

SUBJECT: Patients' Rights and Responsibilities

1. **PURPOSE**: To outline Minneapolis VA Health Care System (MVAHCS) policy and procedures for patients' rights and responsibilities.

1. **POLICY AND PROCEDURES**: This MVAHCS is committed to improving the health and well-being of veterans. We provide patient care, train future healthcare professionals, conduct research, and support our country during national emergencies. In all of these activities, our employees will respect and support the rights of patients. Patient rights and responsibilities are outlined in Attachment A. The rights of research subject are set forth in Attachment B.

A. **Inpatient Procedures.**

- Information regarding patient rights and responsibilities will be provided for inpatients via the "Guide to Veterans and Family Services." These are mounted on the wall at the bedside in each patient room (except in Psychiatry and intensive care units). The pamphlet "Patients' Rights and Responsibilities" will also be given to the patient by patient representative volunteers who make visitation rounds to nursing units.
- Patients admitted to inpatient psychiatric treatment units will be given a copy of their "Rights Under Informal Hospitalization" (State of Minnesota Form 4021) by ward personnel.
- Patients under an emergency hold will be informed by the Emergency Department/Business Office staff of their "Rights Under Involuntary Hospitalization" (State of Minnesota Form 2538.05, Sub. Div. 5).
- Intermediate care patients (nursing units 1D, 1E and 1F), or next-of-kin/guardian of person, as appropriate, will be given information about patients' rights and responsibilities as a part of the Community Living Center Patient Handbook. The wording of these Rights and Responsibilities will reflect each patient's status as a "Nursing Home Resident." The appropriate person will be asked by nursing personnel to acknowledge receipt of this information by signing the nursing assessment form VA-10-096. This form will be maintained in the patient record.
- As outlined in policy EC- 17, Visitors of Inpatients and Patient Ward Restrictions: "The medical center respects the patient's right to make decisions about his or her care, treatment and services, and to involve the patient's family in care, services, and treatment decisions to the extent permitted by the patient or surrogate decision-maker. 'Family' is defined as a group of two or more persons united by blood, or adoptive, marital, domestic partnership, or other legal ties. The family may also be a person or persons not legally related to the individual (such as significant other, friend or caregiver) whom the individual considers to be family. A family member may be the surrogate decision-maker, as defined in VHA Handbook 1004.02, if authorized to make care decisions for the individual, should he or she lose decision-making capacity. The medical center allows a family member, friend or other individual to be present with the patient for emotional support during the course of a stay. The medical center allows for the presence of a support individual of the patient's choice, unless the individual's presence infringes on others' rights or safety, or is medically or therapeutically contraindicated. The individual may or may not be the patient's surrogate decision-maker or legally authorized representative. The hospital prohibits discrimination based on age, race, ethnicity, religion, culture, language, physical or mental disability, socioeconomic status, sex, sexual orientation, and gender identity or expression."

B. **Outpatient Procedures.** A copy of the flyer on patient rights will be posted and available for distribution in the waiting areas of ambulatory care clinics and the Emergency Department.

- C. Procedures For Research Subjects. See Attachment B.
- D. Grievance Process. Every effort will be made to resolve a grievance involving a patient, family member or representative at the level closest to the point of dispute. If the individual employee or their supervisor cannot resolve the matter, then the matter should be referred to the Patient Family Center. The patient representative will seek to resolve the concern to the patient's satisfaction whenever possible. The timeframe for resolution will depend upon the complexity of the problem. However, every effort will be made to resolve a concern within ten calendar days of the receipt of the grievance. Documentation of the complaint is typically not included in the patient's medical record but is kept in a database maintained by the patient representatives (Patient Complaint Tracking System).

It is expected that in resolving complaints, the patient representative will seek the resolution with the full authority of the Medical Center Director. If the aggrieved party is still dissatisfied with the action of the patient representative or their supervisor, they may submit a written grievance to the Medical Center Director. Alternative advocacy offices include but are not limited to local congressional offices, county or national veterans service offices, and state mental health and healthcare facility ombudsman offices. If desired, patients may also contact the Joint Commission at complaint@jointcommission.org to file a complaint.

Veterans will also have access to a fair and impartial review of disputes regarding denial or provision of clinical interventions based on determinations of medical need and/or appropriateness. This is known as the "clinical appeals process" and is outlined in Network Policy Memo V23-CMO-002.

3. **REFERENCES**: VA Form 10-7991, Code of Patient Concern; Patients' Rights and Responsibilities for Hospitalized Veterans brochure; VA Form 10-88, Patient and Nursing Home Resident Rights and Responsibilities; VA Regulations, Part 17, Paragraphs 17.34 and 17.34a; Notice of Procedural and Appellate Rights (VA Form 4107); Claim for Damage, Injury or Death (SF 95); Network Policy Memo V23-CMO-002; and Minnesota State Statutes.
4. **RESCISSION**: Policy #RI-01F, Patient's Rights & Responsibilities, dated August 14, 2009.
5. **FOLLOW-UP RESPONSIBILITY**: Director, Patient Family Center

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Attachments:

- A. Listing of Patient Rights and Responsibilities
- B. Research Subjects' Rights

Attachment A, Listing of Patient Rights and Responsibilities

Listing Of Patient Rights And Responsibilities

The following rights and responsibilities will be afforded to each veteran:

I. Respect and Nondiscrimination

- You will be treated with dignity, compassion and respect as an individual. Your privacy will be protected. You will receive care in a safe environment and we will seek to honor your personal and religious values.
- You or someone you choose has the right to keep and spend your own money. You have the right to receive an accounting of VA-held funds.
- Treatment will respect your personal freedoms. In rare cases, the use of medication and physical restraints may be used if all other efforts to keep you or others free from harm have not worked.
- As an inpatient or long-term care resident, you may wear your own clothes and keep personal items. This depends on your medical condition.
- As an inpatient or long-term care resident, you have the right to social interaction and regular exercise. You will have the opportunity for religious worship and spiritual support. You may decide whether or not to participate in these activities. You may also decide whether or not to perform tasks in or for the medical center.
- As an inpatient or long-term care resident, you have the right to communicate freely and privately. You may have or refuse visitors, write letters, and receive help in writing letters if needed. If there is reason to believe that your mail may contain illegal materials, you will have to open the mail in the presence of an appropriate person. You will have access to public telephones. You may participate in civic rights. You will also be provided transportation necessary for your treatment plan
- As a long-term care resident, you can organize and take part in resident groups in the facility. Your family also can meet with the families of other residents.
- In order to provide a safe treatment environment for all patients and staff, you are asked to respect other patients and staff and to follow our rules. This includes avoiding unsafe acts that place others at risk for accidents or injuries. Please immediately report any condition you believe to be unsafe.
- You have the right to protective services if you and/or the Minneapolis VA Health Care System believe that you have been the victim of neglect, abuse or exploitation.

II. Information Disclosure & Confidentiality

- You will be informed about your condition, diagnostic testing, care and treatment. You will be educated and given choices about care options and be informed who is responsible for your care.
- You will be given information about health benefits that you can receive. The information will be provided in a way you can understand.
- You will receive information about the cost of your care, if any, before you are treated. You are responsible for paying for your portion of costs associated with your care.
- Your medical record will be kept confidential. Information about you will not be released without your consent unless authorized by law (for example, state public health reporting). You have the

Attachment A, Listing of Patient Rights and Responsibilities

right to information in your medical record and may request a copy of your records. This will be provided except in rare situations when your VA physician feels the information will be harmful to you. In that situation, you have the right to discuss this with your VA provider.

- You will be informed of all outcomes of care, including any injuries caused by your medical care. You will be informed about how to request compensation for injuries.

III. Participation in Treatment Decisions

- You, and any persons you choose, will be involved in all decisions about your care. You will be given information you can understand about the benefits and risks of treatment and will be given other options. You can agree to or refuse treatment. Refusing treatment will not affect your rights to future care but you have the responsibility to understand the possible results to your health. If you believe you cannot follow the treatment plan, you have a responsibility to notify the treatment team. You also have the right to complete advance directives if you wish, and to name someone else to make health decisions for you in the event you cannot make these decisions yourself.
- Your requests related to your care will be honored when consistent with ethical and business practices, your eligibility, and sound evidence-based medical practice. The VA is not obligated to provide any care outside the standard benefits, but respects your right to seek care not provided by the VA at your own expense.
- As an inpatient or long-term care resident, you will be provided any transportation necessary for your treatment plan.
- You will be given, in writing, the name and professional title of the provider in charge of your care. As a partner in the healthcare process, you have the right to be involved in choosing your provider. Patient requests related to providers of care will be honored when feasible and clinically appropriate.
- You will be educated about your role and responsibilities as a patient. This includes your participation in decision-making and care at the end of life.
- Tell your provider about your current condition, medicines (including over-the-counter and herbals) and medical history. Also, share any other information that affects your health. You should ask questions when you do not understand something about your care. This will help in providing you the best care possible.
- You have the right to have your pain assessed and to receive treatment to manage your pain. You and your treatment team will develop a pain management plan together. You are expected to help the treatment team by telling them if you have pain and if the treatment is working.
- You have the right to choose whether or not you will participate in any research project. Any research will be clearly identified. Potential risks of the research will be identified and there will be no pressure for you to participate.
- You will be included in resolving ethical issues about your care. You may consult with the medical center's Biomedical Ethics Committee and/or other staff knowledgeable about health care ethics.

IV. Complaints

- If you feel these rights have not been respected, you can file a complaint with a patient representative in the Patient Family Center. You can also file a complaint by writing to: Medical Center Director (00), One Veterans Drive, Minneapolis, MN 55417. If you feel that your concerns have not been addressed satisfactorily by the medical center, you may also contact the Joint Commission at complaint@jointcommission.org.

Attachment B, Research Subjects' Rights

Research Subjects' Rights

The voluntary consent of the human subject is absolutely essential. This is established by the Nuremberg Code. This means that the person involved should: (1) have legal capacity to give consent; (2) be able to exercise free power of choice, without the intervention of any element of force, fraud, deceit, duress, over-reaching, or other ulterior form of constraint or coercion; and (3) have sufficient knowledge and comprehension of the study to enable him/her to make fully informed decision.

- A. Protecting Research Subject's Rights. The responsibility for protecting the rights of potential human subjects rests upon each individual who initiates, directs or engages in the study. This responsibility may not be delegated to another.
- The study should be such as to yield fruitful results for the good of society, unprocurable by other methods or means of study, and not random and unnecessary in nature.
 - The study should avoid all unnecessary physical and mental suffering and injury.
 - The degree of risk taken should never exceed that determined by the humanitarian importance of the problem to be solved by the study.
 - All patients asked to participate in a research project are given a description of alternative services that might also prove advantageous to them.
 - Proper preparations should be made and adequate facilities provided to protect the experimental subject against even remote possibilities of injury, disability, or death.
 - Only scientifically-qualified persons should conduct the study. The highest degree of skill and care should be practiced through all stages of the study.
 - All patients asked to participate in a research project are told that their participation is voluntary and, that if they refuse to participate, that their refusal will not compromise their relationship with the Minneapolis VA Health Care System or access to other health care services.
 - During the course of the study the scientist in charge must be prepared to terminate the study at any stage, if he/she has probable cause to believe the experiment is likely to result in injury, disability, or death of the experimental subject.
- B. Review of Proposals. All proposals for research involving human subjects must be presented to the Institutional Review Board (IRB) for consideration and approval. Research proposals will include a thoroughly completed subject consent form.
- C. Obtaining Informed Consent. A member of the research team must obtain informed consent from the potential subject. Before the acceptance of an affirmative decision by the study subject, there should be made known to him/her the nature, duration, and purpose of the experiment; the method and means by which it is to be conducted; all inconveniences and hazards reasonably to be expected; the effects upon his/her health or person which may possibly come from his/her participation in the experiment; and any alternate procedures or courses of action that may be advantageous.
- D. Persons Who Lack Capacity to Provide Consent. Persons who lack the capacity to provide consent may become research participants only under certain conditions. They may only be research subjects when the nature of the disease or other condition being researched is associated with their incapacity to provide consent. That is, the research is focused on the either the condition underlying the incapacity to provide consent or the treatment or quality of life of those individuals. In that situation, written consent will be obtained from the potential subject's personal representative or guardian. Subject assent will be obtained when possible. Under no circumstances may a subject be forced or coerced to participate in a research study.

- E. Confidentiality and use of Research Results. All potential subjects will be informed of the following: The results of research studies may be published or presented but subjects' identities and records will not be revealed unless required by federal law. A federal law allows the U.S. Food and Drug Administration, Office for Human Research Protections, Government Accounting Office and other federal agencies, the Research and Development Committee and/or the Institutional Review Board (IRB)/Human Studies Subcommittee of the MVACHS to review records. By participating in research studies, subjects have also agreed to allow the sponsor or sponsors of the research project to review their medical records unless otherwise stated. Because of the need for these inspections, absolute confidentiality cannot be guaranteed.
- F. Disclosure of Health Information for Research. Health information may be disclosed for research without specific, separate patient consent under the following circumstances:
- The Institutional Review Board has evaluated the project and its use of health information based on, among other things, the level of risk to the patient and to the patient's privacy.
 - The consent signed by the patient to participate in the project includes an authorization for specific use of the information.
 - A researcher is preparing a plan for a research project. For example, a researcher needs to examine patient medical records to identify patients with specific medical needs. The researcher must agree to use this information only to prepare a plan for a research study. The researcher may not use it to contact patients or actually conduct the study. The researcher also must agree not to remove that information from the VA.
 - A researcher conducts an Institutional Review Board-approved project reviewing health information without seeing the patient.
 - The Institutional Review Board has approved release based on a determination that the conduct of the research will cause no more than minimal risk to the patient and to their privacy.
- G. Patient Concerns. Patients who have any concerns about their rights as a research subject should be directed to speak with a patient representative in the Patient Family Center. Patients who have concerns or complaints regarding privacy issues as a research subject should be referred to the facility Privacy Officer.
- H. Staff Concerns. In the event that another staff member has an ethical concern about a research study being conducted or believes that a patient's condition does not justify their participation in the study, the staff member should:
1. Identify which human rights they feel are being violated or have potential to be violated (rights of self-determination; full disclosure; privacy; anonymity, and confidentiality; and not to be harmed).
 2. Validate concerns with someone familiar with the research process.
 3. Bring the concerns to the attention of the principal investigator and the primary physician.
 4. If concerns have still not been satisfactorily addressed/resolved, contact a patient representative, the Ethics Committee, the Privacy Officer, and/or the Institutional Review Board.