

**RIGHTS TO FRESH AIR FOR PATIENTS  
IN DEPARTMENT OF MENTAL HEALTH FACILITIES**

**Prepared by the Mental Health Legal Advisors Committee  
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**What is the right to daily access to the outdoors?**

Under Massachusetts law, a patient of any Department of Mental Health (DMH) facility is entitled to “reasonable daily access” to the outdoors.<sup>1</sup>

A facility may not require a patient to participate in clinical programming in order to access the outdoors.

**How might a facility provide access to the outdoors?**

Access to the outdoors may be supervised or unsupervised and may be provided individually or in groups. A facility does not need to provide clinical programs outdoors or provide access to the outdoors “on demand.”

Each facility should have a written plan that outlines how patients will safely access the outdoors.

“Outdoors” may include a porch, courtyard, roof deck, a secured outdoor area, or other outdoor area.

**May a facility restrict access to an individual patient?**

A patient's initial psychiatric examination (conducted within 24 hours of admission) must include a written assessment of the patient's ability to access the outdoors. The psychiatrist may consider factors including medical conditions, symptoms, legal status, and safety when determining a patient’s ability to access the outdoors.

Any limitation must be documented in the patient’s medical record.

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<sup>1</sup> This pamphlet is based upon provisions of M.G.L. c. 123, § 23(f) and 104 CMR 27.13(5)(f).

A patient's status regarding access to the outdoors must be reviewed at treatment team meetings and reassessed by the treating clinician whenever it appears that there has been a change in circumstances that may affect the patient's ability to safely access the outdoors. Such reviews must occur at least daily to determine if there have been changed circumstances. If so, a new assessment must be conducted.

A patient may also request that a limitation be reviewed; however a facility is not required to make more than one assessment within a 24-hour period.

**Are there any other exceptions to the right to go outdoors?**

A patient's right to fresh air is not without limitations.

A facility may establish reasonable schedules or designated times for outdoor access.

Fresh air access may also be limited or restricted in cases of bad weather, if the facility cannot safely provide access, or if a clinician finds it necessary.

**What should a patient do if he or she is not being allowed to go outdoors?**

If outdoor access has been restricted, the patient should talk with a member of his or her treatment team (a psychiatrist, psychologist, mental health worker, or social worker).

If that isn't effective, a patient could talk with the facility Human Rights Officer and/or file a complaint.

**If you have any questions, call MHLAC at (617) 338-2345, press 4.**