

**SECTION - SUPPORTIVE SERVICES
ADMINISTRATIVE DIRECTIVE NO. 604
(Replaces A.D. No. 604 dated 6/15/06)**

Effective Date: June 14, 2007

SUBJECT: PATIENTS' RIGHTS ADVOCACY PROGRAM

I. PURPOSE

A. Intent:

Coalinga State Hospital (CSH) and the Department of Mental Health (DMH) are committed to the protection of the rights of all persons residing in this facility. This program is based on the premise that all residents of this Hospital have the same constitutional and statutory rights guaranteed all other Individuals by the federal and state constitution and laws of the State of California, unless specifically limited by any federal or state law or regulation. Patients' Rights shall not be denied on the basis of sex, religion, ethnic origin, physical handicap, social or financial status.

B. Philosophy:

Advocacy pursues the protection of legal, constitutional, and human rights of Individuals in the mental health system. Advocacy represents and supports the Individual, as well as his expressed needs within the mental health system. Advocacy is a process that promotes communication and balance between consumers (the Individuals), providers, and the mental health system. The very nature of the task involved in advocacy is to breach and illuminate differences of opinion or judgment, and to convert conflict into a constructive resolution process. Advocacy joins the mental health system in the promotion of the delivery of quality treatment services, while optimizing the Individual's opportunity to exercise his rights.

II. AUTHORITY

California Code of Regulations (CCR), Title 9, Chapter 4.5; CCR, Title 22, Section 71507 and 73523; Special Orders 234, 254.01 and 722.01; and Patients' Rights, State of California Constitution.

III. POLICY

It is CSH policy to follow the laws and procedures set forth related to Patients' Rights Advocacy Program as described in the Authority Section and described in this and other referenced Administrative Directives (A.D.).

IV. METHOD

The Executive Director or designee (Program Director or Program Officer of the Day (POD)) may for "good cause" deny an Individual any of the statutory rights listed in Section V, upon recommendations from the Individual's Interdisciplinary Team. The team must include the psychiatrist responsible for the Individual's treatment program. The psychiatrist's involvement shall be evidenced by his or her signature in the section of the Denial of Rights form requiring the signature of "staff members involved in the denial decision". In emergencies, a right may be denied immediately by treatment staff; however, approval for a continuation of the denial of a right shall be obtained as soon as possible or no longer than twenty-four (24) hours after the emergency action. A copy of all completed Denial of Rights forms shall be submitted to the Standards Compliance Department.

- A. Definition of "Good Cause" for Denial of Rights: "Good cause" for denying an Individual the exercise of a right exists when the Executive Director or designee has good reason to believe that:
1. The exercise of the specific right would be injurious to the Individual.
 2. There is evidence that the specific right, if exercised, would seriously infringe on the rights of others.
 3. The institution would suffer serious damage if the specific right isn't denied.
 4. There is no less restrictive way of protecting the interests specified above.
- B. Limitations on "Good Cause" Denial of Rights:
1. The reason used to justify denying a right must be directly related to the specific right denied. A right shall not be withheld or denied as a punitive measure. A right shall not be considered as a privilege that is to be earned. A right cannot be denied as part of a treatment plan.
 2. When a denial is in effect, a treatment plan must be instituted to assist the Individual in restoration of his rights.
- C. Documentation of Denial of Statutory Rights (See A.D. No. 610).
- D. Restraints and Seclusion: Individuals in restraints and/or seclusion retain all of their constitutional and statutory rights. Denial of one or more statutory rights of any Individual in restraint and/or seclusion shall require the initiation of the Denial of Rights Process if the right cannot be honored per the Individual's request (See A.D. No. 552).

- E. Restoration of Rights: Individuals' rights shall not continue to be denied when "good cause" for the denial no longer exists. When a right has been denied, staff shall employ the least restrictive means of managing the issues that led to the denial. Restrictions of Individuals' communication (visits, telephone calls, correspondence) shall be evaluated daily by unit staff and should be reviewed formally by the Interdisciplinary Team at least every seven (7) days. All other rights shall be formally reviewed every thirty (30) days. The Individual shall be informed of both the denial and the restoration of his right(s).

V. INDIVIDUALS' RIGHTS

A. Individuals' Rights – Non-Deniable (CCR Title 9, Section 883)

1. The Individual's parent, guardian, or conservator may not waive the rights listed in this section unless authority to waive these rights is specifically granted by court order.
2. There is no statutory provision or process for denying the following rights:
 - a. A right to privacy, dignity, respect and humane care.
 - b. A right to receive treatment for a diagnosed mental disorder that is provided in a method least restrictive of individual liberty and promotes personal independence. A right to medical care and treatment for physical ailments and conditions according to accepted clinical standards and practices.
 - c. A right to refuse psychosurgery, electroconvulsive therapy, experimental and other hazardous procedures.
 - d. A right to be free from harm including abuse or neglect, and unnecessary or excessive medication, restraint, seclusion, or protective or administrative isolation. Medication, restraint, seclusion, or protective or administrative isolation shall not be used as punishment, as retaliation for filing complaints, for the convenience of staff, as a substitute for a treatment or in quantities that interferes with the Individual's treatment.
 - e. A right to confidential case discussions, consultations, examination, and Individual records. Confidential information shall only be provided to those people providing evaluation and/or treatment or as authorized by law.
 - f. A right to be informed of the procedures for filing complaints and the process for appeals when complaints are not resolved to the Individual's satisfaction.
 - g. A right to access the services of a Patient' Rights Advocate.

- h. A right to confidential communications with an attorney, either through correspondence or through private consultation, during regularly scheduled visiting days and hours.
 - i. A right to religious freedom and practice, within the context of the environment of a secure treatment facility.
 - j. A right to opportunities for physical exercise and recreational activities.
- B. Patients' Rights – Subject to Denial for Good Cause (CCR Title 9, Section 884). The Individual's parents, guardian, or conservator may not waive the rights listed in this section unless authority to waive these rights is specifically granted by court order. The following rights may be denied for Good Cause in accordance with A.D. No. 610:
- 1. A right to keep and use personal possessions as space permits, except items and materials that are listed as contraband by the facility. Each facility shall make a copy of the contraband listing available on all treatment units and public areas within the facility. Each Individual shall receive a copy of the contraband listing upon admission.
 - 2. A right to have access to individual secured storage space for personal possessions in accordance with the formal policies and procedures of the facility. Title 19, Section 314 and Title 22, Sections 71534 and 73507 require hospitals and licensees to comply with State Fire Marshall regulations.
 - 3. A right to keep and spend a sum of the Individuals' own money via the facility monetary replacement system.
 - 4. A right to personal visits during regularly scheduled visiting days and hours. The right to have visits shall not be denied except as is necessary for reasonable security of the facility and safety of persons. The length and frequency of visits and the number of persons permitted to visit an Individual at the same time may be limited consistent with the safety, security, and to ensure that all Individuals have a fair opportunity to have visitors.
 - 5. A right to access telephones to make and receive confidential telephone calls or to have such calls made for them. Telephone hours, frequency and duration of telephone calls, and method of payment may be limited to ensure access by all Individuals.

6. A right to have access to letter writing material and to mail and receive correspondence. Designated facility employees shall open and inspect all incoming and outgoing mail addressed to and from Individuals for contraband. Confidential mail, as defined in Section 881 (c) of Title 9, shall not be read. Limitations on size, weight, and volume shall be specified by formal policy.
7. A right to receive packages. Designated facility employees shall open and inspect all incoming and outgoing packages addressed to and from Individuals for contraband. Limitations of the size, weight, and volume, and frequency/number of packages allowed shall be specified by formal facility policy.
8. A right to have access to legal reference materials. Limitations on the time, duration, frequency, and method of access shall be specified by formal facility policy to ensure opportunity for access by all Individuals.
9. A right to participate in appropriate programs of publicly supported education that is consistent with the Individual's treatment plan and with the secure treatment facility environment.
10. A right to social interaction. The formation of supervised Individual leisure time activity groups that promote educational, social, cultural and recreational interests of participating Individuals shall be permitted, except for activities that pose a threat to safety and security.

VI. NOTIFICATION OF STATUTORY RIGHTS

- A. All Individuals (and/or guardians, conservators, where appropriate) shall be individually notified of their legal and constitutional rights in a language or manner, which they can understand such as: "Within 24 hours of admission to the facility", "Upon transfer within the facility to a new unit", "Upon change in legal status", and "At least annually".
 1. The Method of Notification shall be as follows:
 - a. Notified verbally and in writing of their legal and constitutional rights in a language or manner that they can understand.
 - b. Given a copy of the DMH handbook (Handbook of Rights for Mental Health Patients), upon admission to the facility.
 - c. Informed of the location of the unit's Patients' Rights poster and given a brief explanation of the information on the poster (legal/constitutional rights, complaint procedure, and information regarding the Hospital Advocate).
 - d. Informed of their right to petition the court for a hearing or judicial review by writ of habeas corpus.

- e. Informed of the internal complaint procedure.
- f. Given a copy of their commitment order and have their commitment explained to them.

2. Documentation of Notification:

The completion of the Patient Advisement of Legal Rights Form and documentation in the Interdisciplinary Notes (IDN) shall provide adequate documentation of the notification. This form shall be filed in the legal section of the Individual's clinical record (sub-section "consent").

3. Additional Need for Notification:

- a. The program director or designee shall initiate the above 24-hour notification procedure when there is a change in an Individual's legal commitment status or transfer to a new unit.
- b. Individuals may require more frequent notification of rights based upon their mental status. The Individual's knowledge of his rights shall be evaluated during each monthly team conference. The results of the evaluation and, when necessary, evidence that notification was given during the team conference shall be documented in the IDN of the Individual's clinical record.

VII. ADDITIONAL RIGHTS RECOGNIZED AND ADMINISTRATIVELY GRANTED

- A. The right to be out-of-doors at regular and frequent intervals. Individuals that do not have a PAS level allowing them access to the main courtyard, are restricted to bed rest, or otherwise prohibited to access the outdoors, will be afforded the opportunity for at least one (1) hour outdoors each day, to include the individual unit courtyards. Out of doors access may be amended if contraindicated by security issues.
- B. The right to read materials of one's own choosing, unless such material is considered as contraband (See A.D. No. 818) or unless access to said material is formally denied through the Denial of Rights process.
- C. The right to marry (See A.D. No. 618).
- D. The right to enter into contracts, unless declared incompetent to do so by a court of law.
- E. The right to safe and dignified transportation when being transported by hospital personnel.

- F. The Individual has the right to be informed of the treatment plan and to participate in the planning of his treatment plan. The Individual has the right to receive information from his physician, including, but not limited to, medication benefits and side effects, the Individual's medical or mental condition (unless medically contraindicated per A.D. No. 581), information about the nature and purpose of any technical procedures that will be performed and who will perform those procedures. Treatment and placement decisions may not infringe upon the individual's rights to personal autonomy, freedom of movement without restraint, personal security and access to community resources.
- G. Any alternate treatment procedures, which are available within DMH guidelines.
- H. Refuse the specific medications or treatment procedures, to the extent permitted by law.
- I. Be involved and informed of his treatment and discharge plan, and to be actively involved in the planning process.
- J. Know the professional staff members responsible for the Individual's care, their professional status, and their staff relationship to the Individual's treatment.

VIII. RESPONSIBILITIES

The intent of this section is to clearly identify those persons accountable for having specific responsibility for implementing and maintaining CSH's Patients' Rights Advocacy Program.

- A. All employees have the following responsibilities:
 1. To be familiar with the Patients' Rights Advocacy Program and promptly advise their supervisor/manager and the Patients' Rights Advocate of any complaints or violations of Individuals' rights, Individual abuse, and/or practices inconsistent with this policy.
 2. Act affirmatively to maintain an atmosphere where each Individual is assured the opportunity to exercise his rights.
 3. Participate cooperatively with the complaint resolution process and with the Patients' Rights Office. To be aware that it is a violation of state law to knowingly obstruct any Patients' Rights Advocate in the performance of their duties or to discriminate or retaliate in any manner against any Individual or employee who has initiated, provided information pertaining to, or assisted in the investigation of any Patients' Rights complaint.
 4. Provide assistance to Individuals who need help in filling out or filing a Patients' Rights complaint.

B. Physicians:

1. Physicians are responsible for ensuring that all Individuals under their care, or those persons legally responsible for the Individual (i.e., relative or conservator), are fully informed of their psychiatric or medical condition, unless contraindicated; and that they are afforded the opportunity to participate in the planning of such treatment.
2. Advise the Patients' Rights Office of all specialized treatment plans submitted to the Patient Care Committee for approval.

C. Program Director:

1. Promotes and protect the rights of all Individuals in their respective programs.
2. Ensures annual training to all program staff.
3. Ensures that the policies, procedures, and practices in their program are consistent with the Patients' Rights Advocacy program. To assure that supervisory and clinical staff have received appropriate Patients' Rights training and are familiar with Patients' Rights, Denial of Rights, and the complaint process.
4. Effects the processing of Individuals' complaints in the program and final program level review and resolution.
5. Ensures that Individuals are notified of their rights, verbally and in writing, upon initial admission and transfer to a new unit and at least annually. To ensure that Individuals are evaluated for their level of understanding of their rights during each monthly team conference.
6. Reviews for appropriateness, authorize, and sign each Denial of Right submitted by the Interdisciplinary Team. To resolve all complaints regarding Denial of Rights at program level.

D. Medical Director provides the Patients' Rights Office with a quarterly statistical report of the program's Denial of Rights/restraints and seclusion, specialized treatment plans.

E. Hospital Administrator:

1. Ensures that all administrative personnel are familiar with the Patients' Rights Advocacy program.
2. Ensures that policies and practices of administrative services are consistent with this policy.

F. Clinical Administrator:

1. Ensures that all program management, supervisory, and clinical staff have received appropriate Patients' Rights training and are familiar with Patients' Rights, denial of rights, and the complaint process.
2. Ensures that all treatment programs' policies, procedures, and practices are consistent with this policy.

G. Patients' Rights Advocate:

1. Ensures that a list of legal and constitutional rights, the complaint procedure, and the name, address, and phone number of the Director of the California Office of Patients' Rights and the hospital advocate are posted on each unit.
2. Ensures that all Individuals are notified of their rights, verbally and in writing, upon admission; change of legal status, transfer and admission to a new unit, and at least annually.
3. Assists in the development of Patients' Rights yearly training plans for facility staff. Assist in the identification of specific training needs for identified staff. Provide annual training on the complaint process, denial of rights, and Patients' Rights to all Program Directors and designated program Patients' Rights primary resource persons.
4. Investigates complaints from Individuals, relatives, conservators or other interested persons. The advocate has unlimited access to any portion of the facility relevant to the investigation of Individuals' complaints. The advocate has unrestricted access to clinical records and all third-party information relating to the treatment, care, and custody of the Individual.
5. Acts as advocate on behalf of Individuals who are unable to register a complaint because of their mental or physical condition or state of confinement.
6. Acts as a local consultant in the area of Patients' Rights: The advocate will review and may comment on proposed policies, procedures, regulations, guidelines, and statutes impacting or relating to Individual or resident rights. This includes the authority to review programs, departments, and hospital policies and procedures.
7. Provides the California Office of Patients' Rights and Executive Director with quarterly statistical reports of complaints, Denial of Rights/restraints and seclusion.
8. To act as liaison to the California Office of Patients' Rights, CSH, and the DMH.

9. The advocate shall have unrestricted authority to contact any individual, group, or agency within or outside DMH on behalf of an Individual who requires legal or other assistance in an attempt to resolve issues that are not resolvable within DMH. Prior to contact, the advocate will consult with the Executive Director.

H. Executive Director:

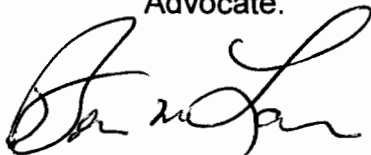
1. Ensures that the facility has an effective Patients' Rights Advocacy Program and all personnel are familiar with the program.
2. Ensures that all policies, procedures, and practices at CSH are consistent with the Department's Patients' Rights Advocacy Program policies.
3. Provides final local review and resolution of all complaints and resolve all complaints regarding Denial of Rights.

I. Individuals:

1. Cooperates with hospital personnel and follow hospital rules and regulations affecting Individual care and conduct. All Individuals should assist in creating and maintaining an atmosphere where fellow Individuals may involve themselves in treatment and exercise their legal rights.
2. Provides, to the best of his knowledge, accurate and complete information regarding complaints of perceived violations of rights. All complaints should be valid, non-frivolous, and sincere.
3. Individuals should advise staff when he has not been given a copy of a list of his rights or does not understand his rights.

IX. TRAINING

- A. All treatment staff shall attend Patients' Rights Orientation within thirty (30) days of employment and participate in updated training annually.
- B. Program and/or unit staff may request specialized training on specific rights, issues, and concerns through their program trainers or the Patients' Rights Advocate.



BEN MCLAIN
Executive Director (Acting)

Cross Reference(s):

- A.D. No. 552 Restraint and Seclusion
- A.D. No. 581 HIPAA Patients' Access to the Medical Record
- A.D. No. 606 Compliant Procedure, Individuals
- A.D. No. 610 Procedure for Documentation of Denial of Rights
- A.D. No. 612 Patients' Rights, Treatment Related Issues
- A.D. No. 618 Marriage of Individuals
- A.D. No. 624 Individuals' Mail and Packages
- A.D. No. 626 Individuals' Property and Storage
- A.D. No. 644 Trust Office Functions
- A.D. No. 738 Individual Visiting Regulations
- A.D. No. 818 Contraband
- A.D. No. 842 Individuals' Dress Code and Clothing Regulations