

## MENTAL HEALTH ADVOCACY PROJECT

*Asistencia Legal Para La Salud Mental*  
*Law Foundation of Silicon Valley*

111 West St. John Street, Suite 315

San Jose, California 95113

(800) 248-MHAP • Fax (408) 293-0106 • Telephone (408) 294-9730

### PATIENTS' RIGHTS ADVOCATES

#### **What are Patients' Rights Advocates?**

Under California law, each county must appoint a patients' rights advocate with the responsibility to protect the rights of direct consumers of mental health treatment.<sup>1</sup> In Santa Clara County, the advocates are employees of the Mental Health Advocacy Project, an independent, private non-profit agency. The duties of patients' rights advocates include:

- Investigating and resolving complaints received about violation or abuse of patients' rights.
- Ensuring that mental health consumers are notified of their legal rights and remedies.
- Training staff in mental health facilities regarding patients' rights.
- Monitoring of the mental health system through review of policies and practices of mental health facilities.
- Providing analysis and recommendations for compliance with patients' rights laws.<sup>2</sup>

In addition, everyone who is certified for 14 days of involuntary mental health treatment is entitled to have a certification review hearing. Certification review hearings are informal legal hearings held at a psychiatric facility to determine whether there is sufficient legal justification to continue an involuntary detention. Patient advocates represent clients at these hearings.<sup>3</sup>

#### **Whose interests do patient advocates represent?**

Patient advocates represent the client's legal interest as defined by the client, so long as those interests are within the boundaries of the law and achievable within the advocates' resources. Advocates counsel clients about available legal options and the implications of those options and assist the client to make an informed choice. Advocates will not impose their own views about what is "best" for the client.

---

<sup>1</sup> 9C.C.R. 863.2

<sup>2</sup> Cal. Welf. & Inst. Code §5520

<sup>3</sup> Cal. Welf. & Inst. Code §5256

### **What access do advocates have in a facility?**

Patients' rights advocates may enter facilities to respond to and investigate a patients' rights complaint. The authority to interview staff and to inspect and copy medical charts and records relevant to an investigation of a complaint is guaranteed by law, as is access to records for purpose of auditing or monitoring a facility for compliance with patients' rights laws. Patient advocates may enter facilities to conduct certification review or other mental health hearings but will not review confidential records without permission from the client.<sup>4</sup>

### **What is the value of patient advocacy?**

Advocates can help improve communication, diffuse tensions and resolve conflicts when disagreements arise between the consumer and a service provider. By reviewing policies and practices, advocates help prevent future conflicts by making the mental health system more responsive and humane in delivering mental health services. Advocates also help generate public awareness and support for financial, medical and social progress in mental health treatment. When consumers become involved in advocacy, they grow in independence and self-esteem.

Updated 7.04

---

<sup>4</sup> Cal. Welf. & Inst. Code §§5530, 5541, 5542, 5545