

# Patients' Bill of Rights

## *A Handbook for Patients of Fairview*

**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 outpatient 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 are protected by a declaration of a patients' 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, 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 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 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.

#### **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 patients' 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 144.292. 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 Service 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 inpatient facility, every residential program as defined in section 7, and every facility employing more than two people that provide outpatient 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 are deemed to be in 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, clause 2, 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, safety, 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 & 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 Communication Disclosure and Right to Associate**

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

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

**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. Information concerning the procedures for registering complaints or concerns can be found on the last page of this brochure.

**Rights under Federal Law 42 CFR §482.13 Condition of participation: Patients' rights.**

A hospital must protect and promote each patient's rights.

**(a) Standard: Notice of rights.**

- (1) A hospital must inform each patient, or when appropriate, the patient's representative (as allowed under State law), of the patient's rights, in advance of furnishing or discontinuing patient care whenever possible.
- (2) The hospital must establish a process for prompt resolution of patient grievances and must inform each patient whom to contact to file a grievance. The hospital's governing body must approve and be responsible for the effective operation of the grievance process and must review and resolve grievances, unless it delegates the responsibility in writing a grievance committee. The grievance process must include a mechanism for timely referral of patient concerns regarding quality of care or premature discharge to the appropriate Utilization and Quality Control Peer Review Organization. At a minimum:
  - (i) The hospital must establish a clearly explained procedure for the submission of a patient's written or verbal grievance to the hospital.
  - (ii) The grievance process must specify time frames for review of the grievance and the provision of a response.
  - (iii) In its resolution of the grievance, the hospital must provide the patient with written notice of its decision that contains the name of the hospital contact person, the steps taken on behalf of the patient to investigate the grievance, the results of the grievance process, and the date of completion.

**(b) Standard: Exercise of rights.**

- (1) The patient has the right to participate in the development and implementation of his or her plan of care.
- (2) The patient or his or her representative (as allowed under State law) has the right to make informed decisions regarding his or her care. The patient's rights include being informed of his or her health status, being involved in care planning and treatment, and being able to request or refuse treatment. This right must not be construed as a mechanism to demand the provision of treatment or services deemed medically unnecessary or inappropriate.
- (3) The patient has the right to formulate advance directives and to have hospital staff and practitioners

who provide care in the hospital comply with these directives, in accordance with §489.100 of this part (Definition), §489.102 of this part (Requirements for providers), and §489.104 of this part (Effective dates).

(4) The patient has the right to have a family member or representative of his or her choice and his or her own physician notified promptly of his or her admission to the hospital.

**(c) Standard: Privacy and safety.**

- (1) The patient has the right to personal privacy.
- (2) The patient has the right to receive care in a safe setting.
- (3) The patient has the right to be free from all forms of abuse or harassment.

**(d) Standard: Confidentiality of patient records.**

- (1) The patient has the right to the confidentiality of his or her clinical records.
- (2) The patient has the right to access information contained in his or her clinical records within a reasonable time frame. The hospital must not frustrate the legitimate efforts of individuals to gain access to their own medical records and must actively seek to meet these requests as quickly as its recordkeeping system permits.

**(e) Standard: Restraint for acute medical and surgical care.**

- (1) The patient has the right to be free from restraints of any form that are not medically necessary or are used as a means of coercion, discipline, convenience, or retaliation by staff. The term “restraint” includes either a physical restraint or a drug that is being used as a restraint. A physical restraint is any manual method or physical or mechanical device, material, or equipment attached or adjacent to the patient’s body that he or she cannot easily remove that restricts freedom of movement or normal access to one’s body. A drug used as a restraint is a medication used to control behavior or to restrict the patient’s freedom of movement and is not a standard treatment for the patient’s medical or psychiatric condition.
- (2) A restraint can only be used if needed to improve the patient’s well-being and less restrictive interventions have been determined to be ineffective.

**(3) The use of a restraint must be—**

- (i) Selected only when other less restrictive measures have been found to be ineffective to protect the patient or others from harm;
  - (ii) In accordance with the order of a physician or other licensed independent practitioner permitted by the State and hospital to order a restraint. This order must—
    - (A) Never be written as a standing order or on an as-needed basis (that is, PRN); and
    - (B) Be followed by consultation with the patient’s treating physician, as soon as possible, if the restraint is not ordered by the patient’s treating physician;
  - (iii) In accordance with a written modification to the patient’s plan of care;
  - (iv) Implemented in the least restrictive manner possible;
  - (v) In accordance with safe and appropriate restraining techniques; and
  - (vi) Ended at the earliest possible time.
- (4) The condition of the restrained patient must be continually assessed, monitored, and reevaluated.
- (5) All staff who have direct patient contact must have ongoing education and training in the proper and safe use of restraints.

**(f) Standard: Seclusion and restraint for behavior management.**

- (1) The patient has the right to be free from seclusion and restraints, of any form, imposed as a means of coercion, discipline, convenience or retaliation by staff. The term “restraint” includes either a physical restraint or a drug that is being used as a restraint. A physical restraint is any manual method or physical or mechanical device, material, or equipment attached or adjacent to the patient’s body that he or she cannot easily remove that restricts freedom of movement or normal access to one’s body. A drug used as a restraint is a medication used to control behavior or to restrict the patient’s freedom of movement and is not a standard treatment for the patient’s medical or psychiatric condition. Seclusion is the involuntary confinement of a person in a room or an area where the person is physically prevented from leaving.

(2) Seclusion or a restraint can only be used in emergency situations if needed to ensure the patient's physical safety and less restrictive interventions have been determined to be ineffective.

(3) The use of a restraint or seclusion must be—

(i) Selected only when less restrictive measures have been found to be ineffective to protect the patient or others from harm;

(ii) In accordance with the order of a physician or other licensed independent practitioner permitted by the State and hospital to order seclusion or restraint. The following requirements will be superseded by existing State laws that are more restrictive:

(A) Orders for the use of seclusion or a restraint must never be written as a standing order or on an as needed basis (that is, PRN).

(B) The treating physician must be consulted as soon as possible, if the restraint or seclusion is not ordered by the patient's treating physician.

(C) A physician or other licensed independent practitioner must see and evaluate the need for restraint or seclusion within 1 hour after the initiation of this intervention.

(D) Each written order for a physical restraint or seclusion is limited to 4 hours for adults; 2 hours for children and adolescents ages 9 to 17; or 1 hour for patients under 9. The original order may only be renewed in accordance with these limits for up to a total of 24 hours. After the original order expires, a physician or licensed independent practitioner (if allowed under State law) must see and assess the patient before issuing a new order.

(iii) In accordance with a written modification to the patient's plan of care;

(iv) Implemented in the least restrictive manner possible;

(v) In accordance with safe appropriate restraining techniques; and

(vi) Ended at the earliest possible time.

(4) A restraint and seclusion may not be used simultaneously unless the patient is —

(i) Continually monitored face-to-face by an assigned staff member; or

(ii) Continually monitored by staff using both video and audio equipment. This monitoring must be in close proximity to the patient.

(5) The condition of the patient who is in a restraint or in seclusion must continually be assessed, monitored, and evaluated.

(6) All staff who have direct patient contact must have ongoing education and training in the proper and safe use of seclusion and restraint application and techniques and alternative methods for handling behavior, symptoms, and situations that traditionally have been treated through the use of restraints or seclusion.

(7) The hospital must report to HCA any death that occurs while a patient is restrained or in seclusion, or where it is reasonable to assume that a patient's death is a result of restraint or seclusion.

**(g) Standard: Patient visitation rights.**

A hospital must have written policies and procedures regarding the visitation rights of patients, including those setting forth any clinically necessary or reasonable restriction or limitation. A hospital must meet the following requirements:

(1) Inform each patient (or support person, where appropriate) of his or her visitation rights, including any clinical restriction or limitation on such rights, when he or she is informed of his or her other rights in this section.

(2) Inform each patient (or support person, where appropriate) of the right, subject to his or her consent, to receive the visitors whom he or she designates, including, but not limited to, a spouse, a domestic partner (including a same-sex domestic partner), another family member, or a friend, and his or her right to withdraw or deny such consent at any time.

(3) Not restrict, limit, or otherwise deny visitation privileges on the basis of race, color, national origin, religion, sex, gender identity, sexual orientation, or disability.

(4) Ensure that all visitors enjoy full and equal visitation privileges consistent with patient preferences.

## YOUR RESPONSIBILITIES AS A PATIENT

We want to make sure that you have the best possible experience while a patient in our facilities. You can help by taking on these responsibilities.

- **To provide accurate and complete information, as best you can.**
- **To be honest and direct.**
- **To ask questions about anything you don't understand.**
- **To follow your treatment plan and accept the consequences if you don't.**
- **To keep your appointments.**
- **To know your medicines.**
- **To know your health care team.**
- **To be considerate of other patients.**

Fairview is committed to the policy that all persons shall have access to its services, programs, facilities and employment without regard to race, color, religion, national origin, sex, age, marital status, disability, public assistance status, veteran status or sexual orientation. Contact Fairview On Call, 800-824-1953, for information about access to material in another format.

**If you have questions about your rights or medical care, contact one of the following Fairview facilities:**

### **Fairview Lakes Medical Center**

5200 Fairview Blvd., Wyoming, MN 55092  
651-982-7851

### **Fairview Maple Grove Medical Center**

14500 99th Ave. N., Maple Grove, MN 55369  
763-898-1000

### **Fairview Northland Medical Center**

911 Northland Dr., Princeton, MN 55371  
763-389-1313

### **Fairview Ridges Hospital**

201 Nicollet Blvd., Burnsville, MN 55337  
952-892-2262

### **Fairview Southdale Hospital**

6401 France Ave. S., Edina, MN 55435  
952-924-5965

### **University of Minnesota Medical Center**

<i>West Bank</i>	<i>East Bank</i>
2450 Riverside Ave.	420 Delaware St. SE
Mpls, MN 55454	Mpls, MN 55455
612-273-5050	612-273-5050

### **University of Minnesota Children's Hospital**

2450 Riverside Ave., Mpls, MN 55454  
888-KIDS-UMN (888-543-7866)

### **Fairview Range Medical Center**

750 34th St. E., Hibbing, MN 55746  
218-262-4881 or 888-870-8626

**If you have questions about your rights or medical care, contact:**

### **Minnesota Board of Medical Practice**

2829 University Ave. S.E., Suite 400  
Minneapolis, MN 55414-3246  
612-617-2130 or 800-657-3709

### **Office of Health Facility Complaints**

P.O. Box 64970, St. Paul, MN 55101-0970  
651-201-4201 or 800-369-7994

### **Office of Quality Monitoring**

The Joint Commission  
One Renaissance Blvd., Oakbrook Terrace, IL 60181  
800-994-6610

**For concerns about your Medicare rights, including quality of care or premature discharge, contact:**

### **Office of Ombudsman for Older Minnesotans**

P.O. Box 64971, St. Paul, MN 55164-0971  
651-431-2555 or 800-657-3591

### **Medicare Quality Improvement Organization (QIO)**

KEPRO  
5201 W. Kennedy Blvd, Suite 900, Tampa, FL 33609  
1-855-408-8557 or TTY 1-855-843-4776  
[www.kepro.com](http://www.kepro.com)