

30:4-24.2 . Rights of Patients

a. Subject to any other provisions of law and the Constitution of New Jersey and the United States, no patient shall be deprived of any civil right solely by reason of his receiving treatment under the provisions of this Title nor shall such treatment modify or vary any legal or civil right of any such patient including but not limited to the right to register for and to vote at elections, or rights relating to the granting, forfeiture, or denial of a license, permit, privilege, or benefit pursuant to any law.

b. Every patient in treatment shall be entitled to all rights set forth in this act and shall retain all rights not specifically denied him under this Title. A notice of the rights set forth in this act shall be given to every patient within 5 days of his admission to treatment. Such notice shall be in writing and in simple understandable language. It shall be in a language the patient understands and if the patient cannot read it shall be read to him. In the case of an adjudicated incompetent patient, such procedure shall be followed for the patient's guardian. Receipt of this notice shall be acknowledged in writing with a copy placed in the patient's file. If the patient or guardian refuses to acknowledge receipt of the notice, the person delivering the notice shall state this in writing with a copy placed in the patient's file.

c. No patient may be presumed to be incompetent because he has been examined or treated for mental illness, regardless of whether such evaluation or treatment was voluntarily or involuntarily received. Any patient who leaves a mental health program following evaluation or treatment for mental illness, regardless of whether that evaluation or treatment was voluntarily or involuntarily received, shall be given a written statement of the substance of this act.

d. Each patient in treatment shall have the following rights, a list of which shall be prominently posted in all facilities providing such services and otherwise brought to his attention by such additional means as the department may designate:

(1) To be free from unnecessary or excessive medication. No medication shall be administered unless at the written order of a physician. Notation of each patient's medication shall be kept in his treatment records. At least weekly, the attending physician shall review the drug regimen of each patient under his care. All physician's orders or prescriptions shall be written with a termination date, which shall not exceed 30 days. Medication shall not be used as punishment, for the convenience of staff, as a substitute for a treatment program, or in quantities that interfere with the patient's treatment program. Voluntarily committed patients shall have the right to refuse medication.

(2) Not to be subjected to experimental research, shock treatment, psychosurgery or sterilization, without the express and informed consent of the patient after consultation with counsel or interested party of the patient's choice. Such consent shall be made in writing, a copy of which shall be placed in the patient's treatment record. If the patient has been adjudicated incompetent a court of competent jurisdiction shall hold a hearing

to determine the necessity of such procedure at which the client is physically present, represented by counsel, and provided the right and opportunity to be confronted with and to cross-examine all witnesses alleging the necessity of such procedures. In such proceedings, the burden of proof shall be on the party alleging the necessity of such procedures. In the event that a patient cannot afford counsel, the court shall appoint an attorney not less than 10 days before the hearing. An attorney so appointed shall be entitled to a reasonable fee to be determined by the court and paid by the county from which the patient was admitted. Under no circumstances may a patient in treatment be subjected to experimental research which is not directly related to the specific goals of his treatment program.

(3) To be free from physical restraint and isolation. Except for emergency situations, in which a patient has caused substantial property damage or has attempted to harm himself or others and in which less restrictive means of restraint are not feasible, a patient may be physically restrained or placed in isolation only on a medical director's written order or that of his physician designee which explains the rationale for such action. The written order may be entered only after the medical director or his physician designee has personally seen the patient concerned, and evaluated whatever episode or situation is said to require restraint or isolation. Emergency use of restraints or isolation shall be for no more than 1 hour, by which time the medical director or his physician designee shall have been consulted and shall have entered an appropriate order in writing. Such written order shall be effective for no more than 24 hours and shall be renewed if restraint and isolation are continued. While in restraint or isolation, the patient must be bathed every 12 hours and checked by an attendant every 2 hours with a notation in writing of such checks placed in the patient's treatment record along with the order for restraint or isolation.

(4) To be free from corporal punishment.

e. Each patient receiving treatment pursuant to this Title, shall have the following rights, a list of which shall be prominently posted in all facilities providing such services and otherwise brought to his attention by such additional means as the commissioner may designate:

(1) To privacy and dignity.

(2) To the least restrictive conditions necessary to achieve the purposes of treatment.

(3) To wear his own clothes; to keep and use his personal possessions including his toilet articles; and to keep and be allowed to spend a reasonable sum of his own money for canteen expenses and small purchases.

(4) To have access to individual storage space for his private use.

(5) To see visitors each day.

(6) To have reasonable access to and use of telephones, both to make and receive confidential calls.

(7) To have ready access to letter writing materials, including stamps, and to mail and receive unopened correspondence.

(8) To regular physical exercise several times a week. It shall be the duty of the hospital to provide facilities and equipment for such exercise.

(9) To be outdoors at regular and frequent intervals, in the absence of medical considerations.

(10) To suitable opportunities for interaction with members of the opposite sex, with adequate supervision.

(11) To practice the religion of his choice or abstain from religious practices. Provisions for such worship shall be made available to each person on a nondiscriminatory basis.

(12) To receive prompt and adequate medical treatment for any physical ailment.

f. Rights designated under subsection d. of this section may not be denied under any circumstances.

g. (1) A patient's rights designated under subsection e. of this section may be denied for good cause in any instance in which the director of the program in which the patient is receiving treatment feels it is imperative to deny any of these rights; provided, however, under no circumstances shall a patient's right to communicate with his attorney, physician or the courts be restricted. Any such denial of a patient's rights shall take effect only after a written notice of the denial has been filed in the patient's treatment record and shall include an explanation of the reason for the denial.

(2) A denial of rights shall be effective for a period not to exceed 30 days and shall be renewed for additional 30-day periods only by a written statement entered by the director of the program in the patient's treatment record which indicates the detailed reason for such renewal of the denial.

(3) In each instance of a denial or a renewal, the patient, his attorney, and his guardian, if the patient has been adjudicated incompetent, and the department shall be given written notice of the denial or renewal and the reason therefor.

h. Any individual subject to this Title shall be entitled to a writ of habeas corpus upon proper petition by himself, by a relative, or a friend to any court of competent jurisdiction in the county in which he is detained and shall further be entitled to enforce any of the rights herein stated by civil action or other remedies otherwise available by common law or statute.

L.1965, c. 59, s. 10. Amended by L.1975, c. 85, s. 2, eff. May 7, 1975.