

Be Empow(ER)ed

A brief guide to your rights as a patient in the emergency room.

What hospitals must do:

- Emergency departments (EDs) *must provide screening examinations to everyone*, regardless of insurance status, ethnicity, gender, sex, religion, or other identity characteristics.
- Hospitals may not delay providing an appropriate medical screening examination or stabilizing medical treatment for any reason, including to ask about an individual's method of payment or health insurance status.
- If the ED cannot stabilize you, they *may* transfer you to another hospital that can.

What if I don't speak English or am deaf or blind?

- All ED patients are entitled to language assistance under Title VI of the 1964 Civil Rights Act.
- Under the Americans with Disabilities Act (ADA), hospitals must provide effective means of communication for patients, family members, and hospital visitors who are deaf or hard of hearing.

What about my general rights in the ER?

- You have the right to be treated with respect and consideration, and not to be bullied, harassed, neglected, or abused. You have the right to know the name and role of any healthcare provider attending you. Additionally, you have the right to be free from restraints or seclusion, unless other less restrictive measures have been tried and found inadequate, and it is necessary to protect you from injuring yourself or others.
- You also have the right to refuse treatment. You may decline care, medication, or procedures against the medical advice of a doctor. Some individuals oppose certain treatments based on religious beliefs, while others may choose options that lessen the effectiveness of their treatment. Your healthcare provider must explain the risks of refusing care. If you understand these risks and still choose to refuse care, your healthcare provider must seek alternative ways to provide care that are acceptable to you.
- Regarding pain management, you have the right to be assessed for pain and to receive medication to reduce it. You have the right to request pain medication or reject it, as well as other pain relief options.
- If you are asked to participate in a research study, you have the right to refuse without this decision affecting the medical care you receive.
- In terms of privacy, you have the right to limit who is aware of your presence in a healthcare facility. The impact of HIPAA (Health Insurance Portability and Accountability Act) has increased awareness around the use of patient's names and their visibility. You have the right to know who will have access to your personal health information, who is present during examinations, and to be assured that your privacy will be respected. You may review and request copies of your medical records unless this right is restricted for medical or legal reasons.

What if I don't have insurance?

- A hospital must still provide screening examinations to ensure you do not have an emergency medical condition.

What if I have insurance but am still worried about the cost?

- Insurance companies are required to cover emergency care, regardless of the diagnosis, according to the Prudent Layperson Standard. The Prudent Layperson Standard ensures that emergency care is covered based on a person's symptoms rather than their final diagnosis.

What about police in the ED?

HIPAA prohibits clinicians from releasing information about patients to police without consent or a court-ordered warrant. Exceptions are made when: required by law (that is, state-mandated reporting), where criminal conduct is suspected (as a cause of a patient's death or during medical care), or to avert a serious threat to public health or safety. In addition, a 2003 US Supreme Court ruling affirmed the constitutionality of police seeking testimony for a criminal investigation during emergency medical care when an injured non-Mirandized patient was suspected of a crime.

What laws help protect these patient rights?

- EMTALA (Emergency Medical Treatment and Labor Act) EMTALA requires EDs to screen you for medical emergencies and "stabilize" you.
- Disability Rights Laws – Americans with Disabilities Act (ADA) and Rehabilitation Act. It is important to note that most mental health conditions, alcohol use disorder (even if you are currently struggling with addiction), and substance use disorder (if you are no longer using) are generally considered disabilities.
 - EDs cannot discriminate against you based on any of these disabilities. This means, for example, that an ED can't refuse to treat you because of your substance use disorder or deny your reasonable request for substance use disorder related services such as referral to treatment centers or offering naloxone.
- Race Discrimination – Title VI of the Civil Rights Act.
- HIPAA (Health Insurance Portability and Accountability Act) protects your personal medical information.

Tips for you:

Once You've Arrived

- **Provide as much information as you can** about your medical condition. Know the names of the drugs you take, the allergies you have, your blood type, and other important information. Better yet, prepare that information ahead of time so your caretakers can find the information they need.
- **Ask a friend or loved one to go with you.** If you can't, ask emergency personnel to phone someone on your behalf—a relative, neighbor, or friend. Spending time in the emergency room can be overwhelming, and it's difficult to pay attention. Having someone by your side to advocate on your behalf can reduce your stress and calm your nerves.
- **Ask questions continually.** The more questions you ask, the more engaged you will be with the staff, and the more attention they will pay to your care. Don't be overbearing or annoying, but when they've taken the next step in your care, be sure to ask what will happen next.
- **Ask everyone to wash and sanitize their hands** before they touch you. Infections from hospital care run rampant and it's possible that the illness or injury that got you to the ED, to begin with, could be less invasive than an infection you might pick up while you are there. Most personnel will be cooperative, even if they are surprised you asked. They've been taught to wash their hands, but they don't always remember.
- Make sure the staff gives you **written instructions to follow once you get home**. And follow them! By complying with the follow-up instructions, you'll reduce your chances of having to go back to the ED, and you'll probably heal more quickly, too.

References:

<https://archive.ada.gov/hospcombr.htm#:~:text=Under%20the%20Americans%20with%20Disabilities,deaf%20or%20hard%20of%20hearing>

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