

# Know Your Rights

## Healthcare



A project of the Legal Information Society of Nova Scotia (LISNS) in partnership with the Canadian National Institute for the Blind (CNIB) Foundation

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# Healthcare

Healthcare is a particularly important area of life for everyone, especially those affected by blindness. People with disabilities have the right to receive an equal level of service from healthcare providers and facilities without discrimination, just like those without a disability. Discrimination may be intentional or unintentional. It may result from the failure to consider the true needs and capacity of a person, or from negative stereotypes and assumptions about a person's abilities. It may result from a single individual, or as the result of a system of policies and practices within an organization or government.

## My legal rights

Nova Scotia law provides people with sight loss with several important legal rights relating to healthcare:

- You have the right to not be discriminated against because of your disability.
- You have the right to receive accommodations from healthcare providers and services 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.

## What is “Duty to Accommodate?”

Under the law, healthcare providers must prevent and remove barriers to accessing healthcare services. They must also provide inclusive services where everyone can participate. In human rights terms this is called the “duty to accommodate”. Accommodations may include changes to rules, policies, and the environment to enable you to have an equal level of access to services, programs, opportunities, and benefits as anyone else.

The process for claiming accommodation from a service provider involves three steps:

1. Identify the ground of discrimination (i.e., disability)
2. Identify the barrier or why the service is not accessible to you
3. Identify your individual needs

Wherever possible, it is helpful to put your request for accommodation in writing. Removing the barrier you have encountered in accessing the service may be

straightforward or it may require some discussion with the service provider. Some examples of accommodation include:

- A pharmacy formats your prescription in a way that allows you to use text-to-speech technology to read the prescription; or
- A staff member guides you to a procedure room.

In many circumstances, there may be creative solutions that will suit your needs. For example: You request that your pharmacy provide your prescription in a text-to-speech format, however, the pharmacy does not currently have that technology available and you need the prescription today. The pharmacy can accommodate you by spending extra time going over the prescription with you.

## What is Undue Hardship?

“Undue hardship” is a legal term. It means that if a healthcare provider can show that it would be very difficult to provide you with a certain type of accommodation, then they don’t have to provide it. When considering if an accommodation would cause undue hardship, several factors are considered:

- The financial cost is more than trivial;
- Health and safety risks associated with the accommodation;
- Maintaining a productive workplace; and,
- Other relevant considerations.

The healthcare provider must prove “undue hardship” to refuse the accommodation you requested.

### Q: Where do my legal rights come from?

**A:** Your legal rights come from a variety of acts and laws that include:

- **Nova Scotia’s Human Rights Act** prohibits discrimination based on disability in most areas of public life, including healthcare.
- Nova Scotia’s **Blind Persons’ Rights Act** prohibits discrimination against a person who is accompanied by a dog guide. This includes denying accommodations to services in healthcare settings. The **Service Dog Act** also protects against discrimination based on the use of a service dog.

- The **Freedom of Information and Protection of Privacy Act** and the Nova Scotia **Personal Health Information Act** set out rules and regulations relating to personal health information.

Other healthcare-related laws that might be relevant to your situation:

- Nova Scotia's **Protection for Persons in Care Act** provides a complaint process for allegations of abuse or neglect by or on behalf of hospital patients, and individuals living in long-term care homes and other health facilities.

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

**A:** If you feel as though you have been discriminated against due to your disability there are formal and informal steps you can take to fight for your rights. You can speak with the individual or organization that was discriminatory towards you and try to come to a reasonable solution. You can put your request in writing and you can ask for a response in writing if you are not satisfied.

Sometimes, self-advocacy is not enough. In these cases, you may wish to consult a lawyer who practices in the area of human rights, discrimination, or health law to see whether the following options are appropriate:

- A complaint to the **Nova Scotia Human Rights Commission**. You can **contact** the Nova Scotia Human Rights Commission or visit its **Complaint Self-Assessment** page to get a sense of whether or not your experience falls within the purview of the **Human Rights Act**. If your issue falls within the purview of the Human Rights Act, commission staff can help you file a complaint. Generally, you must make a complaint within twelve months of the incident. See the Human Rights Guide for more information.
- Making a **complaint** to the **Nova Scotia Office of the Ombudsman**.
- If you feel that a staff member was unprofessional or violated their professional code (e.g. **Canadian Medical Association Code of Ethics and Professionalism**), you may want to register a complaint with the professional regulatory body, such as the **College of Physicians & Surgeons of Nova Scotia**. You can find the relevant regulatory body and their contact information through the **Canadian Regulatory Guide**.

## Common scenarios

Although many laws provide protection from discrimination, people with disabilities continue to face challenges in receiving equal access to healthcare services. This section will address common problems one might face with accessing education and suggests ways to tackle them in formal and informal ways. The next section describes situations that are commonly experienced by people with sight loss and suggest practical next steps.

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

**A:** If you have been asked to fill out a form that is not in an accessible format, you have the right to request accommodation and have the form provided in an accessible manner. When you disclose your disability to a healthcare provider and request an accommodation, they have a **duty to accommodate** you, unless the request results in **undue hardship**.

If possible, before your medical appointments, contact the medical facility and ask if they have accessible forms available to you at their office. If they do not, you can request that the medical forms be sent to you ahead of time. If the service provider is unable to send the medical forms to you ahead of time, you can also request that a medical professional assist you with filling out the forms on-site as an accommodation.

It may also be a good idea to suggest that the healthcare provider make efforts to ensure that their forms are accessible to people with sight loss and other disabilities in the future.

If a service provider requests that you bring a sighted companion to help you fill out the forms or accompany you during the appointment, it is your right to remind them that they have a legal duty to accommodate you without extra cost. You also have the right to keep your personal medical information private and they cannot expect you to bring a companion with you when personal medical information will be disclosed and discussed.

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

A: If you encounter an inaccessible queue, inform a staff member of the medical clinic as soon as possible. Tell them about your disability and request an accommodation. Make sure to explain your needs clearly so that the staff member can best accommodate you. For example, advise the staff member of your sight loss and your need for verbal communication. You may request that when your number is called out, a staff member comes personally to notify you and take you to the room.

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

A: When you have been prescribed medication and given instructions in a format that is inaccessible to you, you can request an accommodation for an accessible format. Remember to ask for the accommodation and tell the service provider why you need it. This may include an audio presentation or text-to-speech technology (ScripTalk) to help you read your prescription. If audio and ScripTalk are unavailable, ask for the service provider to spend more time with you going over your prescription and answering your questions. If you are prescribed more than one type of prescription, ask the service provider to mark each prescription in a way that you'll be able to tell which prescription is which, such as tying rubber bands around one of the bottles.

If the service provider is unwilling to accommodate you, remind them that this is part of their legal duty. You have the right to equal service just as anyone else without a disability. If you are not satisfied with the response to your request, you can ask for them to put their decision in writing. You can also find additional options in the section of this handbook, titled [What can I do to enforce my legal rights?](#)

Some pharmacies, including Sobeys and Lawtons pharmacies, have introduced talking prescription labels. 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.

**Q: I feel that I am 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: Although medical staff are expected to act professionally, there are still instances when people with sight loss are treated poorly by medical personnel. Examples include:

- Speaking to your companion rather than addressing you,
- Entering a room without announcing themselves or leaving the room without informing you,
- Touching you without notifying you,
- Bringing you a meal without telling you what it consists of or helping you navigate the tray,
- Providing unhelpful or confusing directions,
- Telling you to go to a numbered room without helping you locate it,
- Asking you to take a seat without helping you locate the seating area,
- Hovering over you consistently.

Unfortunately, not everyone is aware that this kind of behaviour is rude and can cause you distress. To minimize the chances of this occurring, it is helpful to inform the staff of your disability and what you personally require from them. You may need to remind the staff member that every individual with sight loss is different and what one person required in the past is not necessarily what you need in your situation. Calling ahead of time and informing the staff can also help both you and the medical staff during your appointment.

If you have been treated poorly, consider following up with a staff person's supervisor or senior management. If this approach does not address your concerns, you can find additional options in the section of this handbook, titled **What can I do to enforce my rights?**



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

A: No. Your healthcare provider is legally obligated to accommodate you up to the point of “undue hardship” and cannot make you pay for reasonable accommodations for your disability. The healthcare provider is responsible for paying for the costs of the reasonable accommodation, not you.

**Q: I have a friend or family member who accompanies me to medical appointments. I've been told that my support cannot participate in certain aspects of my healthcare – for example, accompanying me to certain parts of the hospital. What can I do?**

A: If you plan to have someone accompany you to your medical appointment, try to plan ahead. Before your appointment, you may want to call the service provider and inform them about your disability and the role that your support person will play in the appointment. You may also request that all of the important information from your appointment (such as future appointment dates, risks associated with a procedure or prescription information) be provided to you in an accessible format, even if you decide to bring along a support person.

If you are told that your support person cannot participate in your healthcare, politely remind the staff member that you are entitled to the same level of service as anyone else, which may include the assistance of a support person as a reasonable accommodation for your needs.

If staff refuse to accommodate you, consider escalating your complaint, for example by speaking to a supervisor or by making a formal complaint.

If this approach does not address your concerns, you can find additional options in the section of this handbook, titled [What can I do to enforce my rights?](#)

# Information for healthcare workers and service providers

## Legal obligations

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- Individuals with a disability have the right to equal access to services that are provided to other people without disabilities. Identical treatment may result in discrimination and service providers have an obligation to design their processes or systems to make them inclusive. It is illegal to discriminate against someone due to their disability, this includes discrimination against guide dogs.
- Patients who are blind, Deafblind, or partially sighted have the right to keep their medical information private. Therefore, you cannot expect/require them to bring a sighted friend or family member to an appointment.
- You cannot make the patient pay for reasonable accommodations. It is part of your legal duty to accommodate them up to the point of “undue hardship”. Therefore, they are not responsible for the cost.

## Tips for accommodating people who are blind, deafblind or partially sighted

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- Ask the individual what you can do to better accommodate them during their appointment, procedure or interaction. Each individual is different and what one person needs during their appointment is not necessarily what another person will require during theirs. Each person knows what they require better than anyone else.
- Make sure to inform the individual when you enter a room, leave a room, walk away, or approach them.
- Tell the patient you are going to touch them before doing so.
- Ask the patient questions and address them directly, even if the patient is accompanied by a support person.
- Ask patients in the hospital if you can help them in other ways. For example, helping them open their food trays, describing their meal to them, and/or helping them locate the food on the tray.
- If you see an individual standing in a waiting room for a while, ask them if they need help locating the seating area. Some people cannot find the seating area in a waiting room and will stand by the wall for the entire waiting time.
- If you are unable to provide an individual with a text-to-speech format for them to read their prescription, ask them if they need help differentiating the prescription.

You can try tying rubber bands around a prescription bottle to help differentiate the bottles based on touch. You can also put one of the prescriptions in a different-sized bottle to help differentiate them. Make sure to explain and identify which prescription is which to the patient.

- Provide specific directions and offer to accompany the person to their desired location

Additional ideas and information on how to accommodate people who are blind, Deafblind or partially sighted can be found on the [Nova Scotia Health website](#).