility or their course of treatment, to understand and exercise their rights as patients and citizens. Patients may voice grievances and recommend changes in policies and services to facility staff and others of their choice, free from restraint, interference, coercion, discrimination, or reprisal, including threat of discharge. Notice of the grievance procedure of the facility or program, as