

Your Rights

Hospital Emergency Room (ER) patients have certain rights that are derived from federal or state laws and regulations; in some cases rights are based on professional standards .

Know Your Rights

When You Arrive

- Medical / Psychiatric Screening
- Involuntary Commitment
- Restraints / Seclusion
- Interpreter / Other Services

Your Examination

- No Disability Discrimination
- Privacy / Confidentiality
- Advance Directives

After Your Examination

- Right to Refuse Treatment
- Informed Consent

If You Need Help

- Patient Advocacy
- Legal Advocacy



Medical / Psychiatric Screening

The ER must provide (regardless of your ability to pay) a screening exam to determine if an emergency medical condition exists.

An emergency medical condition* manifests itself by acute symptoms of sufficient severity that the absence of immediate medical attention could reasonably result in *imminent danger of death or serious disability*.

* AN ACUTE PSYCHIATRIC DISTURBANCE CAN BE A MEDICAL EMERGENCY.

You Should Know

Involuntary Commitment

- If an ER physician believes, based on exam and / or **statements you or others make**, that you are dangerous*, you may be held involuntarily for up to four days.

*** YOU MAY BE CONSIDERED DANGEROUS IF YOU SAY YOU ARE SUICIDAL, OR THREATEN OR ATTEMPT TO HURT YOURSELF OR OTHERS.**

- If you refuse to consent to an exam you may still be involuntarily committed after observation* if there is a reasonable basis to believe that you are dangerous.

*** YOU MAY BE HELD INVOLUNTARILY IN THE ER FOR A REASONABLE PERIOD OF OBSERVATION TO ASSESS IF YOU ARE DANGEROUS**

- A form, called a **Section 12**, must be completed before you can be involuntarily committed. (you have a right to get a copy of the form). You cannot be involuntarily committed if you express a willingness to stay *voluntarily*.

Restraints / Seclusion

- You have a right to be free from *unnecessary* restraints or seclusion, but in an emergency* they may be used.

*** WHEN THERE IS SUBSTANTIAL RISK OF THE OCCURRENCE OF, OR THE THREAT OF, EXTREME VIOLENCE, PERSONAL INJURY, OR ATTEMPTED SUICIDE.**

- Restraints / Seclusion may only be used if less restrictive alternatives are determined to be ineffective.... and only for the period of time necessary to accomplish its purpose.
- Restraints / Seclusion are subject to strict time frames. A physician must evaluate a patient within one hour of the initiation of restraint or seclusion.....and a new order must be given every four hours if there is a continuous need. Interim monitoring at least every fifteen minutes by a qualified ER staff member is also required. If these time limits were not observed, or if you believe restraints / seclusion were utilized unnecessarily, you may file a formal complaint with any of the cognizant agencies listed under *Available Resources*.

Interpreter / Other Services

- Competent interpreter services are to be provided to every non-English speaker who seeks / receives emergency care. This includes ASL interpretations for deaf patients. If the ER staff are not responsive to your requests for interpreter services, contact the Mass. Law Reform Institute (see *Available Resources*).

- The ER must respond to reasonable patient requests. For example - if you want a family member or friend to accompany you ... or if you want to phone someone for help.... make your request known to the ER nurse or registration clerk.



Your Examination

- An ER medical examination should be provided in a way that respects and considers your dignity, privacy and personal preferences.

No Disability Discrimination

- The ER can not discriminate in providing services based on a disability, including a psychiatric condition.
- Service provided to you may be discriminatory* if it is different or separate from that provided to other individuals. For example – forced disrobenment or seclusion may be illegal if other patients are not treated the same way.

*** THE AMERICANS WITH DISABILITIES ACT (ADA) PROHIBITS DISCRIMINATION OF PEOPLE WITH DISABILITIES AND PROVIDES LEGAL REMEDIES, INCLUDING CIVIL PENALTIES, FOR ADA VIOLATIONS.**

Privacy / Confidentiality

- You have the right to be examined and to talk to your doctor in private.
- Medical records are confidential and may not be released without your written authorization.
- You can see and request copies of your medical records ... and you may request corrections if you believe the records are incorrect.



Advance Directives

- You can give directions about your future medical care, or designate another person to make medical decisions if you are unable to competently make such decisions, by preparing an advance directive (AD).
- If you already have an AD, take it with you to the hospital if possible. The hospital is required to document your AD in your medical record.
- Ask an ER nurse or registration clerk for assistance if you want to prepare an AD.

After Your Examination

- After the ER physician examines you and diagnoses your condition a treatment plan will be determined.
- Patient disposition options, such as out-patient treatment, voluntary in-patient care or involuntary commitment will depend on the nature and severity of your condition.



You Have A Say

Right to Refuse Treatment

- You have the right to refuse treatment, care or services. A doctor or hospital staff can not threaten restraints, or use other punishment, when you freely exercise your right to refuse treatment. However, if a court finds you are not competent* your right to refuse treatment may be limited. (A competency hearing is called a "Rogers" proceeding)

* COMPETENT MEANS THAT YOU UNDERSTAND SOMETHING IS WRONG, THERE IS A TREATMENT THAT MIGHT HELP AND YOU RECOGNIZE AND REPORT SIDE EFFECTS OF MEDICATION.

Informed Consent

- Before you accept treatment your doctor should tell you the nature of your illness, explain proposed treatments, including significant alternatives, and discuss potential benefits, risks or side effects.
- If you accept treatment you will be given a consent form to sign. (You always have the right to change your mind and refuse treatment). Informed consent means knowing consent, voluntarily given by you.

If You Need Help

- Contact your hospital's **Patient Advocacy Office** if you believe your patient rights were violated, or if you want to file a complaint regarding the quality of care during your ER visit. (Hospitals are required to promptly investigate all serious complaints filed against its employees and medical staff).
- If you are not satisfied with the hospital's response, contact one of the organizations or agencies that are listed under **Available Resources** (see back cover).

Available Resources

- **Formal complaints** can be made to the:

Massachusetts Department of Public Health at:

Division of Health Care Quality Complaint Unit
110 West Street – 5th Floor
Boston, MA 02111
Phone: (617) 753-8150 Fax: (617) 653-8165

Centers for Medicare and Medicaid Services (CMS) at:

CMS Boston Regional Office
Division of Quality Improvement
JFK Federal Building, Room 2325
Boston, Ma 02203
Phone: (617) 565-1320

Joint Commission on Accreditation of Healthcare Organizations (JCAHO) at:

One Renaissance Boulevard
Oakbrook Terrace, IL 60181
Phone: (800) 994-6610 Fax: (630) 792-5636
E-Mail: complaint@jcaho.org

- **Legal assistance** may be obtained from a firm below:

-The Center for Public Representation (CPR)

246 Walnut Street
Newton, MA 02460
Phone: (617) 723-8455
E-mail: ss Stefan@cpr-ma.org

22 Green Street
Northampton, MA 01060
Phone: (413) 587-6265
E-mail: rfliechneider@cpr-ma.org

For additional information, check the CPR web-page at:

www.centerforpublicrep.org

-The Disability Law Center, Inc.

11 Beacon Street
Boston, MA 02108
Phone: (617) 723-8455; (800) 872-9992 (in Mass.)
Fax: (617) 723-9125

-Health Law Advocates, Inc.

30 Winter Street Suite 940
Boston, MA 02108
Phone: (617) 338-5241; Fax: (617) 338-5242

- Need help getting **interpreter services**? Contact:

The Massachusetts Law Reform Institute

99 Chauncy Street, 5th Floor
Boston, MA 02111
Phone: (617) 357-0700; E-mail: ewinsor@mlri.org

- Need **public counsel** to represent you to defend* against an involuntary commitment? Contact:

The Committee for Public Counsel Services

44 Bromfield Street
Boston, MA 02108
Phone: (617) 482-6212; www.hla-inc.org

* You may request an emergency court hearing if you think your involuntary commitment was improper / illegal.

Your Rights



Emergency Room

psychiatric/medical
examinations

Prepared by:

Susan Stefan / Kerry Kotar
Center for Public Representation
246 Walnut Street
Newton, MA 02460
Phone: (617) 723-8455 Fax: (617) 928-0971
www.centerforpublicrep.org

Funded in part by a grant from the Ittleson Foundation