

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

Federal and state laws give patients (or their medically necessary representatives) the right to be a part of planning their health care and making informed choices.

People with disabilities have the right to 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 healthcare services.

**Use these 4 steps first for all the problems in this fact sheet.**

1. Keep notes of who in the hospital you talk to when 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 fix the problem.
4. If you feel your rights are still being violated and the steps for your problem in this fact sheet don’t work, use the hospital grievance process to file a complaint.

Problem	What You Can Do
<b>The hospital isn’t doing what I ask.</b>	<p><b>Steps:</b> See 4 steps above</p>
	<p><b>Your Rights:</b> Under state and federal law, hospitals must have a grievance policy. It’s a way to make complaints. You have the right to file a complaint using their grievance process. You have a right to get a written copy of any decision.</p> <ul style="list-style-type: none"> <li>• 42 CFR § 482.13 (a)(2), Minn Stat. § 144.651 Subd. 20</li> </ul>
<b>The hospital isn’t letting me make an informed choice.</b>	<p><b>Steps:</b></p> <ol style="list-style-type: none"> <li>1. Tell the hospital what support you need to make an informed choice. If you feel you need a support person to make an informed choice, tell the hospital that.</li> <li>2. Ask for a copy of the care or treatment plan. See if the medical care you are getting matches the written plan.</li> <li>3. Give the hospital copies of records that describe your medical care needs, like notes from your primary care doctor or support team.</li> </ol>
	<p><b>Your Rights:</b> You or your representative have the right to make informed choices about your care. This includes the right to be told about your health status, the right to be part of planning your care, and the right to refuse or ask for treatment.</p> <ul style="list-style-type: none"> <li>• 42 CFR § 482.13 (b); Minn Stat. 144.651 Subd. 10</li> </ul>

<p><b>The hospital won't let my staff or support person be with me because of its COVID-19 “no visitor” policy.</b></p>	<p><b>Steps:</b></p> <ol style="list-style-type: none"> <li>1. Tell the hospital why it is necessary for you to have a support person or staff with you in order to get equal access to medical care and to be able to make informed decisions about your care.</li> <li>2. Ask for a “reasonable modification” of the Covid-19 visitation restrictions. Explain that your support person is needed because of your disability and is not just a visitor.</li> <li>3. Give the hospital copies of your records that describe your need for disability support services. Explain why having a support person is necessary.</li> </ol>
<p><b>The hospital won't let my guardian be with me.</b></p>	<p><b>Steps:</b></p> <ol style="list-style-type: none"> <li>1. Tell the hospital your guardian is necessary to help you get or understand information about your medical care and to protect your right to make informed choices about your care.</li> <li>2. Make sure you have a copy of the guardianship court order. Make sure your guardian can show a photo ID.</li> <li>3. If your guardianship orders say that your guardian has the power to make medical decisions for you, show the hospital that section of the order. Remind the hospital that decisions about your care are not valid if you can't talk to you guardian.</li> </ol> <p><b>Your Rights:</b></p> <p>Minnesota Courts often give guardians the power to make decisions about medical care.</p> <ul style="list-style-type: none"> <li>• Minn. Stat. § 524.5-313(c)(4)(i).</li> </ul> <p>Hospitals must let patients, or their medically necessary representatives, to take part in all aspects of their health care.</p> <ul style="list-style-type: none"> <li>• 42 CFR § 482.13, Minn. Stat. § 144.651 Subd 10.</li> </ul>

<p><b>The hospital won't let me bring in my own equipment, but they don't have equipment like mine. (for example, a communication device or power wheelchair).</b></p>	<p><b>Steps:</b></p> <ol style="list-style-type: none"> <li>1. Tell the hospital why it is necessary to have your own equipment with you in the hospital.</li> <li>2. Ask the hospital for a copy of their policy about bringing personal equipment in.</li> <li>3. Get copies of letters from your primary doctor and other personal health care providers that show this is necessary.</li> <li>4. Let the hospital know that you will follow all disinfecting procedures they have in place during the COVID-19 pandemic.</li> </ol>
	<p><b>Your Rights:</b></p> <p>Under the ADA and MHRA, hospitals have to make reasonable modifications to policies and practices if it is necessary to make their health care services fully available to people with disabilities.</p>
<p><b>The hospital is not agreeing to interpreter services or other accommodations I need to be able to communicate with them.</b></p>	<p><b>Steps:</b></p> <ol style="list-style-type: none"> <li>1. Tell the hospital you need an interpreter (or, other accommodations) for communication to be effective.</li> <li>2. Be specific. Tell the hospital why you need that type of aid or service for effective communication. Also tell them why what they offer does not work.</li> </ol>
	<p><b>Your Rights:</b></p> <p>Hospitals have to provide auxiliary aids and services when it is necessary for effective communication with patients.</p> <ul style="list-style-type: none"> <li>• 28 CFR. § 36.303; Minn. Stat. § 363A.11 Subd. 3</li> </ul>

**Getting Help**

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](https://ocrportal.hhs.gov/ocr/cp/complaint_frontpage.jsf).
- 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 file a complaint on your own or with the help of a lawyer. If you face disability discrimination in a hospital or are being denied your rights, call us and we will try to help.*

**Minnesota Disability Law Center  
612-334-5970 or 1-800-292-4150**

***Note:** Governor Tim Walz, using an Emergency Executive Order 20-32, has given the Commissioner of Health temporary permission to suspend or waive certain patient rights found under Minnesota Statue 144. As of the publication of this document, the Commissioner of Health has not formally announced any such waiver of hospital patient rights. The Center for Medicare and Medicaid Services (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>*

**For more information on other disability issues and other topics go to  
[www.LawHelpMN.org](http://www.LawHelpMN.org)**

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