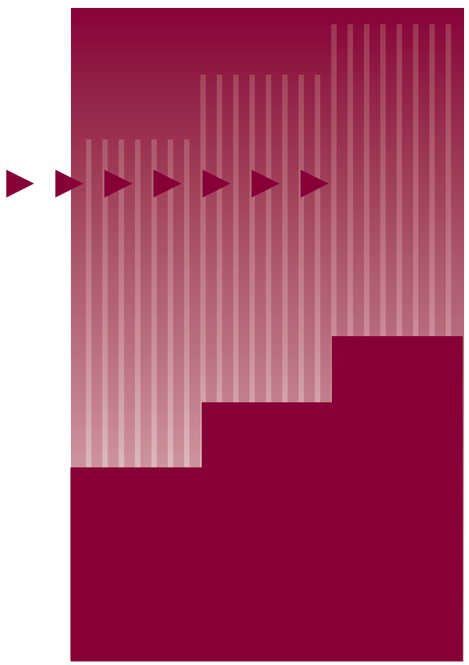
# *Minnesota Patients' Bill of Rights*

**Minnesota Department of Health July 2007 version**



**Distributed by the Minnesota Hospital Association**

## *Patients' Bill of Rights*

***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 out-patient 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 told 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 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 right of a person 16 years old or older to request release as provided in section 253B.04, subdivision 2, 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 written statement of rights shall be available to patients, 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 626.557, 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, business address, telephone number, and specialty, of any, of 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, alternatives, 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 treating physician is knowledgeable, 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 include a family member or other chosen representative or both. In the event that the patient cannot be present, a family member or other representative 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 who enters a facility is unconscious or comatose or is unable to communicate, the facility shall make reasonable efforts as required under paragraph (c) to notify either a family member or a person designated in writing 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 the patient has an effective advance directive to the contrary or knows the patient has specified in writing that they do 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:

(1) examining the personal effects of the patient;

(2) examining the medical records of the patient in the possession of the facility;

(3) 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

(4) 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 emergency contact or the participation of the family member was improper or violated the patient's privacy rights.

(c) In making reasonable efforts to notify a family member or designated emergency contact, the facility shall attempt to identify family members or a designated emergency contact by examining the personal effects of the patient and the medical records of the patient in the possession of the facility. If the facility is unable to notify a family member or designated emergency contact within 24 hours after the admission, the facility shall notify the county social service agency or local law enforcement agency that the patient has been admitted and the facility has been unable to notify a family member or designated emergency contact. The county social service agency and local law enforcement agency shall assist the facility in identifying and notifying a family member or designated emergency contact. A county social service agency or local law enforcement agency that assists a facility is not liable to the patient for damages on the grounds that the notification of the family member or 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 far as facility policy allows.

### 9. Right to Refuse Care

Competent 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 not been adjudicated incompetent, or when legal requirements limit the right to refuse treatment, the conditions and circumstances shall be fully documented by the attending physician in the patient's medical record.

### 10. Experimental Research

Written, informed consent must be obtained prior to patient's participation in experimental research. Patients have the right to refuse participation. Both consent and refusal shall be documented in the individual care record.

### 11. Freedom From Maltreatment

Patients shall be free from maltreatment as defined in the Vulnerable Adults Protection Act. "Maltreatment" means conduct described in Section 626.5572, Subdivision 15, 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-injury 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 program. Case discussion, consultation, examination, and treatment are confidential and shall be conducted discreetly. Privacy shall be respected during toileting, bathing, and other activities of personal hygiene, except as needed for patient safety or assistance.

### 13. Confidentiality of Records

Patients shall be assured confidential treatment of their personal and medical records, and may approve or refuse their release to any individual outside the facility. Copies of records and written information from the records 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 be informed, prior to or at the time of admission and during their stay, of services which are included in the facility's basic per diem 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, individuality, and 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 well as addresses and telephone numbers for the Office of Health Facility Complaints and the area nursing home ombudsman pursuant to the Older Americans Act, section 307(a)(12) shall be posted in a conspicuous place.

Every acute care in-patient facility, every residential program as defined in section 7, and every facility employing more than two people that provides out-patient mental health services shall have a written internal grievance procedure that, at a minimum, sets forth the process to be followed; specifies time limits, including time limits for facility response; provides for the patient to have the assistance of an advocate; requires a written response to written grievances; and provides for a timely decision by an impartial decision-maker if the grievance is not otherwise resolved. Compliance by hospitals, residential programs as defined in section 7 which are hospital based primary treatment programs, and outpatient surgery centers with section 144.691 and compliance by health maintenance organizations with section 62D.11 is deemed to be compliance with the requirement for a written internal grievance procedure.

## 18. Communication Privacy
Patients may associate and communicate privately with persons of their choice and enter and, except as provided by the Minnesota Commitment Act, leave the facility as they choose. Patients shall have access, at their expense, to writing instruments, stationery, and postage. Personal mail shall be sent without interference and received unopened unless medically or programmatically contraindicated and documented by the physician in the medical record. There shall be access to a telephone where patients can make and receive calls as well as speak privately. Facilities which are unable to provide a private area shall make reasonable arrangements to accommodate the privacy of patients' calls. This right is limited where medically inadvisable, as documented by the attending physician in a patient's care record. Where programmatically limited by a facility abuse prevention plan pursuant to the Vulnerable Adults Protection Act, section 626.557, subdivision 14, paragraph (b), this right shall also be limited accordingly.

## 19. Personal Property
Patients may retain and use their personal clothing and possessions as space permits, unless to do so would infringe upon rights of other patients, and unless medically or programmatically contraindicated for documented medical, safely, or programmatic reasons. The facility may, but is not required to, provide compensation for or replacement of lost or stolen items.

## 20. Services for the Facility
Patients shall not perform labor or services for the facility unless those activities are included for therapeutic purposes and appropriately goal-related in their individual medical record.

## 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.

## 22. Right to Associate
a) Residents may meet with and receive visitors and participate in activities of commercial, religious, political, as defined in section 203B.11 and community groups without interference at their discretion if the activities do not infringe on the right to privacy of other residents or are not programmatically contraindicated. This includes:

(1) the right to join with other individuals within and outside the facility to work for improvements in long-term care;

(2) the right to visitation by an individual the patient has appointed as the patient's health care agent under chapter 145C;

(3) the right to visitation and health care decision making by an individual designated by the patient under paragraph (c).

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

c) Upon admission to a facility, the patient or resident, or the legal guardian or conservator of the patient or resident, 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, a 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.

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

Minnesota Board of Medical Practice
2829 University Ave. SE
Suite 400
Minneapolis, MN 55414-3246
(612) 617-2130 or (800) 657-3709

OR

Office of Health Facility Complaints
P.O. Box 64970
St. Paul, MN 55164-0970
(651) 201-4201 or (800) 369-7994

**Inquiries regarding access to care or possible premature discharge may be directed to:**

Ombudsman for Long-Term Care
P.O. Box 64971
St. Paul, MN 55164-0971
(651) 431-2555 or (800) 657-3591

## Federal Rights
Starting Aug. 2, 1999, the federal Patients' Bill of Rights law (42 CFR Part 482) went into effect. Patients have rights afforded them under federal laws in the areas of notification of rights; the exercise of his/her rights in regard to his/her care; privacy and safety; confidentiality of his/her records; freedom from restraints used in the provision of acute medical and surgical care unless clinically necessary; and freedom from seclusion and restraints used in behavior management unless clinically necessary. Patients who believe they have been aggrieved under their federal rights should refer to Provision 17 in this document. Those wanting a full copy of the federal law may obtain one by contacting the hospital business office.

# *Access to Health Records Notice of Rights*

This notice explains the rights you have to access your health record, and when certain information in your health record can be released without your consent. This notice does not change any protections you have under the law.

## *Your Right to Access and Protect Your Health Record*

You have the following rights relating to your health record under the law:

- A health care provider, or a person who gets health records from a provider, must have your signed and dated consent to release your health record, except for specific reasons in the law.
- You can see your health record for information about any diagnosis, treatment, and prognosis.
- You can ask, in writing, for a copy or summary of your health record, which must be given to you promptly.
- You must be given a copy or a summary of your health record unless it would be detrimental to your physical or mental health, or cause you to harm another.
- You cannot be charged if you request a copy of your health record to review your current care.
- If you request a copy of your health record and it does not include your current care, you can only be charged the maximum amount set by Minnesota law for copying your record.

## *Release of Your Health Records Without Your Consent*

There are specific times that the law allows some health record information held by your provider to be released without your written consent. Some, but not all, of the reasons for release under federal law are:

- For specific public health activities
- When health information about victims of abuse, neglect, or domestic violence must be released to a government authority
- For health oversight activities
- For judicial and administrative proceedings
- For specific law enforcement purposes
- For certain organ donation purposes
- When health information about decedents is required for specific individuals to carry out their duties under the law
- For research purposes approved by a privacy board
- To stop a serious threat to health or safety
- For specialized government functions related to national security
- For workers' compensation purposes

Under Minnesota law, health record information may be released without your consent in a medical emergency, or when a court order or subpoena requires it. The following include some of the agencies, persons, or organizations that specific health record information may or must be released to for specific purposes, or after certain conditions are met:

- The Departments of Health, Human Services, Public Safety, Commerce, Employee Relations, Labor & Industry, and Education
- Insurers and employers in workers' compensation cases
- Ombudsman for Mental Health and Mental Retardation
- Health professional licensing boards/agencies
- Victims of serious threats of physical violence
- The State Fire Marshal
- Local welfare agencies
- Medical examiners or coroners
- Schools, childcare facilities, and Community Action Agencies to transfer immunization records
- Medical or scientific researchers
- Parent/legal guardian who did not consent for a minor's treatment, when failure to release health information could cause serious health problems
- Law enforcement agencies
- Insurance companies and other payors paying for an independent medical examination

If you would like additional information, or links to specific laws, visit www.health.state.mn.us and search for "access to health records" or call the Minnesota Department of Health at (651) 201-5178.
Minnesota Statutes, Section 144.292, Subd. 4

*This notice may be photocopied.*

**MAYO CLINIC** | mayoclinic.org
200 First Street SW | Rochester, MN 55905



MC3570-01rev0213