



EFE FACT SHEET – Mental Health

TREATMENT PLAN AND ACCESS TO RECORDS IN ILLINOIS

Statutory References: 405 ILCS 5/2-102, 5/3-209; 740 ILCS 9.2 and 110/1-110/13

Treatment or Service Plan

When you receive mental health services in a facility, you have the right to:

- Adequate and humane care;
- Placement in the least restrictive environment;
- An individual plan for services or treatment (treatment plan) prepared within three days after your admission to a facility;
- The opportunity to participate in creating and reviewing your treatment plan;
- Designate a family member, guardian or other person to participate in your treatment plan; and
- Communicate with your therapist about your care and treatment. (See Glossary of Mental Health Terms Fact Sheet).

The treatment plan must include the following:

- An assessment of your treatment needs;
- A description of the treatment services being recommended for you;
- The goals of each type or part of the service;
- How long the therapist thinks it will take to accomplish the goals; and
- The name of the staff person (therapist) responsible for implementing the plan.

The treatment or service plan must:

- Be reviewed and updated by your therapist as needed at least every 30 days; and
- Be filed with the court if you are receiving services because of a court order.

Who Has the Right to Access Your Records?

Person with a Disability

You have the right to access your records. This means you can:

- Look at, copy and challenge what is said about you in the records;
- If you disagree with what is written in your records, you can write your own version of what happened and have that included in the records;
- If you are under 18 years old or need assistance understanding what is written in your records, staff will help you;
- You may be charged a fee for the copies; and
- If you cannot afford to pay for the copies, you can get them for free by writing a letter to the person or the facility where the records are kept requesting that no fee be charged.

Therapist and Staff

- Your therapist has the right to access your records.
- Staff members at the facility where you receive services also have access to your records including nurses and other medical staff who use the records to help provide care and treatment to you.
- Administrative staff for billing, insurance and other office business related to your care and treatment also have access.

Parent or Guardian

- Parents and guardians have the right to access the mental health records of their children or wards who are under 12 years old and receiving mental health services.
- Parents or guardians may have access to the records of a minor between the ages of 12 and 17 if the minor does not object or if the therapist approves.
- If the minor or therapist objects, the parent or guardian can go to court to ask a judge to grant the parent access to the records.
- Parents and guardians of children under 18 always have the right to be told their child's current physical and mental condition, diagnosis, treatment needs, services needed and received and medication he or she has been given.

Disclosure of Your Records Without Your Permission

The law permits disclosure of your records without your permission in several circumstances described in the Mental Health and Developmental Disabilities Confidentiality Act (740 ILCS 110/1), including:

- Your therapist can disclose records or information without your permission to his or her supervisors, other therapists who are consulted about your care and staff members of the therapist's office or facility involved in your care;

- Your records or information from your records may be disclosed without your permission for billing, insurance and other office business related to your care;
- Your records may be disclosed without your permission between the Department of Human Services and community agencies funded by the Department for admission, treatment, planning or discharge purposes;
- Your records may be disclosed without your permission to the Office of the Inspector General for the Department of Human Services during an investigation of abuse or neglect;
- A therapist may disclose your records or information from them to his or her attorney and malpractice insurance and its attorneys concerning the care or treatment the therapist provided you; or
- If an attorney or guardian ad litem has been appointed by a court and the court gives permission to that person, he or she may review your records without your permission.

Redisclosure of Records

No one may redisclose (show or give) your records to anyone else without your consent unless permitted by law or authorized by a court.

Limited Access to Records

Certain other agencies will have limited access to records without your consent but only for specific purposes such as research, statistics or review.

Access with Consent

A general release of medical records does not meet the legal requirements for a valid consent to release mental health records.

Whenever you give consent for mental health records to be released, inspected or copied, the release must be in writing and signed by you and must include:

- The name of the person or agency to whom the records are being released;
- The reason the records are being disclosed;
- The kind of records to be disclosed;
- The consequences of refusing to consent, if any; and
- The date the consent ends.

Anyone with your written and signed consent may have access to your records.

Canceling the Consent

You may cancel the consent at any time.

The cancellation must be done in writing, be signed by you and be witnessed by someone else.

The cancellation takes effect once the person you previously gave written consent to has received the signed cancellation document.

If an Advance Directive has been created, your substitute decision maker will have the power to consent to the release of records if he or she has been given this authority.

Note: *Any Advance Directives should be copied and kept with your records along with contact information for the substitute decision maker named in the directive.*



DO YOU HAVE A QUESTION?

Contact Equip for Equality (all services are free of charge):

800.537.2632 (voice) or 800.610.2779 (TTY)

Contactus@equipforequality.org

www.equipforequality.org

This resource material is intended as a guide for people with disabilities. Nothing written here shall be understood to be legal advice. For specific legal advice, an attorney should be consulted.

Equip for Equality, an independent nonprofit organization, is the Illinois state Protection & Advocacy System whose mission is to advance the human and civil rights of children and adults with disabilities.

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