

Your Rights as They Pertain to COVID-19's Effects on DMH and DDS Facilities in Massachusetts

Prepared by the Mental Health Legal Advisors Committee

April 2020

Note: This guidance is subject to change at any time, as the monitoring of COVID-19 is an ongoing issue. Check the DMH website for updates here:

<https://www.mass.gov/orgs/massachusetts-department-of-mental-health>.

The Department of Mental Health (DMH)

The Department of Mental Health (DMH) has assured us that:

- No client in a DMH or Adult Clinical Community Services (ACCS)-operated Group Living Environment (GLE) or subsidized apartment will be made homeless for not following social distancing or isolation rules.
- No program will call the police if a client leaves a program in violation of the rules around social distancing, isolation, etc.
- No clients will be charged with trespassing if they leave a program for an extended period of time in violation of the rules around social distancing, isolation, etc.
- No client will lose their tenancy rights at a program if they leave their program for an extended period of time in violation of the rules around social distancing, isolation, etc.
- DMH recognizes that some of the Commissioner's directives pose a restriction of grounds and community access that will be a burden to staff and patients, but they are being guided by medical necessity.

The Commissioner of the Commonwealth of Massachusetts issued a directive on April 15th, 2020, entitled "COVID-19 Emergency Directive 20-01, Inpatient Facility Operations." The link to this can be found here:

[file:///C:/Users/Owner/AppData/Local/Packages/Microsoft.MicrosoftEdge_8wekyb3d8bbwe/TempState/Downloads/Covid%20Directive%2020-01%20-%20Facility%20Operations%20FINAL%2004-15-20%20\(1\).pdf](file:///C:/Users/Owner/AppData/Local/Packages/Microsoft.MicrosoftEdge_8wekyb3d8bbwe/TempState/Downloads/Covid%20Directive%2020-01%20-%20Facility%20Operations%20FINAL%2004-15-20%20(1).pdf). Some points that this document makes include:

- "Access to DMH facilities shall be restricted to DMH and facility personnel, including vendor staff, providing direct essential care, clinical treatment, administrative, legal, educational, and core services. This includes "medically necessary providers such as outside laboratory personnel, medical consults and forensic evaluators," although medical consultations and forensic evaluations should be conducted virtually whenever possible.
- Elective consultations will be held remotely or postponed
- There will still be no physical visits to facilities, and facilities will do their best to facilitate virtual visits. However, visitors and patients should use their own technology to "visit" whenever possible.
- Protocol should be created by DMH facilities for receiving necessary supplies in a way that allows for the least contact between delivery personnel and patients and staff.
- Utilization of Personal Protective Equipment (PPE) should be up-to-date with statewide directives and the individual circumstances of each facility. If there is any modification made to statewide directives, it must be approved by the DMH State Medical Director and Director of Inpatient Management.
- Fresh air access will only be provided in facilities that have secured outdoor spaces and with appropriate amounts of social distancing.
- Attorneys and Independent Medical Examiners (IME)s should communicate with their clients virtually, unless the patients they are visiting cannot or choose not to utilize virtual technology, or that technology is not available. If an attorney or IME feels they must visit their client in person, they must communicate that with a facility Superintendent or Chief Operating Officer, or designee. This decision will be made according to some conditions listed in the above linked document, and any attorney or IME who visits a facility does so at their own risk. These visits will also be subject to terms described in the above document.
- Court hearings should be facilitated through Webex, the Court's technology or other remote technology that the Court directs the facility to use.
- **These directives will remain in place until the statewide state of emergency is terminated, or is modified or terminated by the Commissioner.**

The Department of Mental Health (DMH), Continued.

The Medical Director of Central Mass DMH has issued guidance in order to stop the spread of COVID-19 at DMH facilities and programs. The link to this can be found here: <https://www.mass.gov/info-details/covid-19-information-about-dmh-programs-and-services#stopping-the-spread-of-covid-19-at-dmh-programs-and-facilities->.

Some main points from this link are:

- Many people who catch the virus will have mild symptoms
- The virus can be especially dangerous for people who have “underlying medical conditions” such as: COPD, asthma, diabetes, heart problems, people undergoing chemotherapy
- The virus can also be especially dangerous for people who smoke cigarettes.
- The best way to stop the spread of the virus is to practice social distancing, which means: Staying at least six feet away from others, remaining at your program/not visiting stores when possible

- It is critical to wash your hands often, and avoid touching your face, because your face contains the areas where the virus can get in your body and make you sick
- The virus can stay on hard surfaces for a few days, so staff might be cleaning these surfaces more often
- If you begin to feel ill, staff might ask you to wear a mask and gloves in order to keep you and your peers as safe as possible
- It is important not to share utensils or smoking materials with staff or peers
- It is encouraged to go outside if you are able to do so without being near others
- You should reach out by phone, internet, FaceTime etc. to those close to you for support during this difficult time
- The virus will last at least a month, and it will end faster if we follow these rules.
- If you have questions about any of these things listed above, ask a staff member. They are expected to get answers for you.

- DMH themselves have not issued any new guidance pertaining to Group Living Environments or Adult Community Clinical Services (ACCS) addressing new concerns regarding COVID-19.
- At this time, they are referring to guidance issued by the Department of Public Health, which can be found here under “For congregate care programs:” <https://www.mass.gov/info-details/covid-19-guidance-and-directives#caregivers->. An update to this was issued on April 14th, 2020, by the Executive Office of Health and Human Services (EEOHS), which can be found at the same location as the previous link.

Department of Mental Health, Continued.

- Some points from these articles include:
 - Facilities should be using “EPA Registered Antimicrobial Products for Use Against Novel Coronavirus SARS-CoV-2” to frequently clean surfaces that are touched often, including: Elevator buttons, door handles, faucets, railings, etc.
 - All rooms should be cleaned with these products as well, with a focus on hard surfaces.
 - Custodial staff should be trained on how to use disinfectants effectively, and how to clean up potentially infectious materials and body fluid spills.
 - Alcohol wipes should be used to clean keyboards, touchscreens, tablets and phones.
 - If a resident leaves the program permanently, their room should be cleaned and disinfected before the next resident arrives to stay in that room.
 - Facilities should try to reduce access to the program to one point of entry and maintain social distancing.
 - A daily log of names should be recorded for everyone who enters the program.
 - Programs should contact regularly visiting staff to review and approve their current protocols for “identifying and preventing the spread of respiratory diseases, including COVID-19.”
 - Size of gatherings should be limited to adhere to issued executive orders.
 - Signs should be posted at the entrance of facilities with “instructions on hand hygiene and identifying individuals with symptoms of respiratory infection.”
 - Residents with suspected cases of COVID-19 will be moved to a private room with the door closed and should be provided Personal Protective Equipment (PPE).
 - If a patient is suspected of having COVID-19, then the facility should immediately contact their healthcare provider and the Local Board of Health.
 - If a resident is suspected of having COVID-19, their individual circumstances should be considered. If home is not a safe place for them to recover from COVID-19, then measures should be put in place for them to remain within the facility.
 - This resident, if they remain within the facility, should be given help with basic needs, such as help getting groceries and prescriptions.
 - If an employee or resident is confirmed to have had COVID-19 while they were on the premises, then a “deep cleaning” must be performed on the facility, as described in the above link to the article.

- Additionally, no visitors will be allowed into DMH Hospitals at this time, with very limited exceptions.
- Some Access Centers are offering virtual peer support.
- If you would like to speak with a peer support worker (they are free and open to anyone), here is a link to a list of peer support groups that can be accessed online or by phone, as of April: <http://www.westernmassrlc.org/hidden-community-happenings-fix/888-on-line-and-phone-supports-march-2020>.

The Department of Developmental Services (DDS)

The Department of Developmental Services has issued a response to COVID-19, which can be found here: <https://www.mass.gov/news/coronavirus-update-for-individuals-and-families-march-25>.

Some main points from this include:

- “All day programs must cease to provide services in congregate settings, such as Community Based Day Support, Employment Services, Day Habilitation, and Adult Day Health.”
- Group homes and facility-based residential services qualify as “essential services.”
- In-person visitation to these programs is prohibited, except for compassionate care situations (such as end-of-life).
- DDS and provider staff can help facilitate virtual forms of visitation.
- If you decide to bring your family member home with you, they must remain with you for the remainder of the COVID-19 Crisis.
- It is encouraged that Individual Support Plans (ISPs) continue virtually.
- DDS Family Support Centers are a resource during this time, and a list of them can be found here: <https://www.mass.gov/info-details/dds-family-support-centers>.
- Program area offices remain the primary DDS points of contact in order to access ongoing services and supports.
- Any updates regarding DDS and COVID-19 will be posted here: <https://www.mass.gov/dds-covid-19-resources-and-support>, as well as on social media.

DDS issued a new statement regarding COVID-19 on April 13th, 2020, which can be found here: <https://www.mass.gov/doc/dds-residential-program-guidance-dds-updated-april-13/download>. This information was then summarized on the mass.gov website on April 14th, 2020, which can be found here: <https://www.mass.gov/news/coronavirus-update-for-individuals-and-families-april-14>.

Some points from this summary include:

- Service Coordinators are available and will continue to reach out to individuals and families within the DDS community.
- Mobile testing is now available at DDS facilities for individuals who are showing symptoms of COVID-19 or when a resident of staff member is confirmed to have a case of COVID-19.
- Staff are now required to wear facemasks
- COVID-19 recovery and isolation centers have been created at three DDS facilities, which will be available for DDS individuals who have tested positive for the virus and cannot safely recover at home. Other emergency alternative residential sites have been created as well.

The Arc of Massachusetts has also posted COVID-19 DDS-related updates, which can be found here: <https://www.mass.gov/news/coronavirus-update-for-individuals-and-families-april-14>. Some main points (that have not already been covered in this document) are:

- Health checks for staff are conducted when they enter homes
- Certain homes have changed their staffing patterns to minimize the spread of the virus.
- There are state epidemiologists responding to needs at group homes.

If you or anyone you know has experienced a violation of any of the policies above, please contact:

•**The Mental Health Legal Advisors Committee (MHLAC) Intake Line at 617-338-2345 or toll-free 1-800-342-9092, then press 4 to hear the intake instructions.**

•**The Disability Law Center at 617-723-8455 or 800-872-9992, or send a message here: <https://www.dlc-ma.org/send-us-a-message/>.**

•**Greater Boston Legal Services at 617-603-2700.**