
DEPARTMENT OF MENTAL HEALTH

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March 12, 1996

DMH INFORMATION NOTICE NO.: 96-03

TO: LOCAL MENTAL HEALTH DIRECTORS
LOCAL MENTAL HEALTH PROGRAM CHIEFS
LOCAL MENTAL HEALTH ADMINISTRATORS
COUNTY ADMINISTRATIVE OFFICERS
CHAIRPERSONS, LOCAL MENTAL HEALTH BOARDS

SUBJECT: IMPLEMENTATION OF NATIONAL VOTER REGISTRATION ACT
(NVRA) OF 1993

REFERENCE: National Voter Registration Act 42 United States Code Section
1973gg

EXPIRES: Retain Until Superseded
(Use In Conjunction With DMH Information Notice No.: 95-19)

The purpose of this information notice is to provide additional implementation instructions and follow-up on the National Voter Registration Act (NVRA) of 1993 to those individuals providing services in the mental health system. The NVRA was effective January 1, 1995. On May 4, 1995, the United States District Court required the state to implement its previously submitted plan (Chapter 4, Voter Registration at Social Services Agencies). DMH Information Notice No. 95-19 provided the counties with information on the implementation of the NVRA. However, it has come to our attention that some mental health providers would like further direction and clarification as to their roles and responsibilities under the provisions of the NVRA. This notice is intended to address questions most frequently asked by county mental health providers and state contract providers.

To whom and when are voter registration services provided?

With very specific and limited exceptions, psychiatric patients, including those held involuntarily, have the right to vote. Persons under conservatorship may exercise this right unless the court decides otherwise. Section 2208 of the California Elections Code states that a person is deemed mentally-incompetent and therefore disqualified from voting if a guardian or conservator is appointed and during the course of any such proceedings the court specifically finds that the person is not

capable of completing an affidavit of voter registration. Persons judicially committed such as Not Guilty by Reason of Insanity (NGI), Penal Code Section 1026; Incompetent to Stand Trial (IST), Penal Code Section 1370; Mentally Disordered Sex Offenders (MDSO's), Welfare and Institutions Code Section 6316; and Mentally Disordered Offenders (MDO's), Penal Code Section 2684, are all ineligible to vote while still under commitment, except for MDO's who are no longer on parole even though still under an MDO commitment.

Because the mental health delivery system is so diverse, each provider should attempt to offer voter registration services at an initial intake interview for mental health consumers, except when the mental health consumer is in a crisis situation. The focus of crisis services is stabilization and crisis resolution, assessment of precipitating and attending factors, and recommendations for meeting identified needs. However, once a mental health consumer is determined to no longer be in a crisis situation and capable of making decisions, the voter registration service should be offered as soon as practically possible. The determination of when the voter registration services should be offered is a judgment call for the appropriate mental health staff.

Who is required to participate in this implementation?

Both state and county mental health programs have been identified as voter registration agencies. Additionally, those agencies that provide services to the county under provider contracts are also considered to be voter registration agencies, since these programs constitute state-funded programs primarily engaged in providing services to persons with disabilities.

What if my county program or agency fails to implement the NVRA?

Any state agency, county or state contract service provider who provides services to persons with disabilities is required to implement the NVRA. Failure to implement the NVRA may subject the agency to legal liability. With respect to the counties, in November 1995, the California Office of the Attorney General informed all county counsels that the counties are subject to the risk of civil action in the federal district court by the United States Department of Justice and/or private aggrieved persons for any alleged failure to implement the provisions of the NVRA.

IMPLEMENTATION INSTRUCTIONS:

Registering Voters:

1. At any initial intake interview, mental health consumers shall be provided voter registration forms and be offered voter registration assistance during application/intake. Those mental health consumers who are currently receiving services shall be offered voter registration services at their next appointment.

2. The same level of assistance shall be provided to mental health consumers registering to vote as is provided for completing other forms for mental health services. This level of assistance includes the provision of interpreter services for mental health consumers who are deaf and hearing impaired and assistance to mental health consumers who are physically disabled, blind and visually impaired. Voter registration forms are not available in Braille.

3. If a mental health consumer is physically or mentally disabled (excluding those persons determined by a court to be mentally incompetent, or who are in a crisis situation) and cannot sign the Voter Registration Form, he/she must make a mark on the signature line ("x" or any other mark), witnessed by two persons. The staff person who is assisting the mental health consumer can be a witness.

4. When offering or assisting mental health consumers with voter registration, make sure that he/she is made aware of the four (4) requirements that must be met to register to vote (found in the first box of the Declination Form).

5. The staff person who is assisting the mental health consumer with voter registration must make sure that the forms are completely filled out and signed by the mental health consumer.

6. When assisting a mental health consumer with voter registration services, the staff person does not have to complete Box 13 and the Registration Form Receipt (stub) on the form. However, the staff person needs to fill out the bottom part of the Declination Form.

7. To foster a cooperative working relationship with the various county election, offices, each county should establish liaison with the local county election officials in its area. (Refer to the roster of California election offices.)

8. The appropriate county elections office in each county will supply voter registration forms upon request.

9. A Declination Form is attached and should be copied and distributed to the appropriate service providers.

10. Voter Registration Forms in minority languages (in combination with English) i.e., Chinese, Japanese, Spanish, Vietnamese, etc. will be made available by the local county elections office. If the mental health consumer wishes a form in a language other than those available, provide that person with the Secretary of State's toll free number: 1-800-345-VOTE.

11. In order to maintain confidentiality, all voter registration forms and other related materials should be kept separate from mental health consumer case files.

12. If a mental health consumer informs his/her service provider either in person or by mail, that he/she has changed addresses, the mental health consumer must be offered the opportunity to update his/her voter registration by giving or mailing a voter registration form to that person.

13. If mailing forms, fill out the bottom part of the Application to Register or Decimation form and file.

14. Do not refuse to provide voter registration services to any mental health consumer of whom there is a reason to believe he/she does not meet voter eligibility requirements. However, make sure that the mental health consumer is made aware of the four (4) requirements to register to vote (this is contained in the first box of the Declination Form). If the individual is under conservatorship, the guardian will be informed that voter registration services are being offered to the mental health consumer.

15. Questionable registrations must be flagged. Although decisions on registration can only be made by the county registrar of voters or the Secretary of State, "flagging" will be used by the counties and state contract providers when there is reason to believe that the applicant does not meet voter eligibility requirements. No search of files should be done to determine or verify a registrant's eligibility to register to vote. Please note however, that no applicant is to be refused the right to complete the registration form. Registrants whose forms are "flagged" will still be added to voter rolls by county elections officials and then forwarded to the Secretary of State's Office for investigation to determine eligibility and the necessity of any follow-up action to remove any ineligible individual from the voter rolls.

16. When flagging questionable registrations to send to the county elections office, a selfsticking "tape flag" should be used. These tape flags are color tipped flags which have clear tape at one end and a colored flag at the other end, preferably red, and measure approximately 1" by 1 3/4". Write on the sticky tape flag a code

which indicates what eligibility requirement is hi question. The following coding system will be used to indicate questionable registrations:

US - for questionable citizenship

BD - for questionable age qualification

F - if you have reason to believe that the applicant is a felon on parole

MI - if you have proof that the mental health consumer has been determined mentally incompetent by a court and has been placed under a conservatorship by court order.

17. Do not make any permanent marks on the form.

18. Do not flag questionable registrations hi the presence of the mental health consumer.

19. No flagging is needed if the mental health consumer elects to take the form with him/her.

20. Please segregate all questionable registrations (either clipped or batched and placed hi a plain brown envelope) when transmitting them to the county elections office.

RECORD-KEEPING AND REPORTING

1. The Secretary of State requires that the completed Application to Register or Declination Form be retained for two (2) years by the voter registration agency (any mental health service provider).

2. A separate file will be maintained for the Application to Register or Declination Form, which will be filed alphabetically by the mental health consumer's last name.

3. To maintain federally-mandated standards pertaining to the confidentiality of information contained hi the mental health consumer's case record, the completed Application to Register or Decimation Form will not be filed in the case file.

4. In order to avoid confusion and potential delays in submission, each provider should, on a daily basis, forward completed forms, including segregated questionable registrations to the elections office in the county where the provider is located.

5. The county elections office requires that valid forms must be received by them at least 25 days prior to the next election. To ensure that the 25 day deadline is met, each provider shall obtain a copy of the county election schedule from the elections office. Different elections are held yearly and these vary from county to county.

6. To avoid unnecessary mailing costs, do not bundle completed forms (except, segregated questionable registrations) when transmitting these to the county; each individual form is selfstamped and self-addressed.

The Secretary of State and the county registrars continue to have primary responsibility for NVRA implementation. If you have any questions about this notice, however, please contact Kaye Antel-Berenson at (916) 654-0543.

Sincerely,

GARY M. PETTIGREW
Deputy Director
Systems of Care

Enclosures

cc: California Mental Health Planning Council
Chief, Technical Assistance and Training