

# WHAT TO DO IF YOU THINK YOU HAVE BEEN HARMED BY YOUR HEALTHCARE

## Your Rights After Harm

If you (or your loved one) think you have been **harmed or injured during your care** at a hospital, clinic, or other **healthcare organization**, you have the right to:

- Know what happened
- Ask why it happened
- Ask for help with any problems you are having

### Examples of being harmed or injured:

- wrong diagnosis
- wrong treatment or no treatment
- problem with a medication
- feeling disrespected or disregarded
- problem with a surgery or procedure
- no instructions or wrong instructions
- something important didn't seem right

## Not All Harm Is Preventable

Negative or bad healthcare outcomes can happen for many reasons. Sometimes harm is an unavoidable side effect of good care, like an allergic reaction to the right medication. Other times patients are harmed by errors or bad care. Talking with your providers can be an important step in understanding whether the harm you experienced means that there was an error in your care and that the error caused the harm. It is important to know that even if your harm was not preventable, you should still be given the opportunity to understand what happened, why it happened, and get support for your needs.

### Healthcare organization examples:

- medical office
- urgent care
- nursing home
- rehab facility
- skilled nursing facility
- surgery center
- dentist
- telehealth visit
- dialysis center
- birth center
- mental health center
- addiction treatment center

## Healthcare Organization Programs for Responding to Harm

Some organizations have programs for responding to patients and families after they have experienced harm. These programs are focused on ensuring proactive, honest, and transparent communication about the event and meeting any patient/family support needs.

## How To Find Out If The Organization Where I Experienced Harm Has A Program

It can be difficult for patients and families to identify which organizations have such programs – they go by various names (e.g. communication and resolution programs or CRPs, CANDOR, CARE, HEART, etc.) and are often not publicly advertised. You want to ask someone from your healthcare organization (e.g. the healthcare team, the organization's patient relations/advocate, or a healthcare organization leader; see more details on the following pages about how to identify and contact these people) about whether it has such a program.

## Next Steps If My Organization Has A Harm Response Program

If your healthcare organization has such a program, ask the organization how the program works, what support resources are available to you, and any written material about their program. If you do not feel your needs are being met, speak with program staff and let them know as soon as possible.

## Next Steps If My Organization Does Not Have A Program Or It's Not Meeting My Needs

If a healthcare organization does not have a program for responding after harm or is not meeting your needs despite your attempts to work with the program staff, the remainder of this document aims to help you get the information necessary to ensure your needs are met. Some of the steps may be a good match for your case, others may not. If you are unsure what to do, ask for help from someone you trust.

This resource was developed in 2023 by a workgroup of the CHR Board of Directors that included representatives from patient advocacy, healthcare, patient safety and quality, risk management, and medical malpractice. It was also reviewed by the CHR Patient and Family Advocate Committee and the CHR Attorney Alliance.



# STEPS YOU CAN TAKE

## Seek Medical Attention

01

If you're experiencing immediate health issues as a result of the harm, make it your priority to seek care. Reach out to someone you trust if you are suffering or need support. Consider getting a second opinion about your health and your options.

## Keep Track of What Happened

02

Write down a list of what happened, when, and who was there. If you're unsure, ask the people who were there to help you remember. Take notes on any conversations or messages you have with the organization and keep copies of any information they give you. Get and review your medical record (see below for more information). The records you keep can be important when communicating with the organization, or if you decide to take legal action.

## Healthcare Team

03

Reach out to someone you trust on your **healthcare team**, someone you can talk with and ask questions. If you don't have someone you can trust, ask if the hospital has a patient advocate or an ombudsman. See page 4 for tips about how to talk with someone on your healthcare team.

### Healthcare team examples:

- doctor, physician, or surgeon (MD, DO)
- nurse practitioner (NP)
- physician's assistant (PA)
- nurse (RN)
- social worker (SW)
- counselor or therapist
- case manager
- pharmacist
- occupational or physical therapist
- care assistant
- nutritionist
- dentist

## Patient Relations/Advocate

04

Many healthcare organizations have people whose job it is to hear about problems patients and families are having. Often, such people are called "**Patient Relations**" or "**Patient Advocates**," but the healthcare organization may call them something else. Their phone number, address, and/or e-mail should be on the organization's website or materials they gave you (like a "Patients' Rights and Responsibilities" brochure). You can also call the main phone number for the organization and say you would like to make a complaint.

- You can call or write them to tell them what happened, ask why it happened, and ask for help with any problems you are having.
- See page 5 for tips about how to call or write a healthcare organization and page 6 for steps to take *after* you reach out to a healthcare organization.

### Examples job titles:

- patient relations, services, or advocate
- patient experience officer
- patient complaints manager
- risk manager
- quality manager
- ombudsman or ombudsperson
- practice, clinic or center manager
- customer service

## Healthcare Organization Leader

05

If you feel you are not being heard, you or your representative can ask for a meeting with a leader in the organization. It can be helpful to have support during such a meeting – like from a family member, a trusted member of your healthcare team, or a lawyer/attorney.

See page 7 for tips about how to identify and contact a healthcare organization leader.

If you call and ask them for a reply, or if you send them something in writing (like a letter or email) – which is called "filing a grievance" – they must write you back. If their reply does not solve the problem, you have the right to ask them to do more, and this is called "filing a grievance appeal."



# STEPS YOU CAN TAKE

## 06 Lawyer/Attorney

This is someone you can hire. They can help you learn about your rights and your options, and they can write or speak to the healthcare organization for you. They can also advocate for you and help you get the support you need after you have been harmed, especially if you have tried to talk with the healthcare organization but have not gotten the answers or help that you need.

For information about how to find a lawyer/attorney, visit <https://findlegalhelp.org/>

## 07 Regulatory/Accrediting Organization

You or your representative can call or write the government, or the organizations that certify and license the healthcare organization. This is called “filing a complaint” and how you do this depends on where you are calling or writing. Look for more information on the internet or in the materials the healthcare organization gave you. Options include:

- The state’s department of health
- The state’s licensing board (for healthcare facilities and healthcare professionals)
- The agency that accredits the healthcare organization (like [The Joint Commission](#))
- Your healthcare insurer (for many older Americans this is Medicare or “CMS”)

## 08 Medical Records (your chart)

If the healthcare organization uses an electronic medical record, they must give you free access to your record without delay. If you do not know how to get to your electronic record, ask a member of your healthcare team, or someone from Patient Relations (see above).

You also have the right to ask for a copy of your medical records. The way to get your medical records should be on the healthcare organization’s website or in the materials they gave you, or you can call the organization and ask for the “medical records department.”

- If English is not your first language, ask the healthcare organization for an interpreter – they must provide one.
- At any time, you can ask a “personal representative”, someone you trust, like a loved one or a lawyer/attorney to write or speak with the healthcare organization for you.
- This guide is **NOT** legal advice. Talk to a lawyer/attorney if you have questions.

# HELPFUL LINKS

**Learn about patient rights:** <https://www.jointcommission.org/resources/for-consumers/speak-up-campaigns/for-your-rights/>

**Learn about your right to access your health information, including your medical records:** <https://www.healthit.gov/topic/patient-access-information-individuals-get-it-check-it-use-it>

**Healthcare Rights and Responsibilities:** <https://www.hhs.gov/answers/health-insurance-reform/what-are-my-health-care-rights/index.html>



# TIPS ABOUT HOW TO TALK WITH SOMEONE ON YOUR HEALTHCARE TEAM AFTER A PROBLEM IN YOUR CARE

- 01 It is important for your healthcare team to know about what has happened to you, the ways in which it harmed you, and the kind of help you need. They may not know how you are suffering until you tell them.
- 02 You may find that it is easier to talk with some people on your healthcare team. Trust your feelings. Try to talk with people that listen to you, respect what you are saying, and take steps to care for you.
- 03 Sometimes you may find it easier to talk with your healthcare team when someone else you trust is there too. Even if they cannot be there in person, you may be able to call and put them on speaker or video.
- 04 If you feel like you don't have enough time to talk with your healthcare team, try telling them this and asking them to find more time to talk with you.
- 05 Try writing down what you want to say and your questions so that it's easier to remember and stay on track when you are talking. Here are some ideas:
  - Plan to talk about what happened to you, what you feel went wrong in your care and the ways in which you have been harmed. You might try writing down a “timeline”: what happened, when it happened, and who was there.
  - You can also share how you felt about your care, the effect it has had on you and your loved ones, and how your experience may change the way you interact with the organization, healthcare, and its people in the future.
  - You may find it works best if you start with a short (1-2 sentence) summary of what happened and how you were harmed – so that the person has a sense of what you'll be talking about – and then share more details.
  - List your questions, the problems you're having, and the kind of help you want.
  - You may want to understand what happened and why, and what changes will be made so that the same thing doesn't happen to someone else. But there may be other things that you need – be sure to ask in case there are ways the organization can help you.
  - Ask for the contact information of the person you are in touch with (name, direct phone number, email address) and ask when you can expect to hear from them again.
  - Ask how long it will take for them to look at what happened in your care and how they will share that information with you.

# TIPS ABOUT HOW TO CALL OR WRITE A HEALTHCARE ORGANIZATION AFTER A PROBLEM IN YOUR CARE

- 01 Before you call or write, read all of the tips below.
  - If you are going to **call** someone at the healthcare organization, try writing down some notes about the tips below so you can keep track of what you want to say and what you need to ask.
  - If you are going to **write**, you may find it helps to write some of your thoughts down, and then take some time to think about them before you finish the e-mail or letter.
- 02 Plan to talk about what happened to you, what you feel went wrong in your care and the ways in which you have been harmed. You might try writing down a “timeline”: what happened, when it happened, and who was there.
- 03 You can also share how you felt about your care, the effect it has had on you and your loved ones, and how your experience may change the way you interact with the organization, healthcare, and its people in the future.
- 04 You may find it works best if you start with a short (1-2 sentence) summary of what happened and how you were hurt – so that the person has a sense of what you’ll be talking about – and then share more details.
- 05 List your questions, the problems you’re having, and the kind of help you want.
  - Often, people want to understand what happened and why, and what changes will be made so that the same thing doesn’t happen to someone else. But there may be other things that you need – be sure to ask in case there are ways the organization can help you.
- 06 Ask for the contact information of the person you are in touch with (name, direct phone number, email address) and ask when you can expect to hear from them again.
- 07 Ask how long it will take for them to look at what happened in your care and how they will share that information with you.
- 08 Take notes during all phone calls and meetings, or better yet, ask a personal representative to take notes so that you can focus on the conversation. Follow up the verbal conversation with an email that summarizes the conversation and commitments by all parties.

# TIPS FOR STEPS TO TAKE *AFTER* YOU REACH OUT TO A HEALTHCARE ORGANIZATION AFTER A PROBLEM IN YOUR CARE

- 01 As you think of them, write down your questions so you can remember to ask them the next time you speak with or write to someone at the organization.
- 02 Save every e-mail or letter you send, and all the ones you get.
- 03 Take notes during all phone calls and meetings, or better yet, ask someone you trust to take notes so that you can focus on the conversation.
- 04 If you do not hear back in a reasonable amount of time (1-2 weeks), you or your representative can follow up with the healthcare organization.
- 05 Ask for the contact information of each person you are in touch with (name, direct phone number, email address) and ask when you can expect to hear from them again.

# TIPS ABOUT HOW TO IDENTIFY AND CONTACT A HEALTHCARE ORGANIZATION LEADER AFTER A PROBLEM IN YOUR CARE

**01** Try to find the name and contact information (phone, address, or e-mail) of the person in charge of the part of the organization where you had a problem or were hurt. This is often someone with the title “manager” or “director” (such as a Medical Director, or Nursing Manager). You can try asking a member of your healthcare team or looking to see if that information is posted somewhere on a wall in the healthcare organization, or you can look in any materials the healthcare organization gave you.

**02** Then try to contact them (see “Tips about how to call or write a healthcare organization”).

**03** If you cannot find that person, or they do not respond when you call or write them, you may need to find a more senior leader, someone who is “higher” in the organization. Often such people have a title that starts with “Chief”, such as:

- Chief Medical Officer (CMO)
- Chief Nursing Officer (CNO)
- Chief Operating Officer (COO)
- Chief Executive Officer (CEO)

You may also contact a member of the organization's Board of Directors.

**04** If you cannot find the phone number or e-mail address for that person, you can call the main number for the organization and ask for their office, or you can write them a letter. On the envelope, put “To the attention of” and then the person’s name, and then use the organization’s street address.