

FAMILY PARTICIPATION STATUTORY RIGHTS & GUIDELINES

I. STATEMENT OF POLICY

Families of clients in mental health facilities should be encouraged to participate in the assessment, treatment, and aftercare planning process for each client, consistent with the best interests and wishes of the client.

II. RIGHTS OF FAMILY MEMBERS

1. The right (of a spouse, parent, child, or sibling) to be given notification of the client's presence in a 24-hr facility, unless the client requests that this information not be provided. (Cal. Welf. & Inst. Code 5328.1.)
2. The right to be given information regarding the diagnosis, prognosis, prescribed medication and side effects, and progress of the client, if authorized by the client. If the client is initially unable to authorize the release of this information, daily efforts shall be made to secure the client's consent or refusal of authorization. (Cal. Welf. & Inst. Code 5238.1.)
3. The right to have the facility make reasonable attempts to notify the immediate family of the client's admission, release, transfer, serious illness, injury or death, unless the client requests that the information not be provided. (Cal. Welf. & Inst. Code 5328.1(b).)
4. The right to see and receive copies of information and records regarding the client, with the consent of the client and approval of the treating physician, psychologist, or social worker. (Cal. Welf. & Inst. Code 5328(b).)

5. The right to a copy of the written aftercare plan when the client is discharged from an inpatient psychiatric facility, when designated by the client. (effective January 1998) (Cal. Welf. & Inst. Code 5622, 5768.5.)
6. The right to have removed from the client's record any information provided in confidence by the family, prior to release. (Cal. Welf. & Inst. Code 5328(b)(d)(j)(k), 5543.)
7. The right to be given required information concerning the administration of convulsive treatment or psychosurgery, if authorized by the client. (Cal. Welf. & Inst. Code 5326.6(b), 5326(c).)
8. The right to receive copies of public information, including licensing and other reports. (Cal. Gov't Code 6250 et seq.)
9. The right to visit the client every day, if desired by the client. (Cal. Welf. & Inst. Code 5325(c).)
10. The right to have confidential phone calls with the client and to mail and receive unopened correspondence, if desired by the client. (Cal. Welf. & Inst. Code 5325(d) & (e).)
11. The right to provide clothing, personal possessions and a reasonable sum of money to the client for use in the facility, if desired by the client. (Cal. Welf. & Inst. Code 5325(a).)
12. The right to participate in the treatment and rehabilitation planning of the client, as a source of information and

support. Included in the participation is the identification of service needs, and advocating for, and coordinating the provision of these services, as appropriate. (Cal. Welf. & Inst. Code 5600.2(a)(2), 5600.4(c).)

13. The right to be advised of the time and place of certification review hearings, judicial review, conservatorship proceedings and other due process proceedings, unless the client requests that this information not be provided. (Cal. Welf. & Inst. Code 5256.4(c), 5276, 5350.2.)
14. The right to be appointed conservator or to nominate a conservator subject to the priorities and preferences in the Probate Code. (Cal. Probate Code 1810 – 1813.)
15. The right to have the first priority for conservatee placement be a facility as close as possible to the conservatee's home or home of a relative. (Cal. Welf. & Inst. Code 5358(c).)
16. The right to submit a complaint regarding abuse, unreasonable denial or punitive withholding of rights concerning a resident in a licensed health or community care facility to a clients rights advocate for investigation. (Cal. Welf. & Inst. Code 5520(a).)
17. The right (unless found not to be acting in good faith) to be immune from civil or criminal liability, penalty, sanction or restriction for participating in the filing a complaint or providing information to the patients' rights advocate. (Cal. Welf. & Inst. Code 5550(a).)

18. The right to be informed of the telephone number by the facility of where to file complaints with the Department of Health Services, Licensing and Certification Program (Cal. Health & Safety Code 1288.4). Professional licensing boards and other regulatory and enforcement agencies may also be contacted to register complaints about the facility or personnel.
19. The right to not have the client discriminated against for the family member's participation in any advocacy activity. (Cal. Welf. & Inst. Code 5550(c).)

III. Sources

Cal. Government Code, Cal. Probate Code, Cal. Welf & Inst. Code, Title 22 Cal. Code of Regs., Joint Commission on Accreditation of Healthcare Organization Standards, California Association of Hospitals and Health Systems Consent Manual.

This is a synopsis of current California Law. For additional information, refer to the statutes cited, or consult an attorney. October 1997

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REQUEST FOR INFORMATION

WELFARE AND INSTITUTIONS CODE

5328.1 (a) Upon request of a member of the family of a patient, or other person designated by the patient, a public or private treatment facility shall give the family member or the designee notification of the patient's diagnosis, the prognosis, the medications prescribed, the side effects of medications prescribed, if any, and the progress of the patient, if, after notification of the patient that this information is requested, the patient authorizes its disclosure. If, when initially informed of the request for notification, the patient is unable to authorize the release of such information, notation of the attempt shall be made into the patient's treatment record, and daily efforts shall be made to secure the patient's consent or refusal of authorization. However, if a request for information is made by the spouse, parent, child or sibling of the patient and the patient is unable to authorize the release of such information, the requester shall be given notification of the patient's presence in the facility, except to the extent prohibited by federal law.

(b) Upon the admission of any mental health patient to a 24-hour public or private health facility licensed pursuant to Section 1250 of the Health and Safety Code, the facility shall make reasonable attempts to notify the patient's next of kin or any other person designated by the patient, of the patient's admission, unless the patient requests that this information not be provided. The facility shall make reasonable attempts to notify the patient's next of kin or any other person designated by the patient, of the patient's release, transfer, serious illness, injury, or death only upon request of the family member, unless the patient requests that this information not be provided. The patient shall be advised by the facility that he or she has the right to request that this information not be provided.

(c) No public or private entity or public or private employee shall be liable for damages caused or alleged to be caused by the release of information or the omission to release information pursuant to this section.

Nothing in this section shall be construed to require photocopying of patient's medical records in order to satisfy its provisions.

Request for Information From: _____
(Name and address of treating facility)

I request information on the care and treatment of _____
(Name of patient)

Also please notify me of the patient's release, transfer, serious illness, injury, or death.

Signature _____ Relationship to patient _____

I, _____ authorize the disclosure of the information requested to:
(Patient's name)

Name _____ Address _____

Phone _____

_____ Date _____
(Signature of patient)

_____ Date _____
(Witness)

INFORMATION SHEET

Client _____ Soc. Sec. # _____

Medi-Cal # _____ Date _____

INSURANCE INFORMATION: Company _____

Subscriber _____ Policy # _____

To: _____
(Facility and/or person in charge, address)

Submitted by _____ Address _____

Phone _____

Others to notify in case of emergency or transfer _____

Present Psychiatrist/Therapist, & phone # _____

Current Medications: Type _____

Dose _____

Frequency _____

Medications (and dosage) to which client has responded well _____

Medications to which client is allergic (describe) or has not responded well _____

Other known allergies (food, chemical, inhalants) _____

Brief history of physical illnesses/medical problems:

Brief history of mental illness:

History of any physical, sexual abuse or trauma:

History of substance abuse:

Previous or Present capabilities and interests of client:

Other pertinent information:

(Use another sheet if necessary. Keep a copy for your records)