### Hospitals and Rights of Patients with Disabilities During COVID-19 Public Health Emergency

(As of May 20, 2020)

**Patients have the right to participate in the planning of their health care and make informed choices.** Federal law requires Medicare and Medicaid certified hospitals to allow individuals, or their medically necessary representatives, to participate in all aspects of their health care. The Minnesota Health Care Bill of Rights has similar requirements.

**Hospitals must make sure that people with disabilities have full and equal access to healthcare services.** The Americans with Disabilities Act (ADA) and the Minnesota Human Rights Act (MHRA) prohibit discrimination based on disability in the delivery of healthcare. Every person is entitled to full and equal access to services and facilities.

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<td><strong>Problems in General</strong></td>
<td>You can use these four steps for all problems listed in this factsheet.</td>
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The hospital is not agreeing with my requests.

1. Keep notes and records of who in the hospital you ask for supports and when.
2. Ask for the hospital’s decision in writing.
3. Ask for an ombudsperson/patient advocate to be involved to help resolve the problem.
4. If you feel your rights are still being violated and the steps listed below don’t work, use the hospital internal grievance process.

Hospitals are required under state and federal law to have grievance processes and procedures. Patients have the right to file a complaint under required grievance procedures and to receive a written copy of any decision. 42 CFR § 482.13 (a)(2), Minn Stat. § 144.651 Subd. 20
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## ABOUT US

The Minnesota Disability Law Center (MDLC), a division of Mid-Minnesota Legal Aid, is Minnesota’s Protection and Advocacy System for people with disabilities.

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### Problem

**Specific Problems**

1. The hospital is not allowing me to make an informed choice.
2. The hospital won’t let my staff or support person be with me because of its COVID-19 “no visitor” policy.

### Steps

**Here Are Some More Ideas to Fix Specific Problems**

1. Make sure to tell the hospital what support you need to make an informed choice.
2. If you feel you need a support person to make an informed choice, communicate that need to the hospital.
3. Request a copy of the care or treatment plan and see if the medical care you are receiving is consistent with the written plan.
4. Give the hospital copies of records that describe your medical care needs, such as from your primary care doctor or support team.

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### Rights

Patients or their representatives have the right to make informed choices regarding care, including the right to be informed of health status, involvement in care planning, and the right to refuse or request treatment. 42 CFR § 482.13 (b); Minn Stat.144.651 Subd. 10

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### CONTACT US

- **612-334-5970**
- **1-800-292-4150**
- MyLegalAid.org
- Facebook.com/LegalAid
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| The hospital won’t let my guardian be with me. | 1. Tell the hospital your guardian is essential and necessary to help you access or understand information about your medical care and to protect your right to make informed choices about your medical care.  
2. Be prepared by having a copy of the guardianship court order and have your guardian be ready to show a photo ID.  
3. If your guardianship orders assign your guardian the power to give medical consent on your behalf, show the hospital the section of the order which assign this power to your guardian. Be clear, for any consent to be valid, you must have direct access to your guardian. | Minnesota Courts frequently grant guardians the power to give necessary consent for medical care. Minn. Stat. § 524.5-313(c)(4)(i). Hospitals must allow individuals, or their medically necessary representatives, to participate in all aspects of their health care. 42 CFR § 482.13, Minn. Stat. § 144.651 Subd 10. |
| The hospital will not let me bring in my personal equipment and has not offered a comparable device (i.e. communication device or power wheelchair). | 1. Tell the hospital why it is essential and necessary to have your personal equipment with you in the hospital.  
2. Ask the hospital for a copy of their policy regarding bringing personal equipment into the facility.  
3. Get copies of letters and supportive documentation from your primary physician and other personal health care providers.  
4. Inform hospital that you are willing to follow any disinfecting procedures that have been put in place during the covid-19 pandemic. | Under the ADA and MHRA, hospitals are required to make reasonable modifications to policies and practices when necessary to make health care services fully available to people with disabilities. |
Here Are Some More Ideas to Fix Specific Problems

The hospital is not agreeing to the interpreter services or accommodations I need to effectively communicate.

1. Tell the hospital you need an interpreter (or, if applicable, that you need another communication method) for communication to be effective.
2. Be specific and tell the hospital why you need that type of aid or service for effective communication and why what the hospital is offering does not work.

Hospitals are required to provide auxiliary aids and services when necessary to ensure effective communication with patients. 28 CFR. § 36.303; Minn. Stat. § 363A.11 Subd. 3

Enforcement

If you feel you are being discriminated against (or if you feel you are being treated differently because of your disability), you can file a complaint with the Office of Civil Rights by calling (800) 368-1019 or (800) 537-7697 or online at https://ocrportal.hhs.gov/ocr/cp/complaint_frontpage.jsf. You can also file a complaint with the Minnesota Department of Human Rights by calling (651) 539-1133 or (800)-657-3704 or online at https://mn.gov/mdhr/intake/consultationinquiryform/.

If you have concerns about your medical care, you can file a complaint with the Minnesota Department of Health online at https://www.health.state.mn.us/facilities/regulation/ohfc/filecomp.html or by calling (651)201-4200.

You can submit a complaint on your own or with the help of an attorney. If you face disability discrimination in a hospital or are being denied your rights, please call MDLC and we will try to help.

Note: Governor Tim Walz, via Emergency Executive Order 20-32, has given the Commissioner of Health temporary permission to suspended or waive certain patient rights found under Minnesota Statue 144. As of the publication of this document, the Commissioner of Heath has not formally announced any such waiver of hospital patient rights. CMS is frequently updating guidance about federal rights for patients in hospital settings. You can check for CMS updates online: https://www.cms.gov/files/document/summary-covid-19-emergency-declaration-waivers.pdf

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