

§ 76525. Clients' Rights.

(a) Each client has the rights listed in (a) of this section which shall not be denied or withheld except as provided in (c) of this section. Each facility shall establish and implement written policies and procedures to ensure that each client admitted is afforded the following rights:

(1) To be fully informed of his or her rights and responsibilities as a client and of all rules and regulations governing client conduct and responsibilities. Information shall be provided prior to or at the time of admission or, in the case of clients already in the facility, when the facility adopts or amends client rights policies; its receipt shall be acknowledged by the client in writing and witnessed by a third person.

(2) To be fully informed in writing prior to or at the time of admission and during his or her stay, of the services available at the facility and of related charges, including any charges for services not covered under the Medi-Cal program or not covered by the facility's basic per diem rate.

(3) To be fully informed by a physician of his or her health and physical and medical condition unless medically contraindicated, as documented by a physician in the client's record, and to be afforded the opportunity to participate in the total care planning of medical treatment and to refuse treatment.

(4) To be transferred only for the client's welfare or the welfare of other clients or the client's failure to pay for services provided, except as prohibited by the Medi-Cal program.

(5) To manage personal financial affairs. The client may authorize the facility, in writing, to assist in managing his or her finances. The facility shall carry out such management in accordance with the client's wishes.

(6) To be encouraged and assisted throughout the period of stay to exercise rights as a client and civil and legal rights, and to this end to voice grievances and recommend changes in policies and services to facility staff and to outside representatives of his or her choice, free from restraint, interference, coercion, discrimination or reprisal.

(7) To be free from discrimination based on sex, race, color, religion, ancestry, national origin, sexual orientation, disability, medical condition, marital status, or registered domestic partner status.

(8) To be free from mental and physical abuse and free from restraint except as permitted by Section 76329.

(9) To be assured of the confidential treatment of all information contained in client records, including information contained in an automated data bank. The client's written consent shall be required for the release of information to persons not otherwise authorized

under law to receive it. Persons representing the news media shall not be given any information that identifies or leads to the identification of client, including photographs, unless the client has given written consent. A client may provide written consent which limits the degree of information and the persons to whom information may be given.

(10) To not be required to perform services for the benefit of the facility except in compliance with the provisions of Section 76521(c)(11).

(11) If married or registered as a domestic partner, to be ensured privacy for visits by his or her spouse or registered domestic partner; if both are residents of the facility, to be permitted to share a room.

(12) To participate in social activities and in community groups at the client's discretion.

(13) To treatment and habilitation services. Treatment and habilitation services should foster the developmental potential of the person. Such services shall protect the personal liberty of the individual and shall be provided with the least restrictive conditions necessary to achieve the purposes of treatment.

(14) To dignity, privacy, respect and humane care, including privacy in treatment and in care for personal needs.

(15) To be encouraged and assisted to participate in an appropriate program of publicly supported education, regardless of degree of handicap.

(16) To prompt medical care and treatment.

(17) To religious freedom and practice.

(18) To social interaction and participation in community activities.

(19) To physical exercise and recreational opportunities.

(20) To be free from harm, including unnecessary physical restraint or isolation, excessive medication, abuse or neglect.

(21) To be free from hazardous procedures.

(22) To wear his or her own clothes, to keep and use personal possessions including toilet articles, and to keep and be allowed to spend a reasonable sum of his or her own money for canteen expenses and small purchases.

(23) To have access to individual storage space for private use.

(24) To see visitors each day; to communicate, associate and meet privately with persons of the client's choice, including social workers, business associates and clergy.

(25) To have reasonable access to telephones, both to make and receive confidential calls, and to have such calls made for the client.

(26) To have ready access to letter writing materials, including stamps, and to mail and receive unopened correspondence.

(27) To refuse behavior modification techniques which cause pain or trauma.

(28) To refuse electroconvulsive therapy.

(29) To refuse psychosurgery notwithstanding the provisions of Sections 5325, 5326 and 5326.3 of the Welfare and Institutions Code. Psychosurgery means those operations currently referred to as lobotomy, psychiatric surgery and behavioral surgery and all other forms of brain surgery if the surgery is performed for any of the following purposes:

(A) Modification or control of thoughts, feelings, actions or behavior rather than the treatment of a known and diagnosed physical disease of the brain.

(B) Modification of normal brain function or normal brain tissue in order to control thoughts, feelings, actions or behavior; or

(C) Treatment of abnormal brain function or abnormal brain tissue in order to modify thoughts, feelings, actions or behavior when the abnormality is not an established cause of those thoughts, feelings, actions or behavior.

(30) To be permitted to purchase drugs or rent or purchase medical supplies or equipment in accordance with the provisions of Section 1320 of the Health and Safety Code.

(b) All rights specified in Section 76525(a)(1) through (6) that pertain to a client for whom a guardianship or conservatorship has been established shall devolve to such client's guardian or conservator if so authorized by the order establishing the guardianship or conservatorship. All rights specified in Section 76525(a)(1) through (6) that pertain to a minor client shall devolve to that client's parents, or to the client's guardian or conservator if so authorized by the order establishing the guardianship or conservatorship.

(1) For the purposes of Section 76525(a)(27), (28) and (29), if the client is a minor 15 years or over, the right to refuse may also be exercised by the client, or the client's authorized representative.

(2) If the client or the client's authorized representative does not exercise the right to refuse specified in Section 76525(a)(27), (28) and (29), such treatment or behavior modification may be provided only after securing the written informed consent of the client or the client's authorized representative and after review and approval of the human rights committee.

(c) Clients' rights, as set forth in Section 76525(a), may not be denied or withheld except that those rights listed under Section 76525(a)(22) through (26) may be denied for good cause in accordance with the provisions of Section 76527, and only by the professional person in charge of the facility. Denial of these rights shall be documented immediately in the client's record. The documentation shall include:

(1) Specific right denied.

(2) Date and time of denial.

(3) Reason for denial.

(4) Signature of the professional person in charge of the facility.

(5) Anticipated date right will be reinstated.

(d) Denial shall be reviewed at least monthly by representatives of the interdisciplinary team and quarterly by the professional person in charge of the facility.

(e) The client shall be notified immediately of the right denied and the anticipated date of reinstatement.

(f) A copy of the rights listed in Section 76525(a), as written, shall be given to each client at admission and to the client's authorized representative. Signed receipt shall be maintained in the client's record. If the client is unable to read or understand the list of rights, notification shall be made in the record that the client was not given a copy of his or her rights for good cause and that an appropriate effort was made to explain the list of rights.

(g) A copy of clients' rights, as listed in Section 76525(a), as written and a translation in Spanish and other languages appropriate to the client population, shall be conspicuously posted in a prominent location in the facility and shall be accessible to public view.

(h) Each facility receiving Medi-Cal or any other state funds or services shall prominently display in the facility a copy of the provisions of Chapter 7 of Division 45 of the Welfare and Institutions Code and a copy of the facility's procedure for client grievance fair hearing, as required in that Chapter.

Note: Authority cited: Sections 1275 and 131200, Health and Safety Code. Reference: Section 51, Civil Code; Sections 297 and 297.5, Family Code; Sections 1276, 1320, 1599, 1599.1, 131050, 131051 and 131052, Health and Safety Code; and Sections 4502, 4503, 4504 and 4505, Welfare and Institutions Code.

HISTORY

1. New subsection (a)(30) filed 10-21-81; effective thirtieth day thereafter (Register 81, No. 43).

2. Change without regulatory effect amending subsections (a)(1)-(2), adopting subsection (a)(7), renumbering former subsection (a)(7) to subsection (a)(8) and amending subsections (a)(11) and (f) and Note filed 6-23-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 25).

3. Change without regulatory effect amending subsection (a)(9) and repealing subsection (i) filed 1-9-2013 pursuant to section 100, title 1, California Code of Regulations (Register 2013, No. 2).

22 CCR § 76525, 22 CA ADC § 76525