

Summary of Mental Health Patients' Rights in California

Patients have the same legal rights guaranteed to everyone by the Constitution and other laws. As citizens, patients do not lose their rights by being hospitalized.

Under California law, the following rights may **NEVER** be denied:

- The right to treatment services which promote the potential of the person to function independently. Treatment should be provided in ways that are least restrictive of the personal liberty of the individual.
- The right to dignity, privacy, and humane care.
- The right to be free from abuse, neglect, or harm, including unnecessary or excessive physical restraint, isolation, or medication. Medication shall not be used as punishment, for the convenience of staff, as a substitute for treatment, or in quantities that interfere with the treatment program.
- The right to prompt care and treatment.
- The right to religious freedom and practice.
- The right to participate in appropriate programs of publicly supported education.
- The right to social interaction.
- The right to physical exercise and recreational opportunities.
- The right to be free from hazardous procedures.
- The right to see and receive the services of an attorney and a Patients' Rights Advocate.

Psychiatric facilities must also uphold the following specific rights, which can be denied **ONLY** when **GOOD CAUSE** exists (see "DENIAL OF RIGHTS" below):

- The right to wear one's own clothing.
- The right to keep and use one's own personal possessions, including toilet articles, in a place accessible to the patient.
- The right to keep and spend a reasonable sum of one's own money for small purchases.
- The right to have access to individual storage space for one's own use.
- The right to see visitors each day.
- The right to have reasonable access to telephones both to make and receive confidential calls.
- The right to have access to letter writing materials, including stamps.
- The right to mail and receive unopened letters and correspondence.

ALL PATIENTS have the following treatment rights:

- The right to informed consent to medical and psychiatric treatment, including the right to refuse medication, unless specific emergency criteria are met.
- The right to refuse psychosurgery.
- The right to refuse electroconvulsive treatment (ECT) or any form of convulsive therapy.
- The right to confidentiality (pursuant to W&I Code §5328).
- The right to inspect and copy the medical record, unless specific criteria are met.
- The right to have family/friend(s) notified with patient's consent (pursuant to W&I Code §5328.1).
- The right to an aftercare plan.

All **VOLUNTARY** patients have the following rights:

- The right not to be forced into treatment without their consent.
- The right not to be placed in seclusion or restraint.

- The right to discharge themselves from a facility at any time.

Patients on **CONSERVATORSHIP** maintain the following rights:

- The same rights as all other mental health patients.
- The right to the least restrictive placement, including giving preference to arrangements which allow the patient to return home, to family, or to friends.
- The right to give or withhold consent to medical treatment unless specifically denied in the court order.
- The right to a hearing to challenge the conservatorship before the patient can be permanently conserved, and then every six months thereafter.

DENIAL OF RIGHTS

The reason used to justify the denial of rights must be related to the specific right denied.

GOOD CAUSE for denial exists when exercise of the right would cause:

- Injury to that person, or
- a serious infringement on the rights of others, or
- serious damage to the facility,

AND there is no less restrictive way of protecting the interest specified in the above referenced exception.

Rights **MUST** be restored once “good cause” no longer exists.

Rights can be denied **ONLY** when “good cause” exists. They cannot be denied:

- As a condition of admission
- As a privilege to be earned
- As a punishment
- As a part of the treatment plan
- For the convenience of the staff

Guardians, conservators, and relatives **CANNOT** waive patients’ rights.

Whenever a right is denied, the treatment staff must document this in the patient’s treatment record, and the patient must be informed concerning the denial of rights. The entry in the treatment record should include:

- The date and time the right was denied
- The specific right denied
- Facts supporting good cause for the denial of the right
- Less restrictive alternatives tried
- Continuing documentation of observation and assessment of good cause
- Specific criteria for release
- Date of review if the denial is extended beyond thirty days
- Signature of the professional person who denied the right

Sources: Welfare and Institution Code
 Title 9 California Code of Regulations