SENATE JUDICIARY
Exhibit No. 3
Date: 3-22-21
Bill No. HB 501

Your Legal Rights as a Patient in the American Healthcare System

*The Health Insurance Portability and Accountability Act of 1996 (**HIPAA**)*

The Right to Make a Treatment Choice

As long as a patient is considered to be of sound mind, it is both his right and responsibility to know about the options available for treatment of his medical condition and then make the choice he feels is right for him. This right is closely associated with the Right to Informed Consent.

The Right to Informed Consent

No reputable practitioner or facility that performs tests, procedures or treatments will do so without asking the patient or his guardian to sign a form giving consent. This document is called "informed consent" because the practitioner is expected to provide clear explanations of the risks and benefits prior to the patient's participation, although that does not always happen as thoroughly as it should.

The Right to Refuse Treatment

In most cases, a patient may refuse treatment as long as he is considered to be capable of making sound decisions, or he made that choice when he was of sound mind through written expression (as is often the case when it comes to end-of-life care).

There are some exceptions, meaning that some patients may not refuse treatment. Those exceptions tend to occur when others are subsidizing the patient's income during the period of injury, sickness, and inability to work.

https://www.verywellhealth.com/patients-rights-2615387

Americans With Disabilities Act – ADA

What Is the Americans With Disabilities Act?

The Americans with Disabilities Act (ADA) is federal legislation passed in 1990 that prohibits discrimination against people with disabilities. The law made it illegal to discriminate against a disabled person in terms of employment opportunities, access to transportation, public accommodations, communications, and government activities. The law prohibits private employers, state and local governments, employment agencies, and labor unions from discriminating against the disabled. Under the ADA, employers are required to make reasonable accommodations in order for a disabled person to perform their job function.

Key Takeaways

- The Americans with Disabilities Act (ADA) is a piece of employment law passed by congress in 1990 to prevent workplace and hiring discrimination against employees with disabilities of all kinds.
- The ADA applies to all businesses with 15 or more employees and includes private enterprise as well as state and local government employers.
- The ADA also had the effect of increasing accessibility and mobility for disabled persons by mandating handicap-accessible ramps and other accommodations in public places and businesses.

The Americans With Disabilities Act Explained

The Department of Justice holds responsibility for enforcing the Americans with Disabilities Act. The law holds authority over employers who have 15 or more employees. This includes state and local governments. Three major sections comprise the primary protections introduced by the ADA.

- Title I of the law prohibits discrimination against qualified individuals with disabilities during job application procedures, hiring, firing, the pursuit of career advancement, compensation, job training, and other aspects of employment.
- Title II applies to state and local government entities. This part of the law further extends the protection from discrimination to qualified individuals with disabilities. Title II requires that these individuals have reasonable access to services, programs, and activities provided by government entities.
- Title III of the law prohibits discrimination of individuals with disabilities with regard to access to activities at public venues. This includes businesses that are generally open to the public and include restaurants, schools, day care facilities, movie theaters, recreation facilities, and doctors' offices. The ADA lists 12 different categories that fall under Title III's jurisdiction. The law also requires newly constructed, rebuilt, or refurbished places of public accommodation to comply with the ADA standards. Title III also applies to commercial facilities that include privately owned, nonresidential facilities such as factories, warehouses or office buildings.

Fascism, political ideology and mass movement that dominated many parts of central, southern, and eastern Europe between 1919 and 1945 and that also had adherents in western Europe, the United States, South Africa, Japan, Latin America, and the Middle East. Europe's first fascist leader, Benito Mussolini, took the name of his party from the Latin word *fasces*, which referred to a bundle of elm or birch rods (usually containing an ax) used as a symbol of penal authority in ancient Rome. Although fascist parties and movements differed significantly from one another, they had many characteristics in common, including extreme militaristic nationalism, contempt for electoral democracy and political and cultural liberalism, a belief in natural social hierarchy and the rule of elites, and the desire to create a *Volksgemeinschaft* (German: "people's community"), in which individual interests would be subordinated to the good of the nation. At the end of

	Face mask (cloth or paper masks)	Surgical mask	N95 respirator	Surgical N95 respirator
Is it a medical device?	No	Yes	No	Yes
Purpose	Prevents large particles expelled by you, the wearer, from reaching the environment.	Prevents large particles expelled by you, the wearer when you are ill, from reaching the environment. To be used as a physical barrier to protect you from large droplets of blood or body fluids.	Reduces your exposure to very small airborne particles or contaminants. May not protect against sprays and direct liquid splashes.	Provides the protection of both a surgical mask and N95 respirator. To be used as a physical barrier from large droplets of blood or body fluids as well as very small particles (e.g. fine aerosolised droplets), such as those produced by coughing.
Fit	Does not fit tightly	Does not fit tightly	Tight fit#	Tight fit#
Filtration efficiency	Does not fit tightly	Bacterial filtration efficiency above 95%*	Minimum 95%** against particulate aerosols (of 0.3 micron in size) free of oil	Minimum 95%** against particulate aerosols (of 0.3 micron in size) free of oil.
Fluid resistance (i.e., resistance to penetration of bodily fluids)	Not fluid resistant	Yes	Not tested for fluid resistance	Tested to be fluid-resistant

(i) location, drainage, water supply, water quality, heating, plumbing, sewer systems, and ventilation; and

(ii) the disposal of infectious or hazardous wastes;

(i) develop, administer, and promote activities for the protection and improvement of oral health;

(j) develop, adopt, and administer rules setting standards for the operation of programs to protect the health of mothers and children, including programs for nutrition, family planning services, improved pregnancy outcome, and programs authorized by Title X of the federal Public Health Service Act, 42 U.S.C. 300a, et seq., and Title V of the federal Social Security Act, 42 U.S.C. 501 through 510;

(k) conduct health education programs;

(l) provide consultation to school and local public health personnel and consult with the superintendent of public instruction on conditions of public health importance for schools;

(m) develop, adopt, and administer rules setting standards for a program to provide services to children with special health care needs, including standards for:

(i) diagnosis;

(ii) medical, surgical, and corrective treatment;

(iii) aftercare and related services; and

(iv) eligibility;

(n) provide consultation to local boards of health;

(o) promote cooperation and formal collaborative agreements between the state and tribes, tribal organizations, and the Indian health service regarding public health planning, priority setting, information and data sharing, reporting, resource allocation, funding, service delivery, jurisdiction, and other public health matters addressed in this title;

(p) adopt and enforce rules regarding:

(i) the reporting and control of communicable diseases and other conditions of public health importance;

(ii) the imposition of fees for testing, screening, and other services performed by the state laboratory;

(iii) the transportation of dead human bodies;

(iv) the issuance of licenses to laboratories that conduct analysis of public water supply systems; and

(v) public health requirements for school sites, including water supply and quality, sewage and waste disposal, and any other matters pertinent to the health and physical well-being of pupils, teachers, and others; and

(q) take measures to prevent and alleviate threats to the public health from the release of biological, chemical, or radiological agents capable of causing imminent infection, disability, or death.

(2) The department:

(a) has the power to use personnel of local public health agencies to assist in the administration of laws relating to public health services and functions; and

(b) may provide, implement, facilitate, or encourage other public health services and functions as considered reasonable and necessary.

History: En. Sec. 10, Ch. 197, L. 1967; amd. Sec. 31, Ch. 349, L. 1974; amd. Sec. 1, Ch. 288, L. 1977; R.C.M. 1947, 69-4110; amd. Sec. 7, Ch. 200, L. 1979; amd. Sec. 1, Ch. 219, L. 1979; amd. Sec. 1, Ch. 230, L. 1983; amd. Sec. 48, Ch. 281, L. 1983; amd. Sec. 1, Ch. 660, L. 1983; amd. Sec. 1, Ch. 197, L. 1989; amd. Sec. 1, Ch. 262, L. 1991; amd. Sec. 1, Ch. 324, L. 1995; amd. Secs. 242, 568, Ch. 546, L. 1995; amd. Sec. 5, Ch. 73, L. 1997; amd. Sec. 46, Ch. 472, L. 1997; amd. Sec. 4, Ch. 391, L. 2003; amd. Sec. 17, Ch. 386, L. 2005; amd. Sec. 4, Ch. 150, L. 2007.

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TITLE 50. HEALTH AND SAFETY

CHAPTER 1. ADMINISTRATION OF PUBLIC HEALTH LAWS

Part 2. Department

General Powers And Duties

50-1-202. General powers and duties. (1) In order to carry out the purposes of the public health system to protect and promote the public health, the department, in collaboration with federal, state, and local partners, shall:

(a) make inspections for conditions of public health importance and issue written orders for correction, destruction, or removal of the condition;

(b) disseminate information and make recommendations for control of diseases and other conditions of public health importance;

(c) at the request of the governor, accept funds for and administer any federal health program for which responsibilities are delegated to states;

(d) identify, assess, prevent, and mitigate conditions of public health importance through:

(i) epidemiological tracking and investigation;

(ii) screening and testing programs;

(iii) isolation and quarantine measures;

(iv) treatment;

(v) abatement of public health nuisances;

(vi) inspections;

(vii) collecting and maintaining health information; or

(viii) other public health measures as allowed by law;

(e) promote efforts among public and private sector entities to develop and fund programs or initiatives that identify and ameliorate health problems;

(f) develop and promote training for members of the public health workforce;

(g) bring and pursue actions necessary to abate, restrain, or prosecute the violation of public health laws and rules;

(h) advise state agencies on the following as they relate to public buildings and facilities:

What does OSHA's Respiratory Protection Standard require?

When surgical N95 masks are required for employee safety, along with providing the masks, the employer must have a written respiratory protection program that addresses:

- Procedures for selecting respirators for use in the workplace. Surgical N95 masks must have NIOSH approval.[i] To see if a respirator is NIOSH-certified, look for the NIOSH logo as well as the test and certification approval number, or TC number. The logo and TC number can be found on the respirator's package or the user instruction insert, and sometimes they appear directly on respirator components, such as the respirator filter or cartridge. If the respirator is not NIOSH-certified, do not use it in a hazardous area.
- Medical evaluation/clearance to determine if users are physically fit to wear a respirator.
- Employee training, initial and annual, to ensure users are familiar with surgical N95 respirators, their proper use, donning procedures, and protective limitations.
- Qualitative or quantitative fit testing, initial and annual, to determine which respirator model/size provides a proper fit for the user.[ii] Refer to OSHA's video on how to conduct fit testing for more information.
- Procedures for cleaning, disinfecting, storing, inspecting, repairing, discarding and otherwise maintaining respirators.

What else should a mask user do to protect themselves?

The effectiveness of surgical N95 respirators relies on how well the mask seals to the user's face. To ensure surgical N95 respirators work effectively, users should be instructed to do the following:

1. ONLY use the respirator model and size for which they have been fit tested. Improper fit can result in inadequate protection.
2. Do NOT use the respirator with beards or other facial hair, which may interfere with the direct contact between the face and the sealing surface of the respirator.
3. Conduct a seal-check every time they don the mask (before entering hazardous area).
4. Leave the work area immediately if the respirator becomes damaged, soiled or they experience problems with respirator use (breathing becomes difficult, dizziness, irritation, etc.).

Can surgical N95 masks be reused?

All FDA-cleared N95 respirators are labeled as "single-use" disposable devices. If the respirator is damaged or soiled, or if breathing becomes difficult, the user should remove the mask, discard it properly, and replace it with a new one. However, in times of crisis such as a supply shortage during a pandemic, the U.S. Centers for Disease Control and Prevention's (CDC's) position is that N95 mask decontamination and reuse may need to be considered as a crisis capacity strategy to ensure continued availability. Refer to the CDC's Strategies for Optimizing the Supply of N95 Respirators during the COVID-19 Response for more information. When ready for disposal, to safely discard a N95 respirator, place it in a plastic bag and put it in the trash. Practice hand hygiene after handling/wearing the respirator.

The Nuremberg Code (1947)

Permissible Medical Experiments

The great weight of the evidence before us to effect that certain types of medical experiments on human beings, when kept within reasonably well-defined bounds, conform to the ethics of the medical profession generally. The protagonists of the practice of human experimentation justify their views on the basis that such experiments yield results for the good of society that are unprocurable by other methods or means of study. All agree, however, that certain basic principles must be observed in order to satisfy moral, ethical and legal concepts:

1.The voluntary consent of the human subject is absolutely essential. This means that the person involved should have legal capacity to give consent; should be so situated as to be able to exercise free power of choice, without the intervention of any element of force, fraud, deceit, duress, overreaching, or other ulterior form of constraint or coercion; and should have sufficient knowledge and comprehension of the elements of the subject matter involved as to enable him to make an understanding and enlightened decision. This latter element requires that before the acceptance of an affirmative decision by the experimental subject there should be made known to him the nature, duration, and purpose of the experiment; the method and means by which it is to be conducted; all inconveniences and hazards reasonably to be expected; and the effects upon his health or person which may possibly come from his participation in the experiment.

The duty and responsibility for ascertaining the quality of the consent rests upon each individual who initiates, directs, or engages in the experiment. It is a personal duty and responsibility which may not be delegated to another with impunity.

2.The experiment should be such as to yield fruitful results for the good of society, unprocurable by other methods or means of study, and not random and unnecessary in nature.

3.The experiment should be so designed and based on the results of animal experimentation and a knowledge of the natural history of the disease or other problem under study that the anticipated results justify the performance of the experiment.

4.The experiment should be so conducted as to avoid all unnecessary physical and mental suffering and injury.

5.No experiment should be conducted where there is an a priori reason to believe that death or disabling injury will occur; except, perhaps, in those experiments where the experimental physicians also serve as subjects.

6.The degree of risk to be taken should never exceed that determined by the humanitarian importance of the problem to be solved by the experiment.

7.Proper preparations should be made and adequate facilities provided to protect the experimental subject against even remote possibilities of injury, disability or death.

8.The experiment should be conducted only by scientifically qualified persons. The highest degree of skill and care should be required through all stages of the experiment of those who conduct or engage in the experiment.

9.During the course of the experiment the human subject should be at liberty to bring the experiment to an end if he has reached the physical or mental state where continuation of the experiment seems to him to be impossible.

10.During the course of the experiment the scientist in charge must be prepared to terminate the experiment at any stage, if he has probable cause to believe, in the exercise of the good faith, superior skill and careful judgment required of him, that a continuation of the experiment is likely to result in injury, disability, or death to the experimental subject.

For more information see Nuremberg Doctor's Trial, *BMJ* 1996;313(7070):1445-75.