

This booklet was prepared by the Disability Law Center of Alaska with grants from the State of Alaska's Division of Mental Health and Developmental Disabilities and the Substance Abuse & Mental Health Services Administration, Center for Mental Health Services. The substance and findings of both organizations' work are dedicated to the public. The authors and publishers are solely responsible for the accuracy of the statements and interpretations in this publication. Such interpretations do not necessarily reflect the views of the Government.

This free booklet is available from:

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Toll free in Alaska 1-800-478-1234

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INTRODUCTION

Anyone who is voluntarily or involuntarily admitted to a **mental health facility** or receives services from a **community mental health center** in Alaska can use this book.

This booklet tells what some of your rights are, such as:

1. The right to be treated with Dignity
2. The right to good psychiatric treatment
3. The right to protection from discrimination
4. The right to have your questions answered

No booklet can answer all your questions. For example, this booklet won't tell you about your rights in the actual court commitment process. You'll need to call your attorney for that information. If you have other questions call the Disability Law Center at 1-800-478-1234.

Part 1

CIVIL AND LEGAL RIGHTS

CIVIL AND LEGAL RIGHTS RETAINED DURING COMMITMENT

- * Patients admitted to, or receiving services from, a mental health facility, whether voluntarily or involuntarily, are entitled to the legal rights guaranteed by the constitutions and laws of the United States and the State of Alaska.

For example, you have the following rights:

- * The right to due process and equal protection of the law.

- * The right to be treated in the least restrictive environment possible.
- * The right to talk to an advocate or attorney.
- * The right to give informed consent regarding mental health treatment, medical treatment and/or medication.
- * The right to enter contracts, marry and divorce.
- * The right to sell, own or buy property.
- * The right to register and vote.
- * The right to have a driver's license.
- * You also retain all other legal rights not specifically taken away by the court. If any restrictions are placed in your commitment order, these restrictions automatically expire

when your commitment period is over.

RIGHT TO BE FREE FROM DISCRIMINATION

You may not be discriminated against because you were committed to a mental health facility, received an evaluation, or received mental health treatment. Both Federal and Alaska law prohibit discrimination on this basis when you are: applying for a job; working at a job; buying a house; or, keeping or applying for licenses and permits.

RIGHT TO BE INFORMED OF YOUR RIGHTS AND TO HAVE THEM POSTED

Every patient must receive a written copy of his or her rights under state and federal mental health laws after

being admitted to a mental health facility. Your rights must be explained to you in a language you can understand.

A copy of your rights must also be posted in all units or wards and all other appropriate locations.

RIGHT TO HAVE CONFIDENTIALITY OF RECORDS MAINTAINED

The mental health facility must keep complete and confidential records on every patient. As a general rule, you must give written permission, by signing a release of information before the facility can allow your records to be released to anyone other than yourself. However, according to Alaska law, your records can be released without your permission to certain people under certain conditions. For example,

your records can be released to: professionals charged with your evaluation, treatment or with providing appropriate referrals; any attorney assigned to represent you; certain research projects with appropriate measures to preserve your anonymity; to the insurance company, or medical assistance programs for claims on your behalf.

RIGHT OF ACCESS TO PATIENT ADVOCATE OR LAWYER

You have the right to talk with an advocate from client advocacy organizations, or any other qualified advocate to help you understand your rights. This includes the right to have private conversations with your advocate or attorney.

You have the right to contact your attorney or the Disability Law Center

of Alaska at no cost. The Disability Law Center protects and advocates for the rights of individuals labeled mentally ill.

You can reach the Disability Law Center of Alaska at the following numbers:

Anchorage: 344-1002

Juneau: 586-1627

Fairbanks: 456-1070

Bethel: 543-3357

(Each office has a TDD.)

Statewide toll-free:

1-800-478-1234 (Anchorage office)

Part 2

THE RIGHT TO DIGNITY AND RESPECT

RIGHT TO BE TREATED WITH DIGNITY

You have the right to be treated with dignity and respect while you are receiving services from any Alaska mental health care facility.

RIGHT TO PRIVACY

You are entitled to the maximum amount of privacy consistent with the effective delivery of services to you.

RIGHT TO FREEDOM FROM UNNECESSARY SEARCHES

You have the right not to have your possessions searched without probable cause.

Part 3

RIGHT TO A SAFE AND HUMANE LIVING ENVIRONMENT

You have the right to a safe and humane psychological and physical environment while you are at a mental health facility. The facility must provide for your safety and comfort. It must also promote dignity and ensure appropriate privacy with regard to your personal needs.

RIGHT TO VISIT AND RECEIVE VISITORS

You are entitled to the same right to visit and receive visitors at reasonable times as patients at any public hospital. However, the treatment team responsible for your

treatment has the authority to impose certain written restrictions on you for treatment purposes.

Any order denying access to certain individuals must include the reasons for such denial and must be for a specific, limited and reasonable period of time. Any restriction must be periodically reviewed. You have the right to have a telephone conversation with or be visited by an attorney.

RIGHT TO PRIVATE TELEPHONE CONVERSATIONS

You have the right to reasonable access to a telephone, both to make and receive private or confidential calls, the same as at any public hospital. However, the professional person responsible for your treatment

has the authority to impose certain limited written restrictions on you for treatment purposes. Any phone restrictions must be periodically reviewed.

RIGHT TO SEND AND RECEIVE MAIL

You have the right to send sealed mail without restriction. You have the right to ready access to letter writing materials and postage, which you may request from unit staff.

You have the right to receive unopened mail, without restriction, from your attorneys, private doctors, other professional persons, courts and government officials. You also have the right to receive sealed mail from others.

If there is reason to believe your mail may contain contraband (an illegal

item) or a dangerous item, you may have to open the mail in the presence of an appropriate person.

RIGHT TO WEAR YOUR OWN CLOTHING

You have the right to wear your own personal clothing, and to keep and use personal possessions including toilet articles, unless they are found to be dangerous to you or to other patients who might have access to them. At the time of admission it may be necessary to mark your clothes so they won't get lost. They will be returned to you as quickly as possible.

HYGIENE AND GROOMING

You have the right to determine your own hair style or grow a beard.

The facility may require only that you follow reasonable sanitation and grooming standards.

RIGHT TO READ BOOKS AND MATERIALS OF YOUR OWN CHOOSING

You have the right to read books and materials of your own choosing, unless the professional person in charge of your treatment determines that particular materials pose a threat to your safety or well being or that of other patients.

RIGHT TO KEEP AND SPEND YOUR MONEY

You have the right to keep and be allowed to spend a reasonable amount of your own money for your needs and comforts.

PATIENT FINANCES

If you are a patient at API, your money will be put into an individual patient account in your name. You will be allowed to keep a limited amount of money with you on the unit for incidental spending. Hospital rules allow you to request money on a scheduled weekly basis from your account. If you have an unexpected need for additional money from your account, you can request staff assistance to fill out your request.

RIGHT TO PRACTICE YOUR RELIGION

You have the right to practice the religion of your choice. The facility must make reasonable provisions for this religious worship.

Religious worship may not be forced on you or required of you.

RIGHT TO EDUCATION

As an individual with a mental disability, you have the right to a free and appropriate education up to the age of 18. In some cases, persons from 19 years to 21 years of age are also eligible.

RIGHT TO ADEQUATE DIET

You have the right to be provided with a nutritionally sound and medically appropriate diet. The facility is required to conduct a nutritional evaluation of you within the first week after you are admitted.

If you have special medical or religious dietary needs, the facility

must provide for them. The facility must take appropriate steps to correct any nutritional deficiencies found during your nutritional evaluation.

RIGHT NOT TO BE PHOTOGRAPHED EXCEPT FOR CONFIDENTIAL IDENTIFICATION UNLESS YOU WANT TO

A facility may photograph you for identification when you are admitted there. These photos are confidential.

You or your guardian must give consent for any other non-medical photographs to be taken or used.

RIGHT TO REGULAR EXERCISE

You have the right to exercise and recreation several times a week.

The facility must provide reasonable opportunities and areas for exercise and recreation.

RIGHT TO INTERACT WITH THE OPPOSITE SEX

You have the right to interact with members of the opposite sex, unless there is an order which indicates such interaction is not appropriate to your treatment at that time.

PATIENT LABOR

You can not be required to perform labor which involves the operation and maintenance of the facility, but you can voluntarily perform such labor and the facility must reimburse you for it.

You may be required to perform

therapeutic tasks which do not involve the facility's operation and maintenance if the task is part of your treatment plan.

If the task is something the facility would otherwise have to pay someone to do, you must be paid for it.

Part 4

TREATMENT RIGHTS

RIGHT TO APPROPRIATE TREATMENT

You have the right to appropriate treatment under conditions that are supportive of your personal liberty. Your liberty can not be restricted except as reasonably necessary for your treatment or for the protection of you or others from physical injury.

RIGHT TO BE FREE FROM UNNECESSARY PHYSICAL RESTRAINT AND SECLUSION.

Physical restraints (soft ties) or seclusion (locked quiet room) may not be used unless you are likely to

physically harm yourself or others unless restrained. You should be consulted about your preferences among adequate medically advisable restraints, including medication. If you are in restraints or seclusion, you must be visited hourly, and have adequate opportunity for exercise, access to bathroom facilities, and time out of restraints or seclusion. Your medical record must include the reason for use of restraint or seclusion, the time you spent in restraints or seclusion, and the authorizing staff member.

RIGHT TO VOLUNTARY TREATMENT

If you are held for treatment against your will, you must be advised of the need for voluntary treatment. If you accept voluntary treatment, you may leave when you want, unless

the hospital starts involuntary commitment proceedings. The hospital has 48 hours in which to evaluate you before filing for involuntary commitment.

PAYMENT RIGHTS

You or your family may be billed for some or all of your treatment, according to ability to provide for payment. If you are transported to a facility for involuntary commitment, your return transportation will be paid for.

RIGHT TO CONSENT TO TREATMENT

You have the right to give or withhold consent to your treatment if you are capable of giving informed

consent, unless the situation is a crisis or impending crisis.

RIGHT TO EARLY DISCHARGE

If you are involuntarily committed, but you are no longer gravely disabled or likely to cause serious harm, you must be discharged.

RIGHT TO TREATMENT PLAN

You have the right to an individualized in-depth treatment plan developed by your treatment team within 4 days of your admission. The plan must include:

1. specific goals and objectives directed toward improving your symptoms and behavioral problems;

2. frequent notes about your progress and responses to treatment, and all bad effects or complications of treatment;
3. frequent notes about why involuntary confinement is still necessary;
4. a plan for when you go home that fits your needs for social, family and treatment supports.

RIGHT TO PARTICIPATE IN PLANNING YOUR TREATMENT

You have the right to participate in the on-going planning of your mental health services. If you request, your family members, your guardian, a mental health professional who has worked with you before, your lawyer, other representative, or close friends must be involved in

planning. You may request specific forms of therapy. You must receive an explanation, in terms you can understand, of:

1. Your general condition and prognosis,
2. Treatment goals and objectives,
3. Any bad effects of the treatment,
4. Reasons this treatment is considered appropriate,
5. What, if any, alternative treatment services are appropriate and available.
6. Why specific therapies are or are not included in the treatment plan.

Your treating physician may not withhold any of this information from you.

permanent residence, or another suitable place. If you are transported to a facility for involuntary commitment, your return transportation will be paid for.

RIGHT TO APPROPRIATE REFERRALS ON DISCHARGE

Planning for your discharge should begin when you are admitted. You have the right to participate in developing and implementing this discharge plan. Upon your discharge, the facility must give you a discharge plan. The plan must include an agreement by agencies and individuals in your home community that will give you a network of services and support with the least restriction necessary. If you are indigent you shall receive suitable transportation to your

RIGHT TO BRING GRIEVANCES

You have the right to bring grievances about your treatment, care or rights to an impartial group in the facility. You must be informed of the existence and contents of the grievance procedure. A staff member must assist you with your complaints.

RIGHT TO PROMPT AND ADEQUATE MEDICAL TREATMENT

You have the right to receive prompt and adequate medical treatment for any physical ailment you have.

The facility must be sure to coordinate your psychiatric treatment and any medical treatment you need.

without your informed, voluntary, written consent.

Alaska law prohibits experimental treatment involving any significant risk of physical or psychological harm to you.

DIET MAY NOT BE USED AS PUNISHMENT

You can not be denied an adequate diet. Denial of food cannot be used as a punishment.

RIGHT TO BE FREE FROM ABUSE AND NEGLECT

You have the right to be free from abuse and neglect or the threats of abuse and neglect while you are receiving services at any mental health facility in Alaska. Abuse and neglect of persons labeled mentally ill is against the law.

RIGHT NOT TO BE SUBJECTED TO EXPERIMENTATION

You have the right not to be used in experimental treatment or research

If you believe you have been abused, neglected or threatened by anyone while you are in the facility you should report it. You and others can be better protected if you report abuse and neglect.

You may report abuse or neglect to any or all of the following:

- * A hospital or facility staff member, preferably one in charge of your treatment
- * The Patients Rights Committee at API, or similar committees at other facilities
- * Disability Law Center of Alaska
- * The local police or district attorney
- * Other local advocacy groups in your area such as the Alliance for the Mentally Ill, Mental Health

Consumers of Alaska, and the Alaska Mental Health Assoc.

- * The state ombudsman

Telephone numbers are listed at the end of this manual for the Disability Law Center of Alaska, the Alliance for the Mentally Ill, Mental Health Consumers of Alaska, and the Alaska Mental Health Association.

Part 5

MEDICATIONS

RIGHT TO FREEDOM FROM UNNECESSARY OR EXCESSIVE MEDICATION

You have the right to be free from unnecessary or excessive medication.

USE OF MEDICATIONS

Listed below are general rules which apply to medications prescribed for you while you are a patient at API or other designated mental health facility.

Medication can be given only with a doctor's written order.

Medications must be reviewed at least weekly and the order must have a maximum 30 day termination date.

Medications may not be used as punishment.

Medications may not be used for the convenience of the staff.

Medications may not be used as a substitute for a treatment program.

INFORMED CONSENT NECESSARY FOR MEDICATIONS

You have the right to give or withhold consent to take psychotropic or other medications if they are prescribed to you, unless it is an emergency. Your consent must be written in your records. If you give consent, you may later withdraw your consent. If the court

finds you lack the capacity to consent, the court may order involuntary medication. If you are involuntarily committed, the court may order involuntary medication at the time of your commitment.

RIGHT TO BE GIVEN ALL INFORMATION ABOUT MEDICINE

If medication is prescribed in your treatment plan, you must be given the following information:

1. an explanation of your diagnosis and prognosis, or your major symptoms, with and without the medication;
2. the purpose of the medication, possible benefits and side effects, such as Tardive Dyskinesia and other conditions, ways to treat side effects, and

recommended ranges of dosages;

3. a review of your medication history and previous side effects from medication;
4. an explanation of interactions with other drugs, including alcohol and street drugs;
5. information about other treatments and risks of nontreatment;
6. a statement about your right to withhold consent, the procedure for withdrawing consent, and notice that a court may override your refusal.

COURT ORDERED MEDICATION

If your doctor believes you are incapable of giving informed consent, or there will be repeated crisis situation, the facility may seek a court order for medication. You are entitled to a lawyer at the hearing, and a lawyer will be appointed if you cannot afford one.

QUESTIONS YOU MAY WANT TO ASK ABOUT MEDICINE

You have the right to know the name of the medication that you are asked to take, what its purpose is, and what side effects can occur with the medication.

You may want to ask some of these questions:

- * Why should I take this medication?
What will happen if I don't take it?
- * Can I be treated without medication?
Can I have a second opinion?
- * What is the name of the medication prescribed for me?
- * How is it supposed to help me? How soon will I notice a difference?
- * How is it supposed to make me feel?
What are the "side effects" of the medication? Will it affect any other medical or physical problems I have?
- * Are there side effects I should report immediately?

- * Is it similar to, or different from, the medication I was taking before this?
- * How much should I take? How many times a day? What time of day? Before or after meals? What would happen if I took too much?
- * Is it all right if I drink alcohol or beer when taking this medication?
- * Is there any food or other drink I should avoid while taking this medication?
- * Are there other medications I should avoid when taking this medication?
- * Will this medication affect my interest in sex? Will this medication affect any other activities, such as driving, etc.?

- * (For women) Will this affect my menstrual periods? Should I take the Pill while taking this medication? If I get pregnant while taking this medication, could it have any affect on my baby? Should I take it while nursing?
- * Is there anything else I should know about this medicine? How often will you review with me what the medication is doing?
- * How long will I need to take this medication? How soon may I take this medicine?
- * If I take this medication for a long time, what can it do to me?
- * What is tardive dyskinesia (TD)? Can I get TD from taking this medication? Can something be done to avoid this?

- * What will happen if I stop taking this medication? Can I be forced to take it?
- * Can I become addicted to this medicine?

Part 6

OUTPATIENT RIGHTS

LEGAL RIGHTS RETAINED

If you are receiving mental health treatment at a community mental health center, you have the legal rights and responsibilities guaranteed to all other U.S. and Alaska persons under the Constitution and statutes of the United States and the State of Alaska.

CLIENT BILL OF RIGHTS

Every community mental health center in Alaska must post a notice of client rights. This list of rights must include:

1. Your right to participate in planning your treatment plan. This includes your ability to:
 - * ask for specific forms of therapy
 - * be notified why specific forms of therapy are not made available
 - * refuse specific forms of therapy
 - * be informed of the likely results of your treatment
2. Your right to review your treatment record with a staff member.
3. Your right to be informed by the prescribing physician of the name, purpose, and possible side effects of the medication prescribed as part of your treatment plan.
4. Your right to request and receive a copy of a summary of your treatment, including follow-up plans.

5. Your right to confidentiality. This right is discussed on the page.

CONFIDENTIALITY

You have the right to have all records and information about your treatment at a community mental health center kept confidential. Generally, the community mental health center can release information and records about your treatment only if you, or your authorized representative (such as a legal guardian), sign a written release of information.

The written release of information must include your name, the beginning and end dates of the authorization, the specific information to be released, the name (or names) of the authorized recipient(s) of the information, and your signature or the signature of your authorized representative.

There are a few situations in which the community mental health center can release information without your written consent. These include, but are not limited to:

- * a person authorized by a court order to obtain this information
- * a designated hospital to which a client is committed
- * direct health service personnel if a medical or psychological emergency arises
- * mental health professionals who are evaluating the services of the community mental health center
- * insurance or medical assistance providers, to the extent necessary to process a claim

INFORMED CONSENT FOR NON-STANDARD PROCEDURES

A community mental health center must obtain written and “informed” consent from you before conducting experimental treatments, nonstandard treatment, or having you participate in education or demonstration programs, such as the use of audio visual equipment or one-way mirrors.

“Informed” means you have been given complete information about the treatment or program, its potential risks and benefits, and the reason(s) the community mental health center believes this treatment or program would be beneficial to you.

WHO TO CALL ABOUT YOUR RIGHTS

Disability Law Center of Alaska
615 E. 82nd Avenue, Suite 101
Anchorage, Alaska 99518
(907) 344-1002 or (800) 478-1234

Juneau office:
230 South Franklin, Suite 209
Juneau, Alaska 99801
(907) 586-1627

Fairbanks office:
250 Cushman, Suite 3H
Fairbanks, Alaska 99701
(907) 456-1070

Bethel office:
P.O. Box 2303
Bethel, Alaska 99559
(907) 543-3357

Mental Health Consumers of Alaska
101 East 9th Avenue, Suite 3-A
Anchorage, Alaska 99501

(907) 277-3817

Alaska Alliance for the Mentally Ill
110 W. Fifteen Ave., Suite B
Anchorage, AK 99501
(907) 277-1300

AK Mental Health Association
4050 Lake Otis Parkway, Suite 202
Anchorage, AK 99508
(907) 563-0880