



## Minnesota Outpatient Surgical Center Patients' Bill of Rights

### Minnesota Legislature 2004

#### 144.651 Patients and residents of health care facilities; bill of rights.

Subdivision 1. **Legislative intent.** It is the intent of the legislature and the purpose of this section to promote the interests and well being of the patients and residents of health care facilities. No health care facility may require a patient or resident to waive these rights as a condition of admission to the facility. Any guardian or conservator of a patient or resident or, in the absence of a guardian or conservator, an interested person, may seek enforcement of these rights on behalf of a patient or resident. An interested person may also seek enforcement of these rights on behalf of a patient or resident who has a guardian or conservator through administrative agencies or in district 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. 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.

#### Definitions

Subd. 2. **Definitions.** For purposes of subdivisions 4 to 9, 12, 13, 15, 16, and 18 to 20, "patient" also means a person who receives health care services at an outpatient surgical center.

Subd. 4. **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. Reasonable accommodations shall be made for those with communication impairments and those who speak a language other than English. Current facility 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.

Subd. 5. **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.

Subd. 6. **Appropriate health care.** Patients shall have the right to appropriate medical and personal care based on individual needs.

07/01/2007



Subd. 7. **Physician's identity.** Patients shall have or be given, in writing, the name, business address, telephone number, and specialty, if 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 a representative.

Subd. 8. **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 a representative.

Subd. 9. **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. 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 or resident as a 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.

Subd. 12. **Right to refuse care.** Competent patients shall have the right to refuse treatment based on the information required in subdivision 9. 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.

Subd. 13. **Experimental research.** Written, informed consent must be obtained prior to a 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.

Subd. 15. **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.

Subd. 16. **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.

Subd. 18. **Responsive service.** Patients shall have the right to a prompt and reasonable response to their questions and requests.

Subd. 19. **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. Facility staff shall respect the privacy of a resident's room by knocking on the door and seeking consent before entering, except in an emergency or where clearly inadvisable.

Subd. 20. **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.

Compliance by 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.

**IF YOU HAVE A COMPLAINT ABOUT THE AGENCY OR PERSON PROVIDING YOU OUTPATIENT SURGICAL SERVICES, YOU MAY CALL, WRITE, OR VISIT THE OFFICE OF HEALTH FACILITY COMPLAINTS, MINNESOTA DEPARTMENT OF HEALTH. YOU MAY ALSO CONTACT THE OMBUDSMAN FOR LONG-TERM CARE.**

**Office of Health Facility Complaints**

(651) 201-4201  
1-800-369-7994  
Fax: (651) 281-9796

**Mailing Address:**

Minnesota Department of Health  
Office of Health Facility Complaints  
85 East Seventh Place, Suite 300  
P.O. Box 64970  
St. Paul, Minnesota 55164-0970

**Office of Ombudsman for Older Minnesotans**

(651) 431-2555  
1-800-657-3591  
Fax: (651) 431-7452

[www.mnaging.org](http://www.mnaging.org)

**Mailing Address:**

Ombudsman for Older Minnesotans  
PO Box 64971  
St. Paul, MN 55164-0971

**Medicare Beneficiary Ombudsman**

1-800-MEDICARE (1-800-633-4227)  
<http://www.medicare.gov/claims-and-appeals/medicare-rights/get-help/ombudsman.html>

*The MN Orthopaedic Surgery Center is Centers for Medicare and Medicaid Services {CMS} accredited. CMS Ambulatory Surgery Center Patient Rights listed below*

**416.50 Condition for Coverage - Patient Rights**

**The ASC must inform the patient or the patient's representative or surrogate of the patient's rights and must protect and promote the exercise of these rights, as set forth in this section. The ASC must also post the written notice of patient rights in a place or places within the ASC likely to be noticed by patients waiting for treatment or by the patient's representative or surrogate, if applicable.**

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**416.50(a) Standard: Notice of Rights**

An ASC must, prior to the start of the surgical procedure, provide the patient, or the patient's representative, or the patient's surrogate with verbal and written notice of the patient's rights in a language and manner that ensures the patient, the representative, or the surrogate understand all of the patient's rights as set forth in this section. The ASC's notice of rights must include the address and telephone number of the State agency to which patients may report complaints, as well as the Web site for the Office of the Medicare Beneficiary Ombudsman.

- (1) Post written notice of patient rights in a place or places within the ASC likely to be noticed by patients (or their representatives, if applicable) waiting for treatment. The ASC's notice of rights must include the name, address, and telephone number of a representative in the State agency to whom patients can report complaints, as well as the Web site for the Office of the Medicare Beneficiary Ombudsman.

**416.50(b) Standard: Disclosure of physician financial interest or ownership**

The ASC must disclose, in accordance with Part 420 of this subchapter, and where applicable, provide a list of physicians who have financial interest or ownership in the ASC facility. Disclosure of information must be in writing.

**416.50(c) Standard: Advance Directives**

The ASC must comply with the following requirements:

- (1) Provide the patient or, as appropriate, the patient's representative with written information concerning its policies on advance directives, including a description of applicable State health and safety laws and, if requested, official State advance directive forms.
- (2) Inform the patient or, as appropriate, the patient's representative of the patient's rights to make informed decisions regarding the patient's care.
- (3) Document in a prominent part of the patient's current medical record, whether or not the individual has executed an advance directive.

**416.50(d) Standard: Submission and investigation of grievances**

The ASC must establish a grievance procedure for documenting the existence, submission, investigation, and disposition of a patient's written or verbal grievance to the ASC. The following criteria must be met:

- (1) All alleged violations/grievances relating, but not limited to, mistreatment, neglect, verbal, mental, sexual, or physical abuse, must be fully documented.
- (2) All allegations must be immediately reported to a person in authority in the ASC.
- (3) Only substantiated allegations must be reported to the State authority or the local authority, or both.
- (4) The grievance process must specify timeframes for review of the grievance and the provisions of a response.
- (5) The ASC, in responding to the grievance, must investigate all grievances made by a patient, the patient's representative, or the patient's surrogate regarding treatment or care that is (or fails to be) furnished.
- (6) The ASC must document how the grievance was addressed, as well as provide the patient, the patient's representative, or the patient's surrogate with written notice of its decision. The decision must contain the name of an ASC contact person, the steps taken to investigate the grievance, the result of the grievance process and the date the grievance process was completed.

**416.50(e) Standard: Exercise of rights and respect for property and person**

- (1) The patient has the right to the following:
  - (i) Be free from any act of discrimination or reprisal.
  - (ii) Voice grievances regarding treatment or care that is (or fails to be) provided.
  - (iii) Be fully informed about a treatment or procedure and the expected outcome before it is performed.
- (2) If a patient is adjudged incompetent under applicable State laws by a court of proper jurisdiction, the rights of the patient are exercised by the person appointed under State law to act on the patient's behalf.
- (3) If a State court has not adjudged a patient incompetent, any legal representative or surrogate designated by the patient in accordance with State law may exercise the patient's rights to the extent allowed by State law.

**416.50(f) Standard: Privacy and Safety**

**The patient has the right to –**

- (1) Personal privacy.
- (2) Receive care in a safe setting.
- (3) Be free from all forms of abuse or harassment.

**416.50(g) Standard: Confidentiality of Clinical Records**

The ASC must comply with the Department's rules for the privacy and security of individually identifiable health information, as specified at 45 CFR Parts 160 and 164.