

PATIENT RIGHTS AND RESPONSIBILITIES

⊙ Paternalism and Autonomy

- Providers have lost claim to the moral right to act on a patient's behalf, without need of the patient's consent.
- Patient has assumed the role of partner who is capable of and interested in participating in all aspects of care.



PATERNALISM



AUTONOMY

⊙ Adult legal right

- To refuse medical treatments
- To employ all experimental and heroic measures for as long as humanly possible even in view of a fatal diagnosis....

Four reasons the paternal provider is deficient:

- He acts on his own values
- Patients know their own interests better than anyone else
- Danger of abuse
- The patient's substantive and procedural rights to pursue or reject any course of treatment based on subjective preferences

INFORMED CONSENT

A decision reached by a competent patient to accept a medical treatment or course of treatment.

“Primary care physicians with no history of malpractice claims differed from those who had experienced claims in three areas—physicians with no claims history spent more time with patients, used facilitative statements more often, and relied on laughter and humor more often during their encounters than did physicians who had been sued for malpractice.”

Humor in Medicine by **Howard J. Bennett, MD**
South Med J 96(12):1257-1261, 2003. © 2003
Lippincott Williams & Wilkins

PATIENTS RIGHTS

- ◉ The Constitution guarantees the right to
 - freedom of speech
 - free exercise of religion
 - association
 - not be discriminated against on the grounds of race, creed, color, or national origin.

THE SUPREME COURT HAS FURTHER INTERPRETED THE CONSTITUTION AS GUARANTEEING:

- ◉ Right to privacy and self-determination
- ◉ Right to accept or reject medical treatment

PATIENT RIGHTS TO:

- ◉ Know their rights
- ◉ Explanation of those rights
- ◉ Participate in care decisions
- ◉ Informed consent
- ◉ Ask questions
- ◉ Refuse treatment
- ◉ Execute advance directives
 - Designate a decision maker

(CON'T) PATIENT RIGHTS TO:

- ◉ Privacy and confidentiality
 - Disclosures permitted w/o authorization
 - Limit disclosures
- ◉ Know of restrictions on rights
- ◉ Have special needs addressed
- ◉ Emergency care (EMTALA)
- ◉ Discharge

(CON'T) PATIENT RIGHTS TO:

- ◉ Transfer
- ◉ Access medical records
- ◉ Know of third-party care relationships
- ◉ Know of caregivers
- ◉ Sensitive and compassionate care
- ◉ Timely response to care needs
- ◉ Pain management

The Patients' Bill of Rights and Responsibilities has three goals: to strengthen consumer confidence that the health care system is fair and responsive to consumer needs; to reaffirm the importance of a strong relationship between patients and their health care providers; and to reaffirm the critical role consumers play in safeguarding their own health. The Commission articulated seven sets of rights and one set of responsibilities:

The Right to Information. Patients have the right to receive accurate, easily understood information to assist them in making informed decisions about their health plans, facilities and professionals.

The Right to Choose. Patients have the right to a choice of health care providers that is sufficient to assure access to appropriate high-quality health care including giving women access to qualified specialists such as obstetrician-gynecologists and giving patients with serious medical conditions and chronic illnesses access to specialists.

Access to Emergency Services. Patients have the right to access emergency health services when and where the need arises. Health plans should provide payment when a patient presents himself/herself to any emergency department with acute symptoms of sufficient severity "including severe pain" 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.

Being a Full Partner in Health Care Decisions. Patients have the right to fully participate in all decisions related to their health care. Consumers who are unable to fully participate in treatment decisions have the right to be represented by parents, guardians, family members, or other conservators. Additionally, provider contracts should not contain any so-called "gag clauses" that restrict health professionals' ability to discuss and advise patients on medically necessary treatment options.

Care Without Discrimination. Patients have the right to considerate, respectful care from all members of the health care industry at all times and under all circumstances. Patients must not be discriminated against in the marketing or enrollment or in the provision of health care services, consistent with the benefits covered in their policy and/or as required by law, based on race, ethnicity, national origin, religion, sex, age, current or anticipated mental or physical disability, sexual orientation, genetic information, or source of payment.

The Right to Privacy. Patients have the right to communicate with health care providers in confidence and to have the confidentiality of their individually-identifiable health care information protected. Patients also have the right to review and copy their own medical records and request amendments to their records.

The Right to Speedy Complaint Resolution. Patients have the right to a fair and efficient process for resolving differences with their health plans, health care providers, and the institutions that serve them, including a rigorous system of internal review and an independent system of external review.

Taking on New Responsibilities. In a health care system that affords patients rights and protections, patients must also take greater responsibility for maintaining good health.

Source: <http://www.hhs.gov/news/press/1999pres/990412.html>

PATIENT RESPONSIBILITIES

- Ask questions if they do not understand what the care giver is describing about how to best manage their pain.
- Report their pain to their care givers
- Discuss pain relief treatment options with their caregivers
- Adhere to the pain control program

(CON'T) PATIENT RESPONSIBILITIES

- Remind those who care for them that pain management is an important part of their health care treatment
- Inform health caregivers about any other prescriptions or over-the-counter medicines they are taking to control their pain.
- Provide caregivers with information about pain control methods that have worked, or not worked, for them
- Discuss concerns about taking pain medication

(CON'T) PATIENT RESPONSIBILITIES

- Alert caregivers of any allergies they have to any medications
- Ask caregivers about the side effects associated with their pain management program
- Maintain a record of the effects of medications or other pain relief measures
- Participate with caregivers in setting a pain control goal, including their pain ratings and activities that are important to them