



KNOW YOUR DISCHARGE PLANNING RIGHTS FROM MASSACHUSETTS LICENSED PSYCHIATRIC UNITS!

Every patient of a locked psychiatric unit, regardless of coverage, has a right to effective and proper discharge planning. Depending on insurance coverage, some patients may have additional discharge planning protections. Below please find a listing of your rights pertaining to hospital discharge planning.

FOR MASSHEALTH RECIPIENTS:

- The discharge professional (or the person responsible for formulating discharge plan) should screen you within 24 hours of admission.
- Facility staff should commence discharge planning and activities within 72 working hours of your admission.
- If you require additional care and resources after discharge, a written plan must be developed.¹

FOR MEDICARE RECIPIENTS:

- Your discharge plan, developed by your provider, must be in writing!²
- Your plan must also be “individualized and comprehensive.” Therefore, your discharge plan must be particular to your condition with specific treatments and goals outlined.³

FOR THOSE PATIENTS WHO ARE PRIVATELY INSURED:

- People who have private insurance are not always provided the same protections as recipients of Medicare or MassHealth.
- Protections afforded to patients regarding discharge planning differ from one insurance policy to another, but it is important to review your individual policy to understand all of your rights.

¹ 130 C.M.R. 415.419(B)(3)

² 42 C.F.R. § 412.27(d)

³ 42 C.F.R. § 412.27(d)

FOR ALL PATIENTS REGARDLESS OF INSURANCE COVERAGE:

- The Massachusetts Department of Mental Health acknowledges that facilities should make every effort possible to avoid discharge to a shelter or onto the street. However, in situations where patients with mental illness are being released onto the street, these discharge plans should include various recommendations and alternative resources for those patients.⁴
- If you are 18 or older and without a legal guardian, you must give your informed consent, which involves providers informing you of the proposed course of treatment, all alternatives to that proposal, and the risks involved in accepting either the proposed course or the alternatives. Likewise, you must provide consent to the proposed discharge plan. In cases where a guardian had been appointed, the guardian must provide informed consent.
- You have rights under the American Hospital Association's Patients' Bill of Rights:
 - *"The patient has the right to make decisions about the plan of care prior to and during the course of treatment and to refuse a recommended treatment or plan of care to the extent permitted by law and hospital policy and to be informed of the medical consequences of this action. In case of such refusal, the patient is entitled to other appropriate care and services that the hospital provides or transfer to another hospital. The hospital should notify patients of any policy that might affect patient choice within the institution."*⁵
- You should be actively involved in formulating your discharge plan and should remain in discussion with your providers to be part of the planning process.
- If you have a legal guardian, that person has a right to be involved in treatment and discharge planning.
- If you are a minor (under age 18), a parent or other person with legal custody has the right to be involved in treatment and discharge planning.
- If you are an adult (age 18 or over) and want a family member or other person to be involved in your treatment planning or discharge planning, you or your legal guardian must give consent to the facility for that person to be involved.
- In situations where healthcare proxies are involved, it may state explicitly in the healthcare proxy document that the proxy can be involved in discharge planning. However, even when the document does not explicitly state this, if the document states that the proxy can be

⁴ Department of Mental Health Discharge Procedures read: "A facility shall make every effort to avoid discharge to a shelter or the street. The facility shall take steps to identify and offer alternative options by a patient, document such measures, including the competent refusal of alternative options by a patient in the medical record. In the case of such discharge, the facility shall nonetheless arrange for or, in the case of a competent refusal, identify post-discharge support and clinical services. The facility shall keep a record of all discharges to a shelter or the street in a form approved by the Department and submit such information to the Department on a quarterly basis." (104 C.M.R. § 27:09(1) (b))

⁵ AHA Bill of Rights, http://www.patienttalk.info/AHA-Patient_Bill_of_Rights.htm

involved in general healthcare decisions, discharge planning may still be considered part of the healthcare proxy's authority.

WHAT TO DO IF A MEDICAL FACILITY HAS VIOLATED THESE RIGHTS:

- If you think that your rights or those of your loved one have been violated, complaints can be made to the following entities:
 - **Unit staff:** Since locked psychiatric units are licensed by the Massachusetts Department of Mental Health, every psychiatric unit has to comply with the DMH complaint process which provides that complaints may be filed with unit staff.
 - **Human Rights Officer:** Every psychiatric unit must have a Human Rights Officer who also must accept complaints and who can assist patients in writing complaints.
 - **Director of Compliance/Quality Assurance:** Each facility will also have a director of compliance/quality assurance or the equivalent. NAMI Massachusetts can help you find out who this person is. You can complain to this person as well.
 - If a **Medicare** recipient OR a **MassHealth** recipient, you can send a letter complaint to:

Complaint Unit
Division of Health Care Quality
99 Chauncy Street, 11th Floor
Boston, MA 02111
Fax: 617-753-8165

File your complaints in writing if possible. Keep a copy of your complaint for yourself. Keep also the name of the staff you filed the complaint with and the date you filed it.

Other individuals, such as family members, may file any of these types of complaints on your behalf.

IF YOU PREFER, YOU CAN ALWAYS CONTACT NAMI MASSACHUSETTS AND WE WILL HELP YOU WRITE AND SEND THE APPROPRIATE COMPLAINT LETTERS.

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