

CARE IN A NEW YORK MEDICAL FACILITY FOR PEOPLE WITH DISABILITIES – COVID-19

KNOW YOUR RIGHTS



People with disabilities face widespread discrimination, segregation, and exclusion. But federal disability rights laws, as well as New York State and local human rights laws, can provide protection.

Under the Americans with Disabilities Act, New York State Human Rights Law, and local human rights laws, including the New York City Human Rights Law, you cannot be discriminated against just because you have a disability, someone in your family has a disability, or because someone thinks you have a disability. People with physical and mental conditions have legal rights and are covered by disability laws when seeking medical care.

YOUR RIGHTS

- You can and should advocate for assistance in any medical facility if you have specific needs due to altered mental status, intellectual or cognitive disability, communication barriers, or behavioral concerns.
- You ordinarily have the right to accommodations, under the Americans with Disabilities Act, including the presence of a family member, personal care assistant, or similar disability service provider who is knowledgeable about the management of your care, to physically or

emotionally assist you. But because of the pandemic, medical facilities are allowed to bar support people and visitors to prevent the spread of infection. These decisions are made on a case-by-case basis.

- You have the right to medical care like everybody else. No one can deny you emergency care, such as a ventilator or an ICU bed, just because of your disability.
- When seeking medical care, you have the right to bring your own assistive equipment, like a wheelchair, communication device, or ventilator. According to state-issued ventilator allocation guidelines, a person who brings their own ventilator to a hospital may have their ventilator taken and repurposed for use by others in a pandemic crisis where ventilators are in short supply. The New York State Department of Health has indicated that the guidelines are not binding, but several facilities have indicated they are following them.
- You have the right to language assistance. You can ask for:
 - ASL interpreting or CART (computer-aided transcription services, real-time captioning, or Communication Access Real-time Translation) services.
 - Papers in Braille, large-print, or in a computer file.
 - Information in simple words.
 - An interpreter.

- Even during an emergency, you have the right to receive equal access to health care, including the right to follow-up care and services, regardless of your disability.

WHAT TO DO IF YOUR RIGHTS HAVE BEEN VIOLATED

If you believe your rights have been violated, you can file a written complaint at your doctor's office or at the hospital or medical facility. Hospitals and medical facilities often have a patient advocate or ombudsman who receives complaints. Their contact information can be found by looking on the facility's website or calling the facility and asking how to file a complaint.

You can also file a complaint with Disability Rights New York by calling (518) 432-7861 or (800) 993-8982, filling out an intake form online at www.drny.org, or emailing intake@drny.org. DRNY is the New York State disability rights not-for-profit agency mandated by federal law to protect and advocate for individuals with disabilities.

Finally, you may file a complaint at one or more of the agencies below, depending on where and how you faced discrimination. Each agency below enforces a different law or policy, so you can file with multiple agencies. If you are considering a lawsuit, consult with an attorney before filing a complaint.

NYC Commission on Human Rights

New York City's Human Rights Law prohibits discrimination in public accommodations on the basis of disability.
311 or (718) 722-3131

New York State Division on Human Rights

New York State's Human Rights Law protects people with disabilities in public accommodations.
1-888-392-3644

New York State Attorney General

The Attorney General's office investigates unlawful discrimination that reflects a policy or practice of discrimination.
1-800-771-7755,
<https://ag.ny.gov/civil-rights/complaint-forms>

New York State Department of Health

The Department of Health investigates misconduct by hospitals and diagnostic and treatment centers. 1-800-804-5447,
<https://apps.health.ny.gov/surveyd8/facility-complaint-form>

New York State Department of Health - Office of Professional Medical Conduct

The Department of Health's Office of Professional Medical Conduct investigates misconduct by physicians, physician assistants, and specialist assistants.
1-800-663-6114,
https://www.health.ny.gov/professionals/doctors/conduct/file_a_complaint.htm

New York State Education Department - Office of the Professions

The State Education Department's Office of the Professions investigates misconduct by dentists, nurses, midwives, mental health professionals, social workers, massage therapists, chiropractors, acupuncturists, pharmacists, and other medical professionals. 1-800-442-8106,
<http://www.op.nysed.gov/opd/complain.htm>

Joint Commission

The Joint Commission is an independent body that accredits hospitals and has a policy of nondiscrimination that includes disability status. 1-800-994-6610,
<https://www.jointcommission.org/resources/patient-safety-topics/report-a-patient-safety-event/>

New York State Office of Mental Health (OMH)

OMH oversees mental health facilities.
1-800-597-8481,
https://omh.ny.gov/omhweb/email/compose_mail.php?tid=DQM

Office of Alcoholism and Substance Abuse Services (OASAS)

OASAS oversees substance abuse treatment facilities. 1-800-553-5790,
patientadvocacy@oasas.ny.gov

Justice Center for the Protection of People with Special Needs

The Justice Center has jurisdiction over abuse – including verbal abuse – in substance use treatment facilities, mental health facilities, Office of Children and Family Services programs, Office for People With Developmental Disabilities programs, and adult care facilities.
1-855-373-2122

Federal Department of Health and Human Services' Office of Civil Rights (HHS OCR)

The Affordable Care Act prohibits disability discrimination by most medical providers and facilities, including nursing homes, board and care homes, and assisted living facilities.
<https://www.hhs.gov/civil-rights/filing-a-complaint/complaint-process/index.html>

Department of Health and Human Services' Office for Civil Rights

The Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule protects individual medical records and personal health information.
<https://ocrportal.hhs.gov/ocr/smartscreen/main.jsf>

U.S. Department of Justice

The Americans with Disabilities Act (ADA) prohibits discrimination against people with disabilities.
https://www.ada.gov/filing_complaint.htm

NYCLU

ACLU of New York

www.nyclu.org

