

HOSPITAL COMPLAINTS

Prepared by the Disability Rights Network of Pennsylvania

This Fact Sheet will provide a brief overview of hospital patients' rights established by the federal Centers on Medicare and Medicaid Services (CMS) and the Joint Commission and how and where patients can file complaints if they think those rights have been violated.

What is CMS?

CMS is the federal agency that is responsible for implementation of the Medicaid and Medicare programs.

What is the Joint Commission?

The Joint Commission is a non-profit organization that accredits and certifies more than 19,000 health care programs in the United States, including most hospitals.

What is the role of CMS in establishing patient rights?

All hospitals that receive funding through the Medicare program (and most hospitals do receive such funding) must meet certain "conditions of participation." These conditions of participation include specified patient rights.

What is the role of the Joint Commission in establishing patient rights?

The Joint Commission accredits most hospitals. In the accreditation process, one of the priority areas reviewed is patient rights. Hospitals accredited by the Joint Commission must adopt their own policies to respect patient rights that adhere to the Joint Commission's standards, and must provide each patient with a copy of those rights during the pre-admission or admission process.

What patient rights are identified by CMS and the Joint Commission?

Many of the patient rights identified by CMS and the Joint Commission are similar. The following is a listing of some of the key rights identified by these organizations.

- Hospital patients have the right to *participate in the development and implementation of a plan of care*. (CMS and Joint Commission)
- Hospital patients or their representations have the right to make *informed decisions regarding their care*, including the right to be informed of their health status and the right to request or refuse treatment (though they cannot demand treatment or services that are deemed medically inappropriate or unnecessary). (CMS and Joint Commission)

- Hospital patients have the right to notification of the outcomes of the care, treatment, and services they receive, including any unanticipated outcomes. (Joint Commission)
- Hospital patients have the right to *formulate advance directives* and to have those *advance directives respected by hospital staff*. (CMS and Joint Commission)
- Hospital patients have the right to *personal privacy*. (CMS and Joint Commission)
- Hospital patients have the right to receive care in a *safe setting*. (CMS)
- Hospital patients have the right to an *environment that preserves their dignity and contributes to a positive self-image*. (Joint Commission).
- Hospital patients have the right to be free from all forms of *abuse and harassment*. (CMS and Joint Commission)
- Hospital patients have the right to be *free from restraint or seclusion imposed as a means of coercion, discipline, convenience, or retaliation*. (CMS)
- Hospital patients have the right to the *confidentiality* of their records. (CMS and Joint Commission)
- Hospital patients have the right to *access their records* within a reasonable time frame. (CMS)
- Hospital patients have the right to *receive visitors of their choice*. (CMS)
- Hospital patients' right to and need for *communication* must be respected. (Joint Commission)
- Hospital patients have a right to *protection and advocacy services*. (Joint Commission)
- Hospital patients' *cultural and personal values, beliefs, and preferences* must be respected as is their right to access religious and spiritual services. (Joint Commission)
- Hospital patients' right to *pain management* must be respected. (Joint Commission)
- Hospital patients have the right to *consent before they are recorded or filmed* except for purposes of identification, diagnosis, or treatment. (Joint Commission)

What can you do if you think your rights as a hospital patient have been violated?

If the hospital is governed by CMS's regulations, it must establish a process for the prompt resolution of patient grievances. The grievance procedure must be clearly explained to patients, must specify time frames for review of and response to the grievance, and must provide the patient with written notice of the decision. Similarly, if a hospital is governed by the Joint Commission, it must have a complaint resolution process. Patients must be informed of the complaint process, and hospitals have a duty to review and resolve complaints as quickly as possible. Hospitals that are governed by both CMS and the Joint Commission (as many are) develop a single policy that may be called either a "grievance" or "complaint" process, as long as it meets the criteria of both governing bodies.

Can you do something short of filing a formal complaint or grievance if you think your rights as a hospital patient have been violated?

Yes. Often formal complaints or grievances will take some time to be resolved. Hospital patients or their families might be able to resolve their quality of care issues more quickly and without going through a formal complaint or grievance process. You should consider the following:

- Bring your complaint to the following individuals to request a quick investigation and prompt response: a nurse manager (if the patient is not in the emergency room and the complaint involves patient care); an emergency room supervisor (if the complaint involves care in the emergency room); or the hospital's patient representative (for any type of complaint relating to the patient).
- If you do not get a satisfactory response, ask to speak with the nursing supervisor or vice president of nursing or, for more serious quality of care complaints, ask to speak with the hospital's Risk Manager or the hospital's Chief Operating Officer. Again, ask for a prompt investigation and response to your complaint.
- If the second step proves unsatisfactory, you should consider speaking to the hospital's President or Chief Executive Officer. If you are allowed to do so, you should describe the complaint and the steps you have already taken to resolve the matter and reiterate your request for a prompt investigation and response.

What steps can you take if your efforts to resolve the complaint through informal means or the hospital's formal complaint/grievance process prove ineffective?

There are several resources outside of the hospital that might be able to investigate your complaint and assist you to resolve it. These include:

- *Pennsylvania Department of Health* -- The Pennsylvania Department of Health (DOH) conducts state licensure surveys for many hospitals in the Commonwealth. You can file a complaint with DOH by calling 800-254-5164.
- *Medicare Complaint Program* -- CMS requires that each state establish a Quality Improvement Organization (QIO) that can address quality of care complaints filed by or on behalf of Medicare beneficiaries. The QIO in Pennsylvania is Quality Insights of Pennsylvania, and you can contact it at 877-346-6180 or www.qipa.org.
- *Joint Commission* -- You can submit complaints about quality of care in a hospital to the Joint Commission by emailing your complaint to complaint@jointcommission.org. You should provide your name, the name and address of the hospital, and a full explanation of the complaint. You can also speak to a Joint Commission representative at 800-994-6610 who will provide information about the complaint process, though your complaint will not be taken over the phone.
- *Corporate Headquarters* -- The majority of local hospitals in the United States are owned or managed by larger corporations, known as "hospital systems." You can ask the hospital where you were treated to give you the name and address of corporate headquarters for the hospital system. You can contact the corporate headquarters to explain your frustration with the lack of responsiveness in the local hospital and to request an investigation and prompt response to your complaint.
- *News Media* -- Some cities have radio or television stations or newspapers that will investigate complaints submitted by local residents, including complaints about hospitals. You might also consider writing a letter to the editor of your local paper to discuss your complaint.

What can you do if neither the hospital nor any of these other sources are responsive to your complaint or grievance?

The nature of hospital complaints varies widely and there is no guarantee that you will have a successful outcome by pursuing these means to redress your complaint.

Why is it important to file a complaint or grievance even if the outcome is not certain?

Many patients and their families are afraid to pursue complaints or grievances with hospitals because they are fearful of retaliation or may think that their efforts will not be successful. While there is no guarantee of success, it is important that patients are proactive and persistent. Hospitals want to maintain a good reputation and avoid negative publicity.

Are there other rights that hospital patients have that are not addressed in this Fact Sheet?

Yes. Hospital patients also have rights not be subject to discrimination on the basis of race, gender, national origin, religion, and disability, which can be enforced under federal or state law. The rights of hospital patients to privacy of their confidential medical information also is protected by the federal Health Insurance Portability and Accountability Act (HIPAA), and violations of HIPAA can be the subject of complaints to the United States Department of Health and Human Services. In addition, individuals who are injured at hospitals may have rights that can be addressed through state tort law. This Fact Sheet does not address any of those rights.

Who should I contact for help?

If you need more information or help, please contact the Intake Unit of the Disability Rights Network of Pennsylvania (DRN) at 800-692-7443 (voice) or 877-375-7139 (TDD) or intake@drnpa.org.

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DRN's mission is to advance, protect, and advocate for the human, civil, and legal rights of Pennsylvanians with disabilities. Due to our limited resources, DRN cannot provide individual services to every person with advocacy and legal issues. DRN prioritizes cases that have the potential to result in widespread, systemic changes to benefit persons with disabilities. While we cannot provide assistance to everyone, we do seek to provide every individual with information and referral options.

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PLEASE NOTE: For information in alternative formats or a language other than English, contact the Disability Rights Network of Pennsylvania at 800-692-7443 ext. 400 (voice) or 877-375-7139 (TDD) or drnpa-hbg@drnpa.org.