

Access to Support for Patients with Disabilities and Pediatric Patients in Hospital Settings

The Minnesota Department of Health is providing this guidance to remind licensed Minnesota hospitals of their obligations to patients with disabilities, pediatric patients, and other persons who may enter their facility to support a child or a person with a disability. Discrimination on the basis of disability is prohibited under the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, the Minnesota Human Rights Act, and Section 1557 of the Affordable Care Act.¹ During this COVID-19 public health emergency, hospitals are expected to continue to make reasonable accommodations to their policies and practices in order to comply with these laws. Hospitals are regulated under federal standards and other provisions that identified in this document may apply.²

An area that has been flagged by families and advocates as an area of particular concern is the ability of patients with disabilities and pediatric patients to have access to support persons or their parents/legal guardians while hospitalized. In response to these concerns, we ask all licensed Minnesota hospitals to adopt visitation policies that recognize the needs of persons with disabilities and pediatric patients. These policies should be made available to the public and, upon request, to any interested person. Such policies should include, at a minimum:

- Provisions authorizing at least one support person – whether a family member, support professional, or other person of the patient’s choice – to accompany to the hospital, visit in the hospital, and stay in the hospital with persons with disabilities and otherwise comply with hospital policy.

¹ This document is not intended to provide legal advice to licensed hospitals about their specific obligations under these laws and the steps they must take to be in compliance with these laws. Nor does following the guidance in this document serve as a defense to legal or regulatory enforcement actions under these laws.

² [Centers for Medicare & Medicaid Services: Hospitals \(www.cms.gov/Medicare/Provider-Enrollment-and-Certification/CertificationandCompliance/Hospitals\)](https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/CertificationandCompliance/Hospitals)

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- Provisions allowing for at least one parent or legal guardian to accompany to the hospital, visit in the hospital, and stay in the hospital with pediatric patients and otherwise comply with hospital policy.
- Provisions for the designation of support persons who may visit persons with disabilities during their hospital stay.
- Provisions allowing the patient to designate a support person or, in the event the person is not able to designate a support person, provisions to designate a support person, which should include persons legally authorized to make decision for that patient, family members, personal care assistants, or disability service providers, or any other person who may be able to assist the patient.
- Provisions establishing reasonable accommodations for children under the age of 2 and persons with disabilities who are not able to wear a mask due to their disability, such as a medical condition or sensory issue. These provisions should ensure that effective communication is available to people who are deaf or hard of hearing or for whom a mask would be a barrier to communication. For more information see [Best Practices for Masks: Considerations for People with Disabilities and Special Health Needs \(PDF\)](http://www.health.state.mn.us/diseases/coronavirus/guidemasks.pdf) (www.health.state.mn.us/diseases/coronavirus/guidemasks.pdf).
- Provisions establishing a process for persons with disabilities to propose other reasonable accommodations that also comply with the hospital's infection control policy and provisions for permitting support persons to provide support remotely if the support person does not meet COVID-19 screening criteria.

Hospitals should also adopt policies regarding communications with families, support persons, and/or support professionals of patients with disabilities who do not have a support person at the bedside. Hospitals should explain these policies to patients' support persons, preferably before the patients arrive at the hospital.

All support persons, parents, and legal guardians should still be subject to screening for COVID-19 symptoms upon arrival at the hospital and periodically during their stay. They should expect to be subject to the hospital's policy on positive symptoms, which may include the requirement of a second-level assessment. In addition, all support persons should be required to wear appropriate personal protective equipment (PPE), with reasonable accommodations, and comply with hospital policies regarding use and conservation of that PPE.

The hospital visitation policy should explain how a person can file an internal grievance with the hospital if the person believes the hospital has failed to provide a reasonable accommodation to a person with a disability. The policy also should include information on how a person can file a complaint of disability discrimination with the Office of Civil Rights and the Minnesota Department of Human Rights.

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U.S. Department of Health and Human Services – Office of Civil Rights

[Complaint Portal \(https://ocrportal.hhs.gov/ocr/cp/complaint_frontpage.jsf\)](https://ocrportal.hhs.gov/ocr/cp/complaint_frontpage.jsf)

(800) 368-1019 or (800) 537-7697

Minnesota Department of Human Rights

[Report Discrimination \(https://mn.gov/mdhr/intake/consultationinquiryform/\)](https://mn.gov/mdhr/intake/consultationinquiryform/)

651-539-1100 or 1-833-454-0148 (discrimination help line)



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Contact health.communications@state.mn.us to request an alternate format.

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