

Kansas Administrative Regulations

Kansas Department for Children and Families

Article 60.—Licensing of Community Mental Health Centers

30-60-50. Statement of rights; distribution; adherence to.

(a) Each center shall publish and make available at the center, at the principal place of business of each affiliated provider with which the center has an affiliation agreement, and at other appropriate locations a written statement of the rights of consumers.

(b) Each consumer receiving services from any licensee providing services within the center's service area shall be given a copy of this statement during intake or at the consumer's first appointment, and again at least annually thereafter. Staff shall provide oral or other appropriate explanations that may be required to assist the consumer in understanding the consumer's rights. Delivery of this statement and the provision of any necessary explanations to each consumer shall be documented in that consumer's clinical record required by K.A.R. 30-60-46.

(c) This statement of rights shall contain information that lists the following rights, at a minimum:

(1) The right of the consumer to always be treated with dignity and respect, and not to be subjected to any verbal or physical abuse or exploitation;

(2) the right of the consumer not to be subjected to the use of any type of treatment, technique, intervention, or practice, including the use of any type of restraint or seclusion, performed solely as a means of coercion, discipline, or retaliation, or for the convenience of staff or any volunteer or contractor;

(3) the right of the consumer to receive treatment in the least restrictive, most appropriate manner;

(4) the right of the consumer to an explanation of the potential benefits and any known side effects or other risks associated with all medications that are prescribed for the consumer;

(5) the right of the consumer to an explanation of the potential benefits and any known adverse consequences or risks associated with any type of treatment that is not included in paragraph (c)(4) and that is included in the consumer's treatment plan;

(6) the right of the consumer to be provided with information about other clinically appropriate medications and alternative treatments, even if these medications or treatments are not the recommended choice of that consumer's treating professional;

(7) the right of a consumer voluntarily receiving treatment to refuse any treatments or medications to which that consumer has not consented, in compliance with the consumer's rights;

(8) the right of a consumer involuntarily receiving treatment pursuant to any court order to be informed that there may be consequences to the consumer if the consumer fails or refuses to comply with the provisions of the treatment plan or to take any prescribed medication;

(9) the right of the consumer to refuse to take any experimental medication or to participate in any experimental treatment or research project, and the right not to be forced or subjected to this medication or treatment without the consumer's knowledge and express consent, given in compliance with the consumer's rights, or as consented to by the consumer's guardian when the guardian has the proper authority to consent to this medication or treatment on the consumer's behalf;

(10) the right of the consumer to actively participate in the development of an individualized treatment plan, including the right to request changes in the treatment services being provided to the consumer, or to request that other staff members be assigned to provide these services to the consumer;

(11) the right of the consumer to receive treatment or other services from a licensee in conjunction with treatment or other services obtained from other licensed mental health professionals or providers who are not affiliated with or employed by that licensee, subject only to any written conditions that the licensee may establish only to ensure coordination of treatment or any services;

(12) the right of the consumer to be accompanied or represented by an individual of consumer's own choice during all contacts with the licensee. This right shall be subject to denial only upon determination by professional staff that the accompaniment or

representation would compromise either that consumer's rights of confidentiality or the rights of other individuals, would significantly interfere with that consumer's treatment or that of other individuals, or would be unduly disruptive to the licensee's operations;

(13) the right of the consumer to see and review the clinical record maintained on that consumer, unless the executive director of the licensee has determined that specific portions of the record should not be disclosed. This determination shall be accompanied by a written statement placed within the clinical record required by K.A.R. 30-60-46, explaining why disclosure of that portion of the record at this time would be injurious to the welfare of that consumer or to others closely associated with that consumer;

(14) the right of the consumer to have staff refrain from disclosing to anyone the fact that the consumer has previously received or is currently receiving any type of mental health treatment or services, or from disclosing or delivering to anyone any information or material that the consumer has disclosed or provided to any staff member of the licensee during any process of diagnosis or treatment. This right shall automatically be claimed on behalf of the consumer by the licensee's staff unless that consumer expressly waives the privilege, in writing, or unless staff are required to do so by law or a proper court order;

(15) the right of the consumer to exercise the consumer's rights by substitute means, including the use of advance directives, a living will, a durable power of attorney for health care decisions, or through springing powers provided for within a guardianship; and

(16) the right of the consumer to at any time make a complaint in accordance with K.A.R. 30-60-51 concerning a violation of any of the rights listed in this regulation or concerning any other matter, and the right to be informed of the procedures and process for making such a complaint.

(d) Each licensee providing any services within the service area of the center shall at all times adhere to each of these consumer rights.

(Authorized by K.S.A. 65-4434(f), 39-1603(r), and 75-3307b; implementing K.S.A. 39-1603, 65-4434(f), 75-3304a, and 75-3307b; effective Oct. 28, 1991; amended July 7, 2003.)

***** Authenticated Kansas Administrative Regulation *****