

## **Rights of Outpatients in all outpatient programs licensed or run by the Office of Mental Health**

**The rights of people in outpatient mental health programs are protected by both law and regulation.**

The State Office of Mental Health (OMH) licenses outpatient programs in five categories – clinic, continuing day treatment, day treatment for children, intensive psychiatric rehabilitation treatment and partial hospitalization. In 2005, OMH also began a phased implementation process for the issuance of Personalized Recovery Oriented Services (PROS) licenses. A new comprehensive recovery-oriented program model that integrates treatment, support and rehabilitation services, PROS has four service components: Community Rehabilitation and Support; Intensive Rehabilitation; Ongoing Rehabilitation and Support; and Clinical treatment. Generally, you will not stay overnight in an outpatient program.

Your civil rights continue if you participate in an outpatient program. The law specifically mentions your continued right to register and vote in elections, apply for permits and licenses, take civil service tests and apply for jobs and be appointed without discrimination if you qualify.

**Under the law you have the right to be treated confidentially, with respect and dignity by all staff people.**

Treatment or access to programs may not be limited or denied because of race, creed, color, sex, national origin, age, marital status, or disabilities which are unrelated to treatment. If you think that you are being discriminated against on any of these grounds — or if you believe that you are a victim of mental, verbal, physical or sexual abuse — this booklet tells where you may file an official complaint.

The fact that you are receiving psychiatric treatment does not mean you are mentally incompetent. You are considered legally competent unless a judge has ruled that you are incompetent.

You also have the same right as other citizens to designate a “health care proxy” or prepare an “advance directive.” Because some people have recurring episodes of mental illness, these documents may be of particular interest to people who use mental health services. The documents allow you to provide instructions about your future treatment, to be used later if you are unable to give instructions at the time you are being treated.

### **Basic Information**

When you are admitted to an outpatient program or shortly after, you should be informed about your rights. These rights may be restricted only upon written order of a physician. Any such order must be placed in your clinical record and must state the clinical justification for the limitation and the specific time period when it will remain in effect. Your rights may not be limited as punishment or for the convenience of staff people.

**These rights include:**

- The right to freedom from abuse and mistreatment by employees.
- The right to a reasonable degree of privacy, including bathroom privacy.
- The right to an individualized service plan and a full explanation of the services provided, and the right to participate in the development of your individualized service plan.
- The right to be informed of the provider's grievance policies and procedures, and the right to bring any questions or complaints to the director of the program or the organizations listed at the back of this booklet.
- The right to receive clinically appropriate care and treatment suited to your needs and skillfully, safely and humanely administered with full respect for your dignity and personal integrity.
- The right to be treated in a way which acknowledges and respects your cultural environment.

In a separate category, your outpatient program may inform you about these additional elements, although they are not rights set forth in law or regulation:

- The name of the staff member who will have primary responsibility, for example, as your principal contact person or personal service coordinator.
- Alternate treatments available to you.
- The rules of conduct in your program.
- The cost of treatment.
- The limit, if there is one, on how long you can stay in the program.
- The program's relationship with other agencies regarding additional services.
- The program's source of funding.
- The authority under which the program operates.
- Participation and Objections

For most people, participating in an outpatient program is voluntary. Occasionally someone is ordered by a court to obtain outpatient services under the Assisted Outpatient Treatment Program (also known as Kendra's Law) or as a condition of parole from prison. While your full participation in the program is a central goal, if you object to your individualized service plan, or if it is not working to your satisfaction and you want it changed, that alone is not reason to discharge you from the program. Periodically, you can expect to review your plan with staff people to look at your progress. You can be discharged if participation is no longer clinically appropriate or if you engage in conduct which poses a risk of physical harm to yourself or others.

You have the right to make an informed choice on whether you will participate in research projects. These could involve new medications, a series of questions posed by an interviewer or questionnaires. If you refuse to participate, a program cannot use that as grounds to deny you further treatment. If you decide to participate, your signed informed consent is required.

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## **Privacy and Confidentiality**

The law protects your right to privacy and confidentiality during treatment. This includes conversations between you and staff people who provide services, and information in your record. You have the right to see your treatment record unless there is a clinical reason why you should not, and to request that your physician discuss your treatment record with you. You may ask to have your record sent to any other service provider or your attorney. If you are under age 18, a parent or legal guardian may make this request.

The Office of Mental Health will provide you with a separate Notice of Privacy Practices that will tell you how we use and disclose your confidential mental health treatment information. It will also tell you what your rights are with regard to your mental health treatment information, and who you can contact if you have questions or a complaint about how we have used or shared your treatment records.

Generally, information from your treatment record cannot be released without your written consent. In limited circumstances, however, the law may allow or require release of records or information to certain individuals, governmental agencies or provider organizations. Most disclosures will be noted in your record, and you are entitled to learn about them upon request. The law states that notations do not have to be kept when records are disclosed to the Mental Hygiene Legal Service, quality of care reviewers or government finance agents dealing with payments. The law also says that for disclosures made to insurance companies licensed under the State Insurance Law, such a notation needs to be entered only at the time the disclosure is first made.

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## **Access to Records**

You must be given an opportunity to inspect your clinical record when you have submitted a written request. The law does allow some limitations on this access, based on clinical justification. A program can impose a reasonable charge for all inspections and copies. The charge cannot exceed what these services actually cost the program. In no case can a program charge more than 75 cents per page.

If you disagree with some part of your record, you can submit a written statement challenging the information in the record to be permanently attached to the record.

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## **Problems or Complaints**

You have the right to information on how to make a complaint. A provider of service must give a notice of recipients' rights to each person upon admission, and post the rights in a conspicuous location. If you have a problem or complaint, the person who runs the program is responsible for making sure your rights are protected. If this does not work, or is inappropriate, there are other organizations that can help.

**For assistance:**

A staff member, such as the personal service coordinator or principal contact person, or director of the program.

New York State Office of Mental Health  
44 Holland Ave., Albany NY 12229  
Toll free: 1-800-597-8481, En Espanol: 1-800-597-8481

New York State Commission on Quality of Care for the Mentally Disabled,  
401 State Street, Schenectady, NY 12305  
Telephone (518) 388-2888

Protection and Advocacy for Individuals Who Are Mentally Ill (PAIMI)  
New York City Region:  
New York Lawyers for the Public Interest,  
151 W. 30th Street, 11th Floor, New York, NY 10001-4007  
Telephone: (212) 244-4664

Western New York Region:  
Neighborhood Legal Services,  
237 Main Street, Suite 400, Buffalo NY 14203  
Telephone: (716) 847-0650

Hudson Valley Region:  
Disability Advocates,  
5 Clintron Square, Albany NY 12207  
Telephone: (518) 432-7861

North Country Region:  
Legal Aid Society of Northeastern New York,  
100 Court St., P.O. Box 989, Plattsburgh NY 12901.  
Telephone: (518) 563-4022. Or  
17 Hodskins St., P.O. Box 648, Canton NY 13617.  
Telephone: (315) 386-4586

Central New York Region:  
Legal Services of Central New York,  
The Empire Building,  
472 S. Salina St., Suite 300, Syracuse NY 13202.  
Telephone: (315) 475-3127

Long Island Region:  
Touro College, Jacob Fuchsberg Law Center,  
225 Eastview Drive, Central Islip, New York 11722.  
Telephone: (631) 761-7080

Mental Hygiene Legal Service  
First Judicial Department,  
41 Madison Ave., 26th floor, New York NY 10010.  
Telephone: (212) 779-1734

Second Judicial Department,  
170 Old Country Road, Mineola NY 11501.  
Telephone: (516) 746-4545

Third Judicial Department,  
40 Steuben Street, Suite 501, Albany, NY 12207  
Telephone: (518) 474-4453

Fourth Judicial Department,  
50 East Ave., Suite 402, Rochester NY 14604.  
Telephone: (585) 530-3050

National Alliance for the Mentally Ill of New York State  
260 Washington Ave., Albany NY 12210.  
Telephone: (518) 462-2000