

BASIC RIGHTS AT INPATIENT MENTAL HEALTH FACILITIES

Many basic rights that people take for granted are not guaranteed for patients at inpatient mental health facilities. These rights should never be denied merely because you exercised a protected choice, such as refusing medication. Further, these rights should not be denied as punishment.

In addition to basic Constitutional rights, state law including **The Five Fundamental Rights Act**, (St. 1997 ch. 166 amending Mass. Gen. L ch. 123, § 23) protects the right to engage in some activities in programs and facilities operated by, licensed by or contracted with the Department of Mental Health (DMH). However, while some of those rights may be temporarily denied by the facility's superintendent, director, acting superintendent or acting director, other may never be denied.

I. YOU HAVE THE FOLLOWING RIGHTS:

Mail

- The absolute right to **stationery and postage** in reasonable amounts.
- The right to reasonable assistance in writing, addressing and posting letters and other documents.
- **The right to send and receive "sealed, unopened, uncensored mail."** If you are present, staff may open and check mail for contraband, but may not read it. The superintendent, director, or designee of the superintendent or director must document with specific facts the reason for opening the mail.

Visitation*

- **The right to receive visitors of your "own choosing daily and in private, at reasonable times."** Visiting hours may be limited only to "protect the privacy of other persons and to avoid serious disruptions in the normal functioning of the facility or program. and shall be sufficiently flexible as to accommodate" your and your visitors' individual needs and desires.

Telephone*

- **The right to "reasonable access" to a telephone to make and receive confidential calls**, unless making the call would be a criminal act or cause an unreasonable infringement of another's access to the telephone.

**Note: The rights to have visitors or use the phone may be suspended only if there is a substantial risk of serious harm to you or others and less restrictive alternatives would be futile. Any suspension must be documented in your record and may last no longer than the time necessary to prevent the harm.*

- You may not be denied the right to speak with your **attorney**.

Access to Advocates

- The right to be visited (even outside normal visiting hours) by your attorney or legal advocate, as well as by your physician, psychologist, clergy person or social worker, regardless of who initiates the visit.
- The right of an attorney (or legal advocate) to access, with your consent your record, clinical staff, and meetings regarding treatment or discharge planning which you are entitled to attend.
- The right to "reasonable access by attorneys and legal advocates, including those of the Massachusetts Mental Health Protection and Advocacy Project, the Committee for Public Counsel Services, and the Mental Health Legal Advisors Committee," so that they may "provide free legal services." Upon admission and upon request, facilities must provide the name, address and telephone numbers of these legal agencies and must assist you in contacting them. These agencies may conduct unsolicited visits and distribute educational materials at times the facility designates as "reasonable."

Privacy & Security

- The right to a humane environment including living space which ensures "privacy and security in resting, sleeping, dressing, bathing and personal hygiene, reading and writing and in toileting." This does not mean that you have the right to a private bedroom.

All programs must post a notice of these mail, visitation, telephone, access, and privacy rights "in appropriate and conspicuous places." The notice must be provided upon request and must be in a language "understandable" to the person.

Other Legal Rights

- You also have the right to keep and spend a reasonable sum of **money** for canteen expenses and small purchases, to wear your own **clothes**, to keep and use your **personal possessions** including toilet articles, and to have access to individual **storage space** for your private use. These rights may be denied only by the facility's superintendent or designee for *good cause*. The superintendent or designee must make a note in your treatment record as to why the right was denied.
- Although access to newspapers is not specifically protected by law, their denial may still be inhumane and something about which you should complain to the Human Rights Officer of the hospital.
- You enjoy a Constitutional right to reasonable access to the outdoors.

II. WHAT TO DO IF THESE RIGHTS ARE DENIED

If you believe that you were unfairly denied a basic right while at a program or facility operated by DMH, contracted for by DMH, or licensed by DMH, ask to speak with the Human Rights Officer. You may also file a written **complaint** with the Person in Charge of the program or facility. You can give your complaint to any facility employee; he or she must forward it to the Person in Charge. If you are dissatisfied with the response of the Person in Charge and believe that additional fact-finding should occur, you have 10 days to request **reconsideration**. You also may file an **appeal** to a higher level up to 10 days after receiving a decision. The person to whom the appeal is made depends upon the type of complaint and the type of facility about which the complaint is made. In most cases, you have the right to a **further appeal**, which must be filed within 10 days of receiving the *appeal* decision. If you have questions about the complaint process, contact the Human Rights Officer or the Mental Health Legal Advisors Committee (1-800-342-9092).

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