

Patient Rights in Texas — Know Your Rights

May I see my medical records?

You have the right to see, copy, and request changes to your medical records. You should know that a hospital or physician may charge you a reasonable fee for providing the requested records.

What is informed consent?

Physicians and other health care providers have a duty to obtain your agreement before they may provide you with medical treatment or perform a surgical procedure on you. The decision-making process by which you agree to have health care providers provide you with medical treatment, including surgical procedures, is often referred to as informed consent.

What should the physician explain to me?

You should expect that the physician who will provide the medical treatment will explain the following to you in a way you can understand:

- The treatment to be provided;
- Additional treatments that may need to be provided at the same time;
- The risks associated with the treatment;
- Benefits derived from the treatment;
- Alternatives to the treatment; and
- Consequences of not undergoing the treatment.

If I do not have private health insurance, can a hospital refuse to treat me in an emergency?

Under federal law, a hospital may not deny emergency services because the hospital cannot establish a patient's ability to pay for the services or because of the patient's race, religion, or national ancestry.

Emergency care is defined as care that

must be provided immediately to sustain life, prevent serious permanent disfigurement or impairment, or provide for the care of a woman in active labor. If the hospital cannot provide this care, the hospital may make arrangements to transfer a patient to another hospital that can provide for emergency needs but cannot transfer the patient to another hospital based on the patient's inability to pay for emergency services.

It is important to remember that this right to receive emergency care does not mean that the hospital cannot bill for the care provided, and arrangements will need to be made with the hospital if the patient cannot pay for the care provided.

Am I eligible for charity care?

You may be eligible for free or reduced cost health care at certain hospitals in your community. Each hospital will establish its own eligibility criteria, within certain legal guidelines, but are always based on a patient's ability to pay.

It is important to remember that charity care programs are not a substitute for health insurance or for any government health assistance programs. Hospitals will usually accept insurance first (including Medicare or Medicaid) and provide charity care only if you have no insurance and cannot afford to pay.

What are advance directives?

An advance directive is a legal document that allows you to tell your physician and family your preferences for medical treatment before you actually need care. An advance directive can relieve your family of the burden of making serious medical decisions without your input and provides your physician clear guidelines for your care. Three

types of advance directives in Texas are a Directive to Physicians, a Medical Power of Attorney, and an Out-of-Hospital Do-Not-Resuscitate Order.

What is a declaration for mental health treatment?

Texas law allows you to make a declaration for mental health treatment (commonly called a Psychiatric Advance Directive) to control your mental health treatment in the event that you become unable, due to illness, to make treatment decisions.

A Psychiatric Advance Directive allows you to make decisions in advance, while you have the mental and physical capacity, about three kinds of treatment: psychotropic medications; electroconvulsive treatment; and intervention to be used during an emergency to calm you down.

May I refuse psychotropic medication?

You can refuse such medication if you are in a hospital for psychiatric care under an emergency commitment, a voluntary commitment, or under an order of protective custody.

You can be required to take such medication under the following circumstances:

- There is an emergency because your recent behavior shows you are likely to hurt yourself or others; or
- You are younger than 16 and your guardian or parent consents for you; or
- You are involuntarily committed under a 90-day commitment order and a judge decides you are likely to hurt yourself or others, cannot make this decision for yourself, and that the medication will help you get well.

The information contained in this article was adapted from *Patient Rights in Texas — Know Your Rights*, a brochure produced by the Health Law Section (www.texhealthlaw.org) of the State Bar of Texas.