

SIX FUNDAMENTAL RIGHTS OF PERSONS RECEIVING SERVICES AT INPATIENT MENTAL HEALTH FACILITIES IN MASSACHUSETTS

**Prepared by the Mental Health Legal Advisors Committee
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The Massachusetts mental health law provides a range of protections for patients, including six fundamental rights added by Chapter 166 of the Acts of 1997 and Chapter 476 of the Acts of 2014. These rights can be found in Massachusetts General Laws Chapter 123, section 23.

These rights are available to persons receiving services from *programs or facilities operated by, licensed by, or contracted with the Department of Mental Health (DMH)*.

- **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.
 - This right may be temporarily suspended for persons in inpatient facilities by a director or superintendent (or acting director or superintendent) if exercise would present a "substantial risk of serious harm to such person or others" and less restrictive alternatives have failed or are futile. Suspension may last only as long as is necessary to prevent harm.
- **The right to send and receive sealed unopened, uncensored mail.** If the person is present, staff may open and check mail for contraband, but may not read it.
- **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 individual needs and desires.
 - This right may be temporarily suspended for persons in inpatient facilities by a director or superintendent (or acting director or superintendent) if exercise would present a "substantial risk of serious harm to such person or others" and less restrictive alternatives have failed or are futile. Suspension may last only as long as is necessary to prevent harm.
- **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.**

- **The right to access legal representation.**
 - The right to be visited (even outside normal visiting hours) by your attorney or legal advocate (as well as 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 client consent: the person's record; clinical staff; and meetings regarding treatment or discharge planning which the person is entitled to attend.
 - The right to reasonable access by attorneys and legal advocates, including those of the Disability Law Center 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 the legal agencies and must assist persons in contacting them. These agencies may conduct unsolicited visits and distribute educational materials, at times the facility designates as reasonable.

- **The right to reasonable daily access to the outdoors.**
 - The right to access the outdoors is conditioned such that: 1) weather conditions reasonably permit access; 2) access is in a manner consistent with the person's clinical condition and safety as determined by the treating clinician; and 3) the facility has the ability to safely provide access.
 - The statute requires DMH to promulgate regulations defining what shall constitute reasonable access and regulations implementing sufficient precautions to ensure the safety of staff members charged with accompanying patients outdoors.

All programs must post a notice of these rights in appropriate and conspicuous places. The notice must be provided upon request and must be in a language understandable to the person.