

Rights of Outpatients

IN ALL OUTPATIENT PROGRAMS
LICENSED OR RUN BY THE
OFFICE OF MENTAL HEALTH



NEW YORK
STATE OF
OPPORTUNITY.

Office of
Mental Health

From the Commissioner of Mental Health

One of our important roles at the New York State Office of Mental Health is to offer meaningful information to help people make choices and decisions about mental health issues. It is our hope that an understanding of the rights of out-patients will help foster respectful relationships between people who use mental health services, family members, staff people and members of the community.

Dr. Ann Marie T. Sullivan
Commissioner
New York State Office of Mental Health

The rights of people in outpatient mental health programs are protected by both law and regulation.

The State Office of Mental Health (OMH) licenses outpatient programs, including, but not limited to, clinic, day treatment for children, intensive psychiatric rehabilitation treatment, partial hospitalization, Assertive Community Treatment (ACT) and Personalized Recovery Oriented Services (PROS). Under these licenses, an array of facility based and community-based services are available.

Participating in a psychiatric treatment program does not mean you are mentally incompetent or that you have any restriction on the rights granted all citizens. There are specific civil rights that are protected if you participate in an outpatient program. Included are the right to register and vote in elections, apply for permits and licenses, take civil service tests, and apply for jobs and be appointed without discrimination if you qualify.

Under the law you have the right to be treated confidentially and with respect and dignity by all staff people. Treatment or access to programs may not be limited or denied because of race, creed, color, sex, national origin, age, marital status, disabilities, sexual orientation and gender identity that are unrelated to treatment. If you think that you are being discriminated against on any of these grounds - or if you believe that you are a victim of mental, verbal, physical or sexual abuse - this booklet tells where you may file an official complaint.

You also have the same right as other citizens to designate a “health care proxy” or prepare an “advance directive.” Because some people have recurring episodes of mental illness, these documents may be of particular interest to people who use mental health services. The documents allow you to provide instructions about your future treatment, to be used later if you are unable to give instructions at the time you are being treated.

Basic Information

When you are admitted to an outpatient program or shortly after, you must be informed about your rights. Your rights may not be limited as punishment or for the convenience of staff people and may not be restricted unless a specific order is written by a physician. Any restrictions on your rights must be discussed with you prior to the restrictions go into effect and the order must be placed in your clinical record. The order must state the clinical justification for the limitation and the specific time period when it will remain in effect.

These rights include:

- The right to freedom from abuse and mistreatment by employees.
- The right to a reasonable degree of privacy, including bathroom privacy.
- The right to an individualized service plan, a full explanation of the services provided, and the right to participate in the development of your individualized service plan.
- The right to be informed of the provider's grievance policies and procedures, and the right to bring any questions or complaints to the director of the program or the organizations listed at the back of this booklet.
- The right to receive clinically appropriate care and treatment suited to your needs and skillfully, safely and humanely administered with full respect for your dignity and personal integrity.
- The right to be treated in a way which acknowledges and respects your cultural environment.

In a separate category, your outpatient program may inform you about these additional elements, although they are not rights set forth in law or regulation:

- The name of the staff member who will have primary responsibility, for example, as your principal contact person or personal service coordinator.
- Alternate treatments available to you.
- The rules of conduct in your program.
- The cost of treatment.
- The limit, if there is one, on how long you can stay in the program.

- The program’s relationship with other agencies regarding additional services.
- The program’s source of funding.
- The authority under which the program operates.

Participation and Objections

For most people, participating in an outpatient program is voluntary. Occasionally someone is ordered by a court to obtain outpatient services under the Assisted Outpatient Treatment Program (also known as Kendra’s Law) or as a condition of parole from prison. While your full participation in the program is a central goal, if you object to your individualized service plan, or if it is not working to your satisfaction and you want it changed, that is not reason to discharge you from the program. Periodically, you can expect to review your plan with staff people to look at your progress. You can be discharged if participation is no longer clinically appropriate or if you engage in conduct which poses a risk of physical harm to yourself or others. You have the right to make an informed choice on whether you will participate in research projects. These could involve new medications, a series of questions posed by an interviewer or questionnaires. If you refuse to participate, a program cannot use that as grounds to deny you further treatment. If you decide to participate, your signed informed consent is required.

Privacy and Confidentiality

The law protects your right to privacy and confidentiality during treatment. This includes conversations between you and staff people who provide services, and information in your record. The Office of Mental Health will provide you with a separate Notice of Privacy Practices that will tell you how we use and disclose your confidential mental health treatment information. It will also tell you what your rights are with regard to your mental health treatment information, and who you can contact if you have questions or a complaint about how we have used or shared your treatment records.

Generally, information from your treatment record cannot be released without your written consent. In limited circumstances, however, the law may allow or require release of records or information to certain individuals, governmental agencies or provider organizations. Most

disclosures will be noted in your record, and you are entitled to learn about them upon request. The law states that notations do not have to be kept when records are disclosed to the Mental Hygiene Legal Service, quality of care reviewers or government financial agents dealing with payments. The law also says that for disclosures made to insurance companies licensed under the State Insurance Law, such a notation needs to be entered only at the time the disclosure is first made.

Access to Records

You must be given an opportunity to inspect your clinical record when you have submitted a written request. The law does allow some limitations on this access, based on clinical justification. In addition, you have the right to request that your physician discuss your treatment record with you.

If you request an inspection or a copy of your record, a program can impose a reasonable charge. The charge cannot exceed what these services actually cost the program. In no case can a program charge more than 75 cents per page.

If you disagree with some part of your record, you can submit a written statement challenging the information in the record to be permanently attached to the record.

You may ask to have your record sent to any other service provider or your attorney. If you are under age 18, a parent or legal guardian may make this request.

Problems or Complaints

You have the right to information on how to make a complaint. A provider of service must give a notice of recipients' rights to each person upon admission, and post the rights in an easily accessible location.

If you have a problem or complaint, the person who runs the program is responsible for making sure your rights are protected. If this does not work, or is inappropriate, there are other organizations that can help.

For Assistance

A staff member, such as the personal service coordinator or principal contact person, or director of the program.

New York State Office of Mental Health

44 Holland Ave., Albany, NY 12229

Toll free: (800) 597-8481, En Espanol: (800) 210-6456

The Justice Center

161 Delaware Ave, Delmar, NY 12054, (855) 373-2122

Protection and Advocacy System and Client Assistance Program

Disability Rights NY

725 Broadway, Suite 450, Albany, NY 12207, (800) 993-8982

Mental Hygiene Legal Service

- First Judicial Department
41 Madison Ave, 26th floor, New York, NY 10010, (212) 779-1734
- Second Judicial Department
170 Old Country Road, Mineola, NY 11501, (516) 746-4545
- Third Judicial Department
40 Steuben Street, Suite 501, Albany, NY 12207, (518) 474-4453
- Fourth Judicial Department
50 East Ave., Suite 402, Rochester, NY 14604, (585) 530-3050

National Alliance for the Mentally Ill of New York State

99 Pine Street, Suite 302, Albany, NY 12207, (800) 950-3228

To contact The Joint Commission or to express concern about this organization, call (800) 994-6610 or email complaint@jointcommission.org.

For additional copies of this booklet, fax your request to:
Utica Print Shop (315) 735-5041

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