

Healthcare

Know Your Rights – Legal Information Handbook

March 2021



Disclaimer

This content is provided as general information and is not legal advice. If you need advice about a specific legal problem, contact a lawyer or a community legal clinic.

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To learn more about the Know Your Rights – New Brunswick Project, please visit our [Know Your Rights – New Brunswick](#) webpage.

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My Legal Rights

Q: What legal rights do I have when it comes to healthcare services in New Brunswick?

A: Under New Brunswick laws, people with disabilities have important legal rights when it comes to healthcare. When accessing healthcare services in New Brunswick:

- You have the right to not be discriminated against because of your disability.
- You have the right to receive reasonable **accommodations** for your disability from healthcare service providers up to the point of **undue hardship**.
- You have the right to have your personal health information kept confidential and private by all healthcare service providers.

Duty to Reasonably Accommodate & Undue Hardship

A healthcare provider's "duty to reasonably accommodate" means that they are legally required to provide you with the supports/accommodations you need to receive an equal level of service to anyone else.

The term "reasonable accommodation" is not easily defined and will vary from case-to-case, however, accommodations should be customized to meet your needs.

The duty to reasonably accommodate, however, does have a limit and this limit is called "undue hardship". "Undue hardship" is a legal term. It means that if a healthcare provider can show that it is very difficult for them to provide you with a certain type of accommodation, then they don't have to provide it.

It's usually difficult for a healthcare provider to claim undue hardship because they have to show clear, direct evidence of undue hardship that is not based upon assumptions or stereotypes. While the determination of what constitutes undue hardship is case-specific, the more commonly considered factors include:

1. Whether the cost of the accommodation is so high that it will significantly interfere with the healthcare provider's ability to operate. When calculating cost, consideration should also be given to outside sources of funding, e.g. grants or subsidies from government programs;
2. Whether the accommodation will create serious health and safety risks; and
3. The impact of the accommodation on other people and programs.

Even if a healthcare provider shows that a certain type of accommodation will create undue hardship for them, they may still have a legal duty to provide you with the next best type of accommodation.

Some Important Points about Accommodations:

The development and implementation of accommodations is a collaborative process that involves the healthcare provider, the individual seeking accommodations, and in some cases, third-party professionals. While accommodations are expected to be reasonable, they are not expected to be perfect. What this means is that if reasonable accommodations are offered, but declined, then it's possible that the healthcare provider will be found to have met its "duty to reasonably accommodate

Q: Where do my legal rights come from?

A: Your legal rights come from a variety of different laws, including:

- New Brunswick's [Human Rights Code](#), which prohibits discrimination based on disability in most areas of public life, including healthcare.
- Common Law – Laws that are made by the decisions of Courts and Tribunals.

Other important healthcare-related laws that may be relevant to your situation include:

- The [Right to Information and Protection of Privacy Act](#) and the [Personal Health Information Privacy and Access Act](#), which set out rules and regulations relating to personal health information.

Codes of ethics and professional standards for regulated professions may also help you hold healthcare workers accountable. This includes but is not limited to:

- Physicians: [College of Physicians and Surgeons of New Brunswick](#)
- Nurse Practitioners: [Nurses Association of New Brunswick](#)
- Registered Nurses: [Nurses Association of New Brunswick](#)
- Licensed Practical Nurses: [Association of New Brunswick Licensed Practical Nurses](#)
- Pharmacists: [New Brunswick College of Pharmacists](#)

You can find the relevant regulatory body and their contact information through the [Canadian Regulatory Guide](#).

Q: Who must comply with New Brunswick's healthcare laws?

A: The people, companies, organizations, and governing bodies who are involved in delivering healthcare services in New Brunswick are required to comply with the above laws, including:

- Healthcare providers – for example, physicians, nurses, optometrists, etc.
- Regulatory bodies – for example, the College of Physicians and Surgeons of New Brunswick, the Nurses Association of New Brunswick, etc.
- Walk-in clinics, community clinics, and private doctors' offices.
- Patients – if you request an accommodation because of your disability, you have a duty to participate in good faith to develop and implement a suitable accommodation for your needs.
- The New Brunswick government and its agencies, such as the Horizon Health Network, the Vitalité Health Network, Ambulance New Brunswick, and Extramural Services.

Q: What can I do to enforce my legal rights?

A: If you feel you have been unfairly discriminated against by a healthcare provider, there are things you can do to stand up for yourself.

In general, you should first try to resolve your concerns by speaking with the people who are directly involved in an informal and collaborative way. If your concerns are related to healthcare services that you received at a Horizon [facility](#) (which include hospitals and community health centres), you can contact Horizon's [Patient Representative Services](#). Horizon's Patient Representative Services is there to provide patients and families with assistance, support, encouragement and information related to their healthcare experiences.

For more resources on self-advocacy, please visit the Self-Advocacy and Essential Legal Information Handbook on CNIB's [Know Your Rights – New Brunswick](#) webpage.

If your concerns can't be addressed through collaborative discussions, you should consider consulting with a lawyer who practices human rights or healthcare law to see if any of the following options are appropriate:

- A report/complaint to the applicable professional regulatory body. You can find the relevant regulatory body and their contact information through the [Canadian Regulatory Guide](#).

- Complaint to the Minister of Health's [office](#)
- A [complaint](#) to the [Human Rights Commission of New Brunswick](#).
- A [complaint](#) to the office of the [New Brunswick Ombud](#)

The New Brunswick Ombud can investigate concerns related to provincial government agencies. This include government-run hospitals and health centres. Before making a complain to the Ombud, however, you should first try to resolve your issue through any complaint process that is offered by the healthcare provider.

- A claim before a New Brunswick Court.

You can also contact the [New Brunswick Human Rights Commission](#) by phone at 1-888-471-2233 (toll-free) or by email at hrc.cdp@gnb.ca to speak with staff about how the New Brunswick [Human Rights Code](#) may or may not apply to your situation.

Common Scenarios

Even though there are laws to protect you from discrimination, people with disabilities still face barriers to receiving equal access to healthcare services.

This section describes barriers that are commonly experienced and suggests practical next steps. Keep in mind that, in most situations, you should first try to resolve your concerns by speaking with the people who are directly involved in an informal and collaborative way.

Inaccessible Information & Procedures

Q: I've been asked to fill out medical forms that are not in an accessible format. What can I do?

A: If you find a healthcare-related form that's not in an accessible format, you have the right to request that the form be provided to you in an accessible format. By disclosing your disability and making a request for accommodation, you trigger the healthcare provider's legal duty to reasonably accommodate you up to the point of undue hardship.

When scheduling a medical appointment, consider planning ahead. For example, call the office ahead of time and request that all forms be sent to you in advance of the appointment in an accessible format.

If the service provider is unable to send forms in advance (or does not yet have the forms available in an accessible format), tell them that you have a disability and will require an alternative accommodation – for example, you can request that someone from their team assist you in reading and completing the forms in a private setting at the time of your appointment.

If a service provider says that you are responsible for having a sighted companion accompany you to the appointment, remind them politely that they have a legal duty to accommodate your needs at no cost to you. You can also explain that since you have the right to keep your personal health information confidential and private, they cannot expect you to bring a sighted companion (for example, a family member or friend) to your medical appointments, where confidential personal

health information will be disclosed.

Q: I need to see a doctor, but the medical clinic's waiting room has an inaccessible queue (e.g. take a number system). What can I do?

A: If you encounter an inaccessible queue, inform the staff at the clinic or hospital, as soon as possible, that you are unable to participate in the queue process because of your disability and that you will require an accommodation. For example, you can request that when your number is called, a staff person come to notify you and guide you to the next room. Make sure to fully inform the staff about your needs so they can find the best way to accommodate you.

Q: I have been told that I need to meet with a medical specialist outside of the province, as the service I require does not exist in New Brunswick. Due to my sight loss, I require a support person to travel with me. Who is required to pay for my travel costs and the travel costs of my support person?

A: If you need to travel outside of New Brunswick to access medical services, you may qualify for compensation for some or all of your travel costs through various programs.

In order to be eligible for compensation for accommodations and/or meals through [Medicare](#), your destination must be within Canada, and you must get approval before travelling. Your doctor must also confirm in your application that you need a support person to accompany you. If approved, your support person may be eligible for compensation for meals, but they will have to share your accommodations.

If you are admitted to the hospital during your stay, Medicare will not provide compensation for your support person's expenses. Travel expenses (flights, bus, gas, etc.) are not covered under Medicare for either you or your support person, but there may be other options available:

- [Hope Air](#) is a Canada-wide program that provides travel and accommodations for patients who need to travel to access medical services. In order to qualify, you must be in financial need and have a confirmed medical appointment for a service that is covered by Medicare. Hope Air will also cover your support person's expenses if your doctor confirms that it is

medically necessary for a support person to accompany you. You can apply for the program [online](#) or by calling 1-877-346-HOPE (4673). Hope Air cannot compensate you for travel or accommodations that you have already booked. For more information, you can visit Hope Air's [Frequently Asked Questions](#) page.

- You may also be eligible for tax deductions for any remaining travel costs, including travel costs you incur if you are required to travel **outside of Canada** for health care services. In order to deduct your support person's travel costs as well, you will need a letter from your doctor confirming that you were unable to travel alone. It is best to speak with an accountant or the Canada Revenue Agency in advance to confirm that your expenses will be deductible.

Q: When prescribed medication, I've been given instructions and information in an inaccessible format. What can I do?

A: Under New Brunswick's human rights laws, you are entitled to receive reasonable accommodations from healthcare providers so as to ensure that you receive an equal level of service to anyone else. Furthermore, doctors and pharmacists are required to comply with professional standards and codes of conduct, which obligate them to ensure that information is provided in a way that is understood by the patient.

For more information, you can review the College of Physicians and Surgeons of New Brunswick's [Code of Ethics](#) and the [Model Standards of Practice for Canadian Pharmacists](#).

When you are being prescribed medication, you can request that the physician or pharmacist spend additional time with you to provide you with key information. For example, request that they spend time to fully detail the instructions, warnings, and side effects, etc. If you have questions or want clarification, be assertive and make sure to ask.

If the service provider does not want to do this or is unable to make equivalent accommodations for your needs (for example, providing you with information in an accessible format), remind them politely that you have the right to receive an equal level of service as anyone else and that they have a legal duty to reasonably accommodate you.

If this does not help, you can gradually escalate your complaint – for example, to a supervisor or an official complaint process.

For more resources on self-advocacy, please visit the Self-Advocacy and Essential Legal Information Handbook on CNIB's [Know Your Rights – New Brunswick](#) webpage.

If your concerns remain unresolved, there are various [options](#) available to you. Consider consulting with a lawyer who practices human rights or health law about which options are most appropriate.

Note: Some pharmacies, including Shoppers Drug Marts, have implemented a service that allows consumers to obtain important information about prescription medications through text-to-speech technology. To access this service, let your pharmacy know that you use text-to-speech technology and request that your medication label be prepared in this format. If you choose to use this service, you will need to give the pharmacy 1-2 weeks' notice before starting the program and 5-7 business days each time you need a prescription filled.

Q: When attending the hospital, I find it difficult to navigate the interior of the building, as the arrows on the floor are not tactile and the signage is inaccessible. At times, this has caused me to be late for appointments/procedures. What can I do?

A: Under New Brunswick's human rights laws, you are entitled to receive reasonable accommodations from healthcare providers so as to ensure that you receive an equal level of service to anyone else. Your healthcare provider has a legal duty to provide you with reasonable accommodations up to the point of undue hardship.

When booking your appointment, consider informing staff that you will require assistance in finding their department's location within the hospital. They can arrange for a staff person in the department or a volunteer to meet you at the entrance of the hospital. If you have not had the opportunity to speak with the department before your appointment, you can call the hospital's main phone line and ask to be transferred to their volunteer department to request assistance. If

possible, it is best to call in advance, so that they will be expecting you, and not away from their desk assisting someone else.

If you encounter issues once you have already arrived at the hospital, inform a staff member or volunteer that you require assistance. They will be able to accompany you to the location of your appointment or connect you with someone who can.

Poor Etiquette

Q: I feel that I'm being treated poorly by medical staff who do not understand my needs or lack basic etiquette when dealing with people who have sight loss. What can I do?

A: Unfortunately, there are times that people who have sight loss are treated poorly in a healthcare setting. For example, when medical staff:

- Enter a room without introducing themselves or leave a room without notifying you.
- Touch you without notifying you in advance.
- Speak to your sighted companion or intervenor instead of addressing you.
- Provide confusing or unhelpful directions.

To reduce the chance of poor treatment, it is helpful to proactively inform staff of your needs or about basic etiquette when working with people who have sight loss. For example, you can call ahead to inform a service provider about your needs or take time to speak with staff when you arrive.

If you have been treated poorly, consider following up with a staff person's supervisor or senior management.

For more resources on self-advocacy, please visit the Self-Advocacy and Essential Legal Information Handbook on CNIB's [Know Your Rights – New Brunswick](#) webpage.

If your concerns remain unresolved, there are various [options](#) available to you. Consider consulting with a lawyer who practices human rights or health law about which options are most appropriate.

Q: I've been told that I have to pay for my healthcare-related accommodations – is this true?

A: Your healthcare provider cannot make you pay for reasonable accommodations for your disability. It is your healthcare provider's legal duty to accommodate you up to the point of undue hardship and your healthcare provider is responsible for paying the costs of reasonable accommodations.

Intervenors

Q: I've been told that my intervenor cannot participate in certain aspects of my healthcare – for example, accompany me to certain parts of the hospital. What can I do?

A: When you plan to have your intervenor accompany you to a medical appointment, do your best to plan ahead. For example, call the service provider in advance to tell them that you will be accompanied by an intervenor and take some time to explain or to educate the service provider about your intervenor's role.

You can say that, as a form of accommodation, you require the support of an intervenor to access healthcare services. If this does not help, you can gradually escalate your complaint – for example, to a supervisor, or an official complaint process.

For more resources on self-advocacy, please visit the Self-Advocacy and Essential Legal Information Handbook on CNIB's [Know Your Rights – New Brunswick](#) webpage.

If your concerns remain unresolved, there are various [options](#) available to you. Consider consulting with a lawyer who practices human rights or health law about which options are most appropriate.

In some situations, you or your service provider may be worried that complicated medical information will not be properly communicated by your intervenor. To help address this concern, you can request that all important information from your appointment (for example, information about your prescriptions) be provided to you in a written format that is accessible to you.

Getting Help

Legal Services and Information

[Fredericton Legal Advice Clinic, Inc. \(FLAC\)](#)

FLAC is a non-profit organization that works with volunteer legal professionals to provide legal information and advice to low-income earners in New Brunswick.

The lawyers who volunteer with FLAC practice in a variety of areas of law and can provide 30-minute free-of-charge consults to self-represented individuals.

For information about upcoming [clinic dates](#) and to [request an appointment](#), visit [FLAC's website](#) or contact FLAC at (506) 476-0024.

[The New Brunswick Legal Aid Services Commission](#)

The New Brunswick Legal Aid Services Commission provides legal services to low-income earners in New Brunswick. In order to receive services from Legal Aid New Brunswick:

- You must meet their financial eligibility criteria - Financial eligibility will be based upon a number of things, including gross family income, allowable deductions, and household size;
- Your legal matter must relate to family law, criminal law, or public trustee services; and
- Your matter must have merit. In other words, there should be a reasonable likelihood of attaining the desired result.

For more information about the services offered by [The New Brunswick Legal Aid Services Commission](#) or to apply for Legal Aid, visit their website or contact [your local Legal Aid office](#).

[University of New Brunswick \(UNB\) Legal Clinic](#)

The UNB Legal Clinic provides free legal services to individuals who do not qualify for Legal Aid and cannot afford to pay for legal representation. The UNB Legal Clinic provides legal services in the areas of employment law, tenant law and social benefits. The hours of operation are Monday to Friday, 8:00 a.m. to 4:00 p.m. The UNB Legal Clinic can be contacted by email at lawclinic@unb.ca.

Public Legal Education and Information Service of New Brunswick (PLEIS-NB)

PLEIS-NB is a non-profit, non-government, charitable organization which exists to educate, inform, and empower individuals through law-related education.

PLEIS-NB provides free legal information on a variety of topics on its website, including, [Patients' Rights](#), [You and Your Rights](#) and [Going to Court](#).

PLEIS-NB does not provide legal advice, however, it does provide the public with the following services:

- **[Family Law Information Line](#) - 1-888-236-2444:** This is a toll-free family law information line that provides answers to general questions related to accessing the family law system. It is important to keep in mind that staff cannot provide legal advice or comment on your specific situation.
- **Family Law Workshops for Self-represented litigants:** These workshops are held in various locations and cover different topics, such as changing child support, etc. They also provide the public with information about practical steps, such as starting a family law action, completing forms, etc.
- **Speakers' Bureau:** PLEIS-NB collaborates with the Canadian Bar Association – NB Branch to connect the public with lawyers who are willing to speak with groups free of charge about particular legal topics.

The New Brunswick Human Rights Commission

The New Brunswick Human Rights Commission is a provincial government agency that was created to help enforce the rights people have under the New Brunswick [Human Rights Code](#).

The New Brunswick Human Rights Commission promotes human rights and the principles of equality through public legal education. It has created various public education resources (including [Guidelines](#) and [Frequently Asked Questions](#) pages) to assist people in New Brunswick with better understanding their rights.

The New Brunswick Human Rights Commission is also responsible for administering the mechanism for complaint intake and resolution.

For information about the [complaint process](#), visit the [New Brunswick Human Rights Commission's](#) website or contact the Commission by phone at 1-888-471-2233 (toll-free) or by email at hrc.cdp@gnb.ca. Commission staff can provide you with information about the human rights complaint process. They can also discuss how the New Brunswick [Human Rights Code](#) may or may not apply to your situation.

Essential Non-Legal Services

Patient Representative Services – Horizon Health Network

Horizon's **Patient Representative Services** provides assistance, support, encouragement and information to patients, families and staff in relation to healthcare experiences that they have had at any of Horizon's [facilities](#), which include hospitals and community health centres. Some of the specific services provided by Patient Representative Services include:

- Listening to complaints, concerns and needs.
- Assisting with improving communication and resolving misunderstandings.
- Acting as a bridge between patients, families and hospital staff and systems.
- Arranging meetings between hospital staff and patients and their families.

- Passing along compliments to healthcare professionals and staff.

Horizon's **Patient Representative Services** can be contacted by phone at 1-844-225-0220, mail – by sending a letter to your [local health care facility](#) addressed to “Patient Representative Services”, by submitting an online complaint form, or in-person through any of Horizon's hospitals, community health centres, or community programs.

Ombud N.B.

Ombud N.B. is an independent officer that is responsible for investigating complaints from the public about New Brunswick government services. The Ombud N.B. investigates complaints against provincial government departments and other agencies that are overseen by the provincial government.

You may [contact Ombud N.B.](#) to discuss a concern, or [make a complaint](#) regarding government services.

Premier's Council on Disabilities

The Premier's Council on Disabilities was established to improve the lives of people with disabilities. It is responsible for (among other things) advising the government on the status of persons with disabilities. Its [website](#) contains a range of resources, services and directories for people with disabilities.

The Canadian Deafblind Association – NB Inc.

The Canadian Deafblind Association – NB Inc. is an organization that is committed to assisting people who are Deafblind, blind or deaf. The Canadian Deafblind Association – NB Inc. provides [various services](#) to people in New Brunswick and PEI. You can contact The Canadian Deafblind Association – NB Inc. by phone at 506-452-1544.

CNIB Services (Non-Legal)

We're here to help – contact CNIB for more services, support, and resources. Some ways we can assist include:

- **CNIB Virtual Programs**

- CNIB offers a range of free virtual programs for children, youth, adults and families.
- You can access a list of CNIB's national virtual program offerings on [CNIB's website](#).
- You can access a list and schedule of CNIB New Brunswick's virtual program offerings on [CNIB – New Brunswick's Website](#).

- **Technology Training**

- Join CNIB tech leads from across the country for programming that highlights the suite of programs, apps, products and services that will help empower you to achieve your personal and professional goals.

- **Virtual Vision Mate**

- The Virtual Vision Mate program exists to address the feelings of isolation that many people with sight loss experience. Through the Virtual Vision Mate program, Canadians who are blind or partially sighted are connected with sighted volunteers to engage in virtual, weekly conversations.

- **CNIB Online SmartLife Store**

- CNIB SmartLife is an interactive retail experience that gives people with disabilities hands-on access to the latest breakthroughs in assistive technologies, as well as tried-and-true favourites.
- SmartLife's goal is not necessarily to sell products but to give customers the skills and confidence they need to make the most out of assistive tools that can

help them lead better lives.

- **CNIB's Advocacy Staff**
 - CNIB's Advocacy staff can assist clients with advocating for themselves and understanding their human rights in New Brunswick.
- **CNIB's Guide Dog Program**
 - CNIB's Guide Dog Program can assist guide dog handlers with advocating for themselves and understanding their rights. This program also provides public education to organizations about the rights of guide dog users.

Vision Loss Rehabilitation

Vision Loss Rehabilitation Canada (VLRC) is a not-for-profit national healthcare organization and the leading provider of rehabilitation therapy and healthcare services for individuals with sight loss. VLRC provides people with the practical skills they need to live safely and independently. VLRC's services are tailored to the unique needs and goals of each person. VLRC's services include, but are not limited to:

- Assistance with navigating new environments and using mobility tools;
- Assistance with maximizing remaining vision with optical and non-optical devices;
- Assistance with developing or restoring key daily living skills, such as learning new ways to cook, shop and manage your home;
- Assistance with accessing information and using technology;
- Assistance with post-secondary education and employment planning, and ongoing support;

VLRC has offices located in Moncton, Fredericton and Beresford. You can contact VLRC's New Brunswick branch by email at infonb@vlrehab.ca or by phone at:

- VLRC's Beresford Office – (506) 546-9922
- VLRC's Fredericton Office – (506) 458-0060
- VLRC's Moncton Office – (506) 857-4240

Wayfinding

Wayfinding refers to technological tools that assist partially sighted, blind and Deafblind persons with navigation and orientation. Such tools include:

- [BlindSquare](#): a GPS-app developed for people with sight loss that describes the environment and announces points of interest and street intersections.
- [Key 2 Access](#): a pedestrian mobility app that allows users to wirelessly request crossing at intersections without having to locate the button on the pole. It also allows users to wirelessly open doors and obtain information about indoor spaces.
- [Access Now](#): a map application that shares accessibility information for locations based on users' feedback.
- [Be My Eyes](#): a volunteer-based app that connects people with sight loss to sighted volunteers, who can assist with tasks such as checking expiry dates, distinguishing colors, reading instructions or navigating new surroundings.
- The [American Foundation for the Blind](#), which provides an overview of some of the apps that are available to assist consumers with reading items such as product labels and menus.

Practical Tips for Healthcare Providers

Here are practical tips for healthcare providers on how best to serve people with sight loss:

- Two [tip-sheets](#) from the Royal National Institute for the Blind (United Kingdom)

- Three [tip-sheets](#) from Blind Citizens Australia

These practical tips apply equally to healthcare providers in New Brunswick.

Web / Site Web : cnib.ca / inca.ca

Email / Courriel : info@cnib.ca / info@inca.ca

Toll Free / Sans frais : 1-800-563-2624