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Medicare Conditions of Participation

CMS requires participating hospitals to protect and promote the rights of patients.

The Joint Commission also expects accredited hospitals to protect the rights of patients.

Hospitals should provide care that respects a patient's:

- Dignity
- Ability to make choices
- Involvement in care
- Civil rights



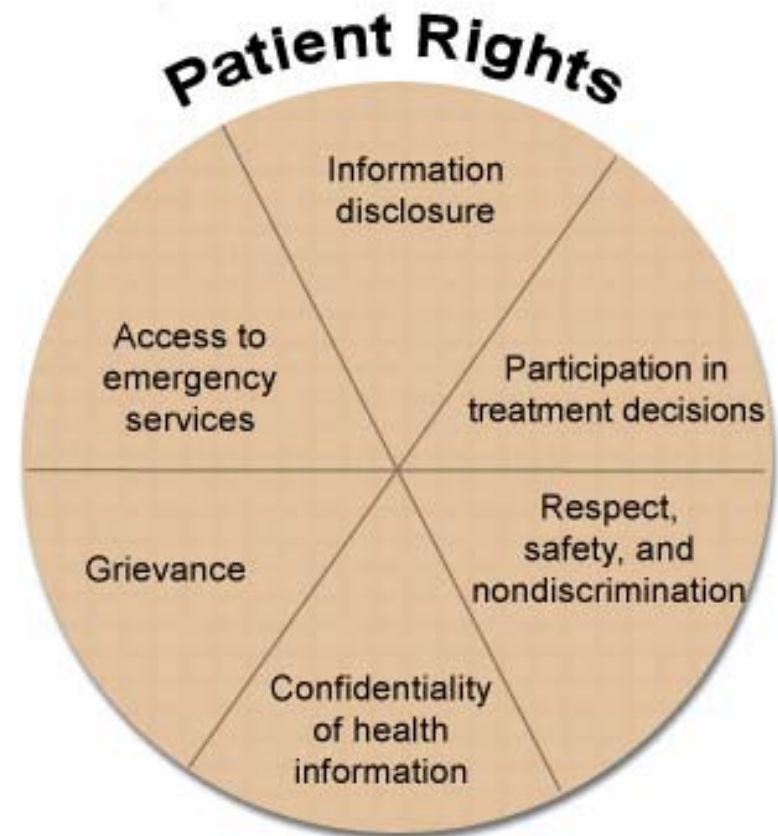
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Categories

Patient rights fall into six general areas:

- Information disclosure
- Participation in treatment decisions
- Respect, safety, and nondiscrimination
- Confidentiality of health information
- Grievances
- Access to emergency services

Each of these areas will be discussed in this course.



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Summary

You have completed the lesson on information disclosure.

Remember:

- Patients have the right to know about the facility, their healthcare team, and their rights as patients.
- Patients have the right to information they can understand.

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Course of Treatment: Necessary Information

Remember: Patients have the right to make decisions about their care. This means that patients must be given accurate information.

Patients have the right to know their:

- Diagnosis
- Prognosis
- Treatment options

Healthcare professionals must discuss *all* treatment options with their patients. This includes the option of no treatment.

For each treatment option, the patient needs to know:

- Risks
- Benefits
- Potential medical consequences



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Informed Consent

Discussing clinical information with a patient is part of **informed consent**.

Informed consent:

- Is an ongoing process of communication between a healthcare provider and his or her patient
- Allows the patient to make *educated* decisions about a proposed course of treatment

The informed consent process should include a full discussion of:

- The nature of the proposed treatment
- Potential benefits and risks
- Recuperation time
- Likelihood of success
- Reasonable alternatives to the proposed treatment (plus risks, benefits, and side effects of these alternatives)
- Any limitations on confidentiality

Remember, information is useful to a patient only if he or she can understand it. Patients have the right to receive information that they can understand.

When discussing diagnosis and treatment options with a patient:

- **Avoid the use of medical jargon and terminology.**
- **Seek the services of a translator or an interpreter, if necessary.**
- **Assist the patient in obtaining a second opinion, if requested.**

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Informed Consent and Refusal of Treatment

After receiving all pertinent information, a patient may:

- Give informed consent for treatment
- Refuse treatment

Except in an emergency, a patient must give his or her informed consent prior to the start of any procedure or treatment!

Informed consent or the reason for a patient's inability to provide informed consent must be documented in the medical record.

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Informed Consent and Refusal of Treatment

Patients have the right to refuse treatment.

Even after giving informed consent, patients may change their mind at any time. If a patient decides to withdraw consent, the treatment must be stopped.

When a patient refuses treatment, he or she has the right to know what will happen. The patient should receive information on the possible:

- Medical consequences of refusing treatment
- Other consequences of refusing treatment

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Advance Directives and DNR Orders

Remember: Patients have the right to make decisions about their care.

This is true even after the patient is no longer able to communicate those decisions directly.

An **advance directive** is a legal document that allows a patient to participate in *future* healthcare decisions. There are two forms of advance directive. Click on each to learn more.

- [Living will](#)
- [Durable power of attorney for healthcare](#)

An additional tool for participating in future healthcare decisions is the:

- [Do-not-resuscitate \(DNR\) order](#)

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Advance Directives: Your Role

Healthcare personnel play a critical role in protecting patient rights related to advance directives.

Healthcare personnel must:

- Offer information about advance directives to all adult patients
- Help patients who wish to complete an advance directive

Healthcare personnel must respect the decisions in a patient's advance directive.

They must:

- Place a copy of the directive in the patient's chart. If a copy is not available, the important points of the directive should be documented in the medical record.
- Follow the directive, after it has taken effect.

- ✓ Empower patients to complete advance directives.
- ✓ Place a copy of the patient's advance directive, or substance of that document, in the patient's medical record.
- ✓ Abide by the patient's wishes.

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Advance Directives: Your Role

Remember: An advance directive takes effect only *after the patient is no longer able to communicate directly*.

Until that time, the patient's direct communication is the only thing that matters.

A competent patient may change his or her advance directive at any time. If a patient wishes to change a directive, you must make this possible.

Patient care must NEVER be based on:

- Whether or not the patient has an advance directive
- The decisions in the directive

Treat all patients fairly and equally, regardless of advance directives.



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Absence of Advance Directive

A patient that has lost the ability to communicate directly may **not** have an advance directive.

In this case, his or her wishes for treatment still must be respected, as much as possible.

State laws provide for the appointment of healthcare representatives.

The representative should:

- Talk to the physician in charge of the patient's case
- Think about what the patient would want

The hierarchy of healthcare decision-makers for a patient without an advance directive depends upon state law. Potential representatives for an incapacitated patient may include:



• Guardian



• Spouse



• Adult child



• Parent



• Domestic partner



• Brother or sister



• Close friend

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Pain Management

Patients may experience pain. If pain is unrelieved, the patient may experience adverse:

- Physical effects
- Psychological effects

Patients have the right to pain management. Patients also have the right to refuse pain medication.



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Research Participation

If a patient wants to be part of a research study, he or she must sign a written consent form.

This form should explain that:

- The proposed treatment is experimental.
- The patient's decision will not affect their regular care.

The form also should describe:

- What the experimental treatment will involve
- The possible risks and benefits of the experimental treatment
- Any known risks of the experimental treatment, based on previous studies
- Other treatment options, and their risks and benefits

Consent Form for Participation in Experimental Treatment

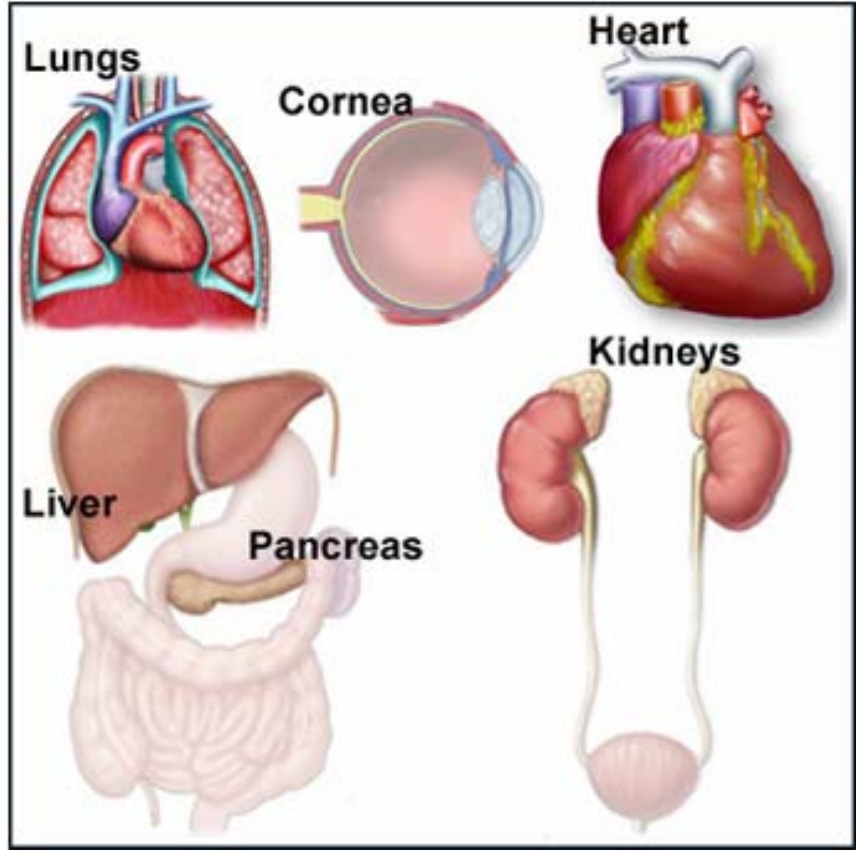
- ✓ Nature of experimental treatment
- ✓ Procedures involved
- ✓ Risks & benefits
- ✓ Other available options
- ✓ Confirmation of uninterrupted patient care

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Organ Donation

Patients have the right to choose about organ donation.

Patients must give informed consent if they want to donate their organs or tissues.



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Summary

You have completed the lesson on participation in treatment decisions.

Remember:

- Patients have the right to make decisions about their care. They have the right to set the course of their treatment.
- Patients have the right to know about their diagnosis, prognosis, and treatment options.
- Patients have a right to pain management.
- A patient must give informed consent before the start of any procedure or treatment.
- Patients have the right to refuse treatment.
- Healthcare personnel play a critical role in protecting patient rights.

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Respect

Patients have the right to considerate, respectful, compassionate care.

Respect means valuing the patient's:

- Needs
- Desires
- Feelings
- Ideas

Treat patients with common courtesy.

For example:

- Knock and wait before entering a patient's room
- Respond politely to patients
- Listen to patients
- Remain compassionate



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Patient Safety and Security: Overall

Report to your supervisor immediately if:

- You think a patient may be a victim of abuse.
- A patient asks for protection from abuse.

Your facility should have procedures in place for:

- Assessing possible victims of abuse
- Helping patients find protective services
- Reporting abuse to the proper state agencies



Key Thought

Abuse includes neglect, harassment, or exploitation.

If you suspect patient abuse, report your suspicions to your supervisor immediately.

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Safety and the Use of Restraint


Sometimes, patients need to be kept from harming themselves. They may need to be restrained

The decision to use restraint is a **medical** decision. It requires a medical order.

Restraint should **never** be used for discipline or convenience.

When a patient must be restrained, be sure to protect the patient's:

- Rights
- Safety
- Comfort
- Dignity



See the course *Patient Restraint and Seclusion* for more information regarding:

- Patient rights with regard to use of restraint
- Safe and appropriate use of restraint

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Nondiscrimination

All patients have the right to fair and equal healthcare services.

This is true regardless of:

- Race
- Ethnicity
- National origin
- Religion
- Political affiliation
- Level of education
- Place of residence or business
- Age
- Gender
- Marital status
- Personal appearance
- Mental or physical disability
- Sexual orientation
- Genetic information
- Source of payment



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Confidentiality

Patients have the right to privacy and confidentiality.

Always use a private place for:

- Case discussion and consultation
- Patient examination and treatment

A patient's medical records may be shared with:

- Clinicians who are directly involved in the patient's case
- Regulatory personnel who are looking into a facility's quality of care
- Other people who have a legal or regulatory right to see the records

Protected healthcare information should not be shared with ANYONE else.

Only authorized employees should have access to areas where medical records are stored.



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Patient Access to Records

Patients have the right to see information in their medical records.

Patients may not be allowed to see certain information only if:

- That information could harm the patient or someone else
- That information is being inspected by an oversight committee



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Summary

You have completed the lesson on respect, safety, nondiscrimination, and confidentiality.

Remember:

- Patients have the right to considerate, respectful, compassionate care.
- Help ensure a safe environment of care for your patients. Report any suspected victims of abuse.
- Patients should be restrained only when medically necessary. During necessary restraint, protect the patient's safety, comfort, and dignity.
- Share protected patient information only with people who are directly involved in the patient's case.
- Patients have the right to see their medical records.

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Complaints

Patients have the right to complain about the quality of their healthcare.

Many patient complaints can be addressed quickly. For example, a patient may complain about getting the wrong items on her lunch tray. Make sure she gets the right items next time.

When complaints cannot be resolved quickly and easily, patients have the right to file a grievance.

A grievance is a formal written or verbal complaint.

If a patient wants to file a grievance, you must:

- Explain the grievance process at your facility. This includes the name of the staff person the patient should contact.
- Explain that grievances may be filed with state agencies. This is true whether or not the patient has already used the facility's internal grievance process.
- Give the patient the phone number and address for filing a grievance with the state.

Common complaints relate to:

- Waiting times
- Operating hours
- Conduct of healthcare personnel
- Adequacy of healthcare personnel
- Other issues

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Resolution

Healthcare facilities must review, investigate, and resolve all grievances within a reasonable time frame.

If the grievance has to do with the patient's safety, it should be reviewed immediately. Examples include grievances about abuse or neglect.

To complete the grievance process, the facility must give the patient a written report. This report should explain:

- How the facility investigated the grievance
- The facility's decision about the grievance

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Bills and Bill Examination

Patients have the right to question their bills.

They have the right to a detailed explanation of every item on a bill.



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Summary

You have completed the lesson on complaints and grievances.

Remember:

- Patients have the right to complain.
- Patient complaints should be reviewed, investigated, and resolved promptly.
- Patients have the right to file complaints with external agencies. They should be given contact information for the correct state agency.
- Patients have the right to examine their bills. They have the right to a detailed explanation of each item.

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Patient Bill of Rights

The "prudent layperson" definition appears in the Consumer Bill of Rights and Responsibilities:

Consumers have the right to access emergency health care services when and where the need arises. Health plans should provide payment when a consumer presents to an emergency department with acute symptoms of sufficient severity... that a "prudent layperson" could reasonably expect the absence of medical attention to result in placing that consumer's health in serious jeopardy, serious impairment to bodily functions, or serious dysfunction of any bodily organ or part.



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EMTALA

Another tool for protecting the right to emergency medical treatment is EMTALA.

EMTALA is the **E**mergency **M**edical **T**reatment and **A**ctive **L**abor **A**ct.

EMTALA helps prevent "patient dumping." It is often called the "anti-dumping law."

EMTALA was passed as part of the Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA).

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Provisions of EMTALA

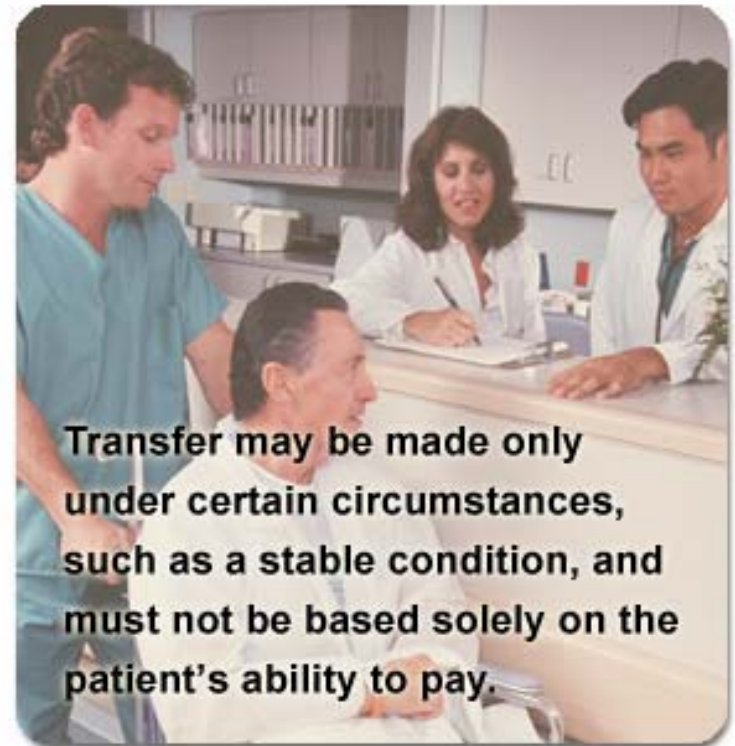
Consider this scenario: A patient goes to the emergency room. He asks for emergency services.

Under EMTALA, the hospital *must* screen this patient. Screening must be complete enough to find out if the patient has an emergency medical condition.

If the patient *does not* have an emergency condition, the hospital has no further obligation under EMTALA.

If the patient *does* have an emergency condition, the hospital must provide stabilizing treatment. This treatment *must* be provided without considering the patient's ability to pay.

Before the patient is stabilized, the hospital may transfer the patient *ONLY* if another facility is better equipped to treat the patient. The hospital may *not* transfer an unstable patient for economic reasons.



Transfer may be made only under certain circumstances, such as a stable condition, and must not be based solely on the patient's ability to pay.

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Summary

You have completed the lesson on access to emergency care.

Remember:

- Need for emergency services is based on whether the patient has signs or symptoms that a "prudent layperson" would consider an emergency.
- Under EMTALA, hospitals must provide ER patients with emergency medical screening and stabilizing medical care.
- Medically unstable patients may not be transferred for economic reasons.