

*"This is an ER, not a Suboxone clinic."*

*"You're in this ER every day - you don't even want to get better!"*

*"You'll probably just go out and use again."*

# Be Empow(ER)ed!

## Know Your Rights to Addiction Care for Drug & Alcohol-Related ER Visits



People who use drugs or alcohol may hear stigmatizing comments like these when they are at an emergency room (ER). Because of these negative attitudes, some ERs do not provide the services that patients with alcohol- or drug-related emergencies need. The failure to provide these services can violate federal civil rights laws. This guide explains what services ERs should offer for alcohol- or drug-related emergencies. It also lists steps people can take when denied these services.

# What should the ER offer for your drug- or alcohol-related emergency?

## Screening & Diagnosis for a Substance Use Disorder

- This means asking questions about your drug or alcohol use. Staff also may take your medical history and perform a physical exam.

## Medication for opioid use disorder (OUD).

- If you have untreated OUD or are in opioid withdrawal, you should be offered buprenorphine (commonly known as “bupe” or Suboxone) and methadone – two medications that reduce opioid craving and help with opioid withdrawal symptoms.
- If you are not taking a medication for OUD already, the ER is more likely to offer you bupe than methadone.

## Arrangements for follow-up addiction care after ER discharge, often called a “warm handoff.”

- This means helping you get an appointment with a treatment provider or program that is convenient and accessible for you. Staff may ask about your:
  - ◊ Insurance
  - ◊ Transportation needs
  - ◊ Preferred language

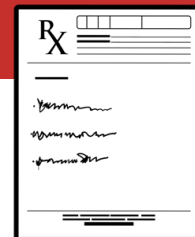


## YOU SHOULD KNOW...

Handing you a list of local SUD treatment programs is not enough! ER staff should work with you to identify a provider who can actually provide the care you need after you leave the ER.

## Naloxone at discharge

- Naloxone reverses opioid overdoses and saves lives.
- Staff may give you naloxone or a prescription for it.



Although offering harm reduction services (such as clean syringes and fentanyl test strips) are also good practice for ERs, this guide focuses on medical services that the Legal Action Center believes ERs have a legal obligation to provide for your drug or alcohol use.

## YOU SHOULD KNOW...

You are not required to accept any service the ER offers.

### What laws can the ER violate by not offering these services?

#### **EMTALA (Emergency Medical Treatment and Labor Act)**

EMTALA requires ERs to screen you for medical emergencies and “stabilize” you. This means offering treatment that prevents your condition from getting worse after discharge or hospital admission. ERs follow EMTALA when they:

- Ask questions to learn if your condition is related to drug or alcohol use and assess you for a SUD.
- Offer buprenorphine if you have untreated OUD or are in opioid withdrawal.
- Offer a warm handoff by helping you set up SUD treatment after ER discharge.
- Offer naloxone in case of future overdoses.

#### **Disability Rights Laws - Americans with Disabilities Act (ADA) and Rehabilitation Act**

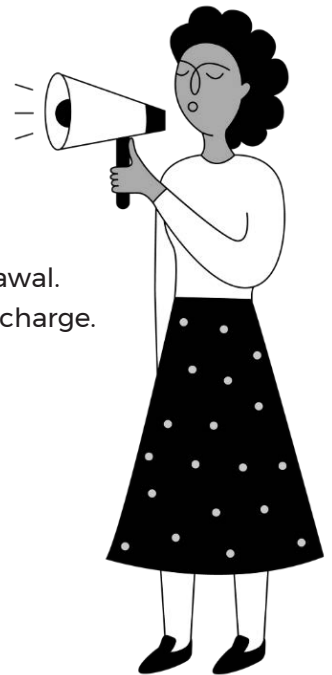
If you have an SUD, federal disability rights laws generally mean that an ER may not do either of the following:

- Refuse to treat you because of your SUD or current illegal use of drugs.
- Deny your reasonable request for SUD-related services.

#### **Race Discrimination - Title VI of the Civil Rights Act**

Under Title VI, most ERs may not:

- Deny services to patients with drug or alcohol- related emergencies because of their race or ethnicity.
- Fail to offer services to patients with drug or alcohol- related emergencies in a way that disproportionately affects people of a specific race or ethnicity.



## YOU SHOULD KNOW...

Very few people have tried to use these federal civil rights laws to hold ERs responsible for not offering these services. You can play an important role by educating hospitals about how these laws apply to ER care for people with SUD!

## What can you do if an ER does not offer these services?



### If you are still in the ER, you can:

- **ASK the ER to...**
  - ◊ Provide you the services listed in this guide.
  - ◊ Write in your chart – (1) the services you asked for, (2) the ER's response, and (3) the ER's reason(s) for not giving you these services.
  - ◊ Connect you to a patient advocate who may be able to help you get the services you need.
- **TELL the ER charge nurse or the ER social worker your concerns.**
- **EDUCATE the ER staff by giving them this guide.**

## YOU SHOULD KNOW...

If it is possible, ask the ER for its policies or written documents that state that it does not offer the services you are requesting.








Ask for a copy of these documents or take a photo of them.

### If you have left the ER, you can file complaints with:

- **Your Treating Hospital**
  - ◊ Contact the hospital's office of patient relations or patient liaison.
- **FEDERAL Regulator(s)**
  - ◊ File EMTALA complaints with the Centers for Medicare & Medicaid (CMS) or the agency that investigates complaints about hospitals in the state where you received ER treatment. Information is on the CMS website [here](#). File your complaint within 12 months of your ER visit.
  - ◊ File ADA complaints with the [Department of Justice](#). There is no time limit, but it is best not to wait too long.
  - ◊ File Rehabilitation Act complaints with the Department of Health & Human Services' Office of Civil Rights (OCR) within 180 days of the ER visit unless you can show "good cause" for filing later.
  - ◊ File Title VI complaints with the Department of Health & Human Services' [Office of Civil Rights \(OCR\)](#) within 180 days of your ER visit unless you can show "good cause" for filing later.
- **STATE Regulator(s)**
  - ◊ Contact the agency that oversees hospitals in the state where the ER is located. This is usually the state department of health or health services. In New York, it is the New York State [Department of Health](#).

- **Tips for Your ER Complaint**

Include as much of the following information as you can in your complaint.

-  *Name and location of the ER and date(s) of your visit(s)*
-  *Why you went to the ER*
-  *Any diagnoses the ER gave you, such as “substance abuse” or “substance use disorder”*
-  *Services the ER did offer you for your SUD*
-  *Services the ER did not offer (for example, medication for OUD, if you have OUD; naloxone, if you use drugs that could contain fentanyl). To help regulators more easily find these complaints, you can include #emergencyroom in your description of the services you were not offered.*
-  *Any negative comments ER staff made about people with SUD or people of a specific race or ethnicity.*
-  *Medical records from your visit to the ER and, if possible, other similar visits that you’ve made to this hospital.*



- **Get your medical records**

- ◊ Review your medical records for signs that the hospital denied you SUD services because of your drug or alcohol use.
- ◊ You have a legal right to your medical records, but if you have a hard time getting them, contact the state department of health.

## Helpful Resources

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- **LAC’s Know Your Rights in the ER Toolkit**
- **U.S. Department of Justice Guidance on Discrimination against People with Opioid Use Disorder**
- **CMS EMTALA Resource for Consumers**



# Want help?

LAC may be able to provide you with more information. LAC also may be able to help you file a complaint about the way you were treated in an ER. Please visit our website portal, [Legal Help for People Who Use\(d\) Drugs & Alcohol](#), which you can access through the QR code below. There, you can find more resources and fill out an online intake form.



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*This document provides legal information, not legal advice. For legal advice, please speak to a lawyer.*

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