



HEALTHCARE PATIENTS' LEGAL RIGHTS AND RESPONSIBILITIES

Whether you just turned another year older and are due for a physical, you are experiencing illness or an injury, or you're just trying to figure out the whole "health insurance" thing, healthcare can be confusing, overwhelming, or intimidating. While this resource can't help you overcome the anxiety of talking to a physician's receptionist over the phone or magically make your insurance policy easily understandable, it will help you navigate challenges and legal aspects of obtaining healthcare and help prepare you to take charge of your care and the care of those who depend on you.

I. The Right to Control Your Treatment

To begin, one of the ethical foundations of medicine is your right to autonomy, which takes different forms. Within the healthcare system, you have the right to:

A. Refuse treatment

As a patient, you have the right to refuse treatment. Patients can refuse treatment even in critical situations, where refusal of life-preserving medical treatment could result in grievous bodily harm or death.¹

B. Make informed consent

In conjunction with the above, you have the right to make informed decisions about your healthcare. It is your physician's duty to make sure that he/she explains, and that you understand, (1) the nature of the procedure, (2) the risks and benefits of the procedure, (3) reasonable alternatives, and (4) the risks and benefits of alternatives.²

¹ See 25 Tex. Admin. Code § 33.20; 1 Tex. Admin. Code § 353.202; 25 Tex. Admin. Code § 133.42; 26 Tex. Admin. Code § 511.63.

² Olejarczyk JP, Young M. Patient Rights and Ethics, available at <https://www.ncbi.nlm.nih.gov/books/NBK538279/>.



C. Create advanced directives

Another part of controlling your care is the ability to specify ahead of time your decisions regarding end-of-life care. While many of you reading this are far away from having to make important decision about your end-of-life care, you may be charged with helping aging parents or relatives make decisions about their healthcare. These directives allow you to make specific decisions for specific circumstances. They allow you to decide whether you would like to be resuscitated or would prefer to forego resuscitation and accept a natural death.³ They permit you to designate an individual who is allowed to make healthcare decisions and/or handle affairs related to your property on your behalf when you are incapacitated.⁴ They even allow you to communicate whether, in the event of terminal illness, you want to pursue life-extending procedures, or if you would prefer physicians cease all but comfort care.⁵

II. **Insurance Terminology**

Below are some of the more common terms that are important to understand when obtaining health insurance.

A. Deductible

A deductible is the amount you have to pay for your own healthcare before your insurer begins to contribute to the cost of your medical care. For example, if you have a \$500 deductible and incur a \$1,000 medical bill, you will have to pay \$500 before insurance will start to cover any of the cost.

B. Premium

An insurance premium is the amount you pay for health insurance. Premiums are typically paid monthly, but may be paid quarterly or annually.

C. Coinsurance/Copayment

Coinsurance is a percentage of the bill your insurer pays, after you have paid your deductible. If you have 80% coinsurance and have a \$1,000 bill after your deductible is paid, your insurer will pay \$800, and you will be responsible for the remaining \$200. Copayments are one-time fees you pay every time you visit a doctor's office or see a provider.

³ <https://www.hhs.texas.gov/regulations/forms/advance-directives/out-hospital-do-not-resuscitate-ooH-dnr-order>

⁴ <https://www.hhs.texas.gov/regulations/forms/advance-directives/medical-power-attorney-mpoa> and <https://www.hhs.texas.gov/regulations/forms/advance-directives/statutory-durable-power-attorney-sdpoa>

⁵ <https://www.hhs.texas.gov/regulations/forms/advance-directives/directive-physicians-family-or-surrogates-living-will>



D. Out-of-Pocket Maximum

An Out-of-Pocket Maximum is the total amount you pay for your healthcare in one year before your insurance will cover 100% of your health care expenses for the rest of the year.

III. Privacy Rights

Patient privacy rights are governed, in part, by the ubiquitous Health Insurance Portability and Accountability Act (HIPAA).⁶ HIPAA pertains to your medical records and is designed to ensure that your private medical data is accessible and remains protected, secure, and confidential.⁷ Texas has also passed the Texas Medical Records Privacy Act, which protects the confidentiality of your Protected Health Information.⁸ The Texas Medical Records Privacy Act covers a wider range of entities than HIPAA, as it regulates, with a few exceptions, any entity that assembles, collects, analyzes, use, evaluates, stores, or transmits Protected Health Information.⁹ HIPAA not only prevents your information from being shared to unauthorized parties, but it also provides a right for you to obtain a copy of, as well as potentially to amend, your medical records.¹⁰

IV. Medical Bill Itemization

After receiving medical care, patients are often met with medical bills that can be difficult to understand or are lacking in detail. Texas passed a law requiring hospitals and healthcare facilities to provide you with an itemized bill detailing the services you received, the cost for those services, and the amount any third party has paid for those services on your behalf.¹¹ However, this requirement to provide you with an itemized bill is limited to healthcare facilities, such as hospitals, ambulatory surgical centers, birthing centers, and freestanding emergency centers.¹² Individual physicians operating their own practice do not have an obligation to provide an itemized bill.¹³

⁶ See Health Insurance Portability and Accountability Act. Pub. L. No. 104-191, § 264, 110 Stat.1936.

⁷ See 45 C.F.R. § 160.103.

⁸ See Tex. Health and Safety Code § 181.

⁹ Tex. Health and Safety Code § 181.001.

¹⁰ See 45 CFR 164.524(a).

¹¹ Tex. Health and Safety Code § 185.002.

¹² Tex. Health and Safety Code § 185.001.

¹³ See *Id.*



V. *Discrimination*

There are civil rights laws that regulate your healthcare. You have a right to be free from discrimination while receiving healthcare. The Federal Civil Rights Act of 1964 prohibits businesses from discriminating based on race, color, sex, religion, or national origin.¹⁴ Additionally, the Texas Health Care Rights Law, which applies to any entity that receives federal funds, prohibits discrimination in healthcare on the basis of race, color, national origin, age, disability, and sex (including pregnancy, gender identity, and sex stereotyping).¹⁵ The Americans with Disabilities Act¹⁶ and Texas law¹⁷ both prohibit healthcare providers from discriminating against individuals with disabilities.

TYLA would like to thank Joe Lecroy and Cheryl Camin Murray of Katten Muchin Rosenman LLP for their assistance preparing this legal resource.



¹⁴ See Civil Rights Act of 1964, P.L. 88-352, 78 Stat. 241 (codified at 42 U.S.C. § 1971 et seq. (2006)).

¹⁵ See 42 U.S.C. § 18116.

¹⁶ See 42 U.S.C. § 12101 et seq.

¹⁷ See Tex. Health and Safety Code § 161.473.