

APA-1  
6/93

**TRANSMITTAL SHEET FOR NOTICE OF INTENDED ACTION**

Control 420 Department or Agency Alabama Department of Public Health

Rule Number 420-5-17-.04

Rule Title Patients' Rights

New  Amend  Repeal  Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare or safety? Yes

Is there a reasonable relationship between the state's police power and the protection of the public health, safety or welfare? Yes

Is there another, less restrictive method of regulation available that could adequately protect the public? No

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? No

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? n/a

Are all facts of the rulemaking process designed solely for the purpose of and so they have as their primary effect, the protection of the public? Yes

Does the proposed rule have an economic impact? No

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of §41-22-23, Code of Alabama, 1975.

**Certification of Authorized Official**

I certify that the attached proposed rule has been in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama, 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service.

Signature of Certifying Officer Fabrice Olive Date 5/17/2013

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FORM APA2  
11/96

**STATE BOARD OF HEALTH  
NOTICE OF INTENDED ACTION**

AGENCY NAME: Alabama Department of Public Health

RULE NUMBER AND TITLE: 420-5-17-.04 Patients' Rights


INTENDED ACTION: Amendment to Rule number 420-5-17-.04 Patients' Rights

SUBSTANCE OF PROPOSED ACTION: To modify the state hospice rules bringing them into conformity with changes to the federal regulations. This change allows for immediate discharge of patients who no longer qualify for hospice care rather than requiring a 30 day advance notice. The amendment maintains requirements that such patients and families receive all necessary materials, information and assistance at the time of discharge.

TIME, PLACE, AND MANNER OF PRESENTING VIEWS: A public hearing will be held on June 11, 2013, at 201 Monroe Street, RSA Tower, Suite 1586, The Board Room, Montgomery, AL 36104, at 2:00 p.m.

FINAL DATE FOR COMMENTS AND COMPLETION OF NOTICE: Written or oral comments will be received until the close of the record at 5:00 p.m. on July 5, 2013. All comments and requests for copies of the proposed rule should be addressed to the contact person listed below.

CONTACT PERSON AT AGENCY: Walter T. Geary, Jr., M.D., Director, Bureau of Health Provider Standards, Department of Public Health, 201 Monroe Street, Suite 710, Montgomery, Alabama 36104, telephone number (334) 206-5366.

  
Patricia E. Ivie, Agency Secretary

#### 420-5-17-.04 Patients' Rights.

(1) Policies and Procedures regarding the rights and responsibilities of patients to any sponsor, next-of-kin, sponsoring agency (or agencies), representative payees, and to the public. Patients and sponsors will be informed on patient rights and given the toll-free complaint telephone number for the Alabama Department of Public Health, both verbally and in writing, at the time of admission. This shall be documented in the patient's record. The staff shall be trained and involved in the implementation of these policies and procedures. Posters clearly stating patient rights will be visible in key locations in the hospice. These posters will also include the toll-free complaint telephone number. These patients' rights policies and procedures ensure that, at least, each patient admitted to the hospice:

(a) Has the right to be fully informed, as evidenced by the patient's written acknowledgment prior to or at the time of admission and during stay, of these rights and of all rules and regulations governing patient conduct and responsibilities.

(b) Be fully informed of services available and of related charges including any charges for services not covered by third party payers.

(c) Be fully informed by a physician of his or her medical condition unless medically contraindicated (as documented by a physician in the medical record); and, is afforded the opportunity to participate in the planning of his or her medical treatment and the right to refuse treatment or participation in experimental research.

(d) Is not to be transferred or discharged except when transfer or discharge is necessary for the patient's welfare and the patient's needs can no longer be met or when the patient presents a direct threat to the health or safety of others, for medical reasons, or for his or her welfare or that of other patients, or for nonpayment for his or her stay. The hospice shall discuss discharge plans with the patient or their legal representative, the hospice Medical Director and/or attending physician and the appropriate interdisciplinary team members prior to the discharge. The hospice shall identify post hospice care needs and provide adequate discharge planning. The hospice patient or their legal representative shall be provided written discharge instructions on medication management and procurement, durable medical equipment, availability of community resources and other identified needs at the time of discharge. The required discharge forms must be completed timely. Patients shall be given at least 30 days advance notice to ensure orderly transfer or discharge except that shorter, reasonable notice may be given when there is a direct threat to the health or safety of others. Such actions are shall be documented in the medical record.

(e) Is encouraged and assisted throughout the period of stay to exercise rights as a patient and as a citizen, and to this end may voice grievances and recommend changes in policies and services to hospice staff and/or to outside representative of his or her choice without being subjected to restraint, interference, coercion, discrimination, or reprisal.

(f) May manage his or her personal financial affairs. Should a patient delegate responsibility to the hospice for the management of his or her financial affairs, said delegation shall be in writing, and the hospice shall provide the patient with at least a quarterly accounting of financial transactions made on his or her behalf.

(g) Is free from mental and physical abuse; and free from chemical and (except in emergencies) physical restraints, except as authorized in writing by a physician for a specified and limited period of time, or when necessary to protect the patient from injury to self or to others.

(h) Is assured confidential treatment of personal and medical records, and may approve or refuse their release to any individual outside the hospice except in case of transfer to another health care institution or as required by law or third-party payment contract.

(i) Is treated with consideration, respect, and with full recognition of his or her dignity in caring for personal needs.

(j) Is not required to perform services for the hospice that are not included for therapeutic purposes in the plan of care. The following apply to inpatient hospices:

1. May associate and communicate privately with persons of his or her choice, and send and receive personal mail unopened.

2. May meet with and participate in the activities of social, religious, and community groups at his or her discretion.

3. May retain and use personal clothing and possessions as space permits, unless to do so would infringe upon rights of other patients.

(k) If married, is assured privacy for visits by his/her spouse. If both are inpatients in the hospice, they are permitted to share a room.

The following apply to all hospices:

**(2) Responsible Party (Parties).**

(a) In the case of a patient adjudged incompetent under the laws of a state by a court of competent jurisdiction, the rights of the resident are exercised by the person appointed under state law to act on the resident's behalf.

(b) In the case of a patient who has not been adjudged incompetent by the state court, any legal surrogate designated in accordance with state law may exercise the resident's rights to the extent provided by state law.

(3) Notification of Changes in Patient Status. The hospice shall have appropriate written policies and procedures relating to notification of the patient's attending physician and other responsible persons in the event of accident involving the patient, or other significant

change in the patient's physical, mental, or emotional status. Except in medical emergency, a patient shall not be transferred or discharged, nor treatment altered radically, without consultation with the patient or, if the patient is incompetent, without prior consultation with next-of-kin or sponsor.

**Author:** Jimmy D. Prince **Authority:** *Code of Alabama, 1975*, §§22-21-20, et seq.

**History: New Rule:** Filed August 20, 1993; effective September 23, 1993. **Repealed and New**

**Rule:** Filed June 14, 2000; effective July 19, 2000