

Maintaining an Assigned Bed at a State Hospital While Appearing At a Court Proceeding

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Adults court ordered to a State Hospital often desire to appear in person at their state court proceedings but are unfortunately at risk of losing their bed assignment upon return to the hospital after the proceeding. Upon return to the state hospital, the individual may be assigned to a new bed on a different unit. This could result in modifications to treatment plans while the individual is becoming familiar to new clinical staff, the unit milieu and new roommates. In the state hospital setting, treatment teams are assigned through units in the hospital so an individual who is assigned to a new unit may have a new treatment team. The treatment team will help to develop the treatment plan which will likely include therapy programs. The team may or may not adopt a previous team's treatment plan possibly resulting in continuity of care concerns.

“Continuity of care” is an orderly and uninterrupted movement of patients among the diverse elements of the health delivery system and includes providing continuous and consistent contact with a particular service or team, or that services are delivered by the same person.¹ Some studies have found that continuity of care is related to positive patient outcomes such as mental health

¹ Crawford, M.J., de Jonge, E, Freeman, G. K., Weaver, T. (2004). Providing continuity of care for people with severe mental illness. *Social Psychiatry and Psychiatric Epidemiology*, 39(4), 265-272. doi: 10.1007/s00127-004-0732-x. Article discussed community mental health services.

status, functional status, quality of life, and medication adherence. ²Individuals who are placed at the hospital wonder if there is an alternative to an in-person appearance at a court proceeding in order to maintain their assigned bed. There has been some consideration on the use of technology such as video or telephone, but these methods of appearance may be controversial and raise due process concerns.

The purpose of this Question and Answer sheet is to begin to inform interested parties about the complexity of the problem.

1. As an individual placed at a state hospital, what can happen to my bed assignment if I appear in-person at my court proceeding?

Answer: Your assigned bed may be released to another person quickly or held for you for a specific period of time only and if you have not returned by then, you may receive a new bed reassignment.

2. What would a new bed reassignment be like?

Answer: This could include moving to another unit with the same type of treatment program but working with different clinical staff and also having new roommates.

3. Why isn't the bed held until I return to the hospital?

Answer: There may be a couple of reasons why this happens. The hospital may have a practice or policy that they follow which could be influenced by the limitation on bed space generally. There could be a wait list for new admissions to the state hospital. For example, bed space availability may be limited for individuals who are found incompetent to stand trial and ordered to be placed at the state hospital. If these individuals are not placed as soon as possible, then these individuals have to wait in the jail.

² Joyce, A.S., Adair, C.E., Wild, T.C., McDougall, G.M., Gordon, A., Costigan, N., Pasmmy, G..(2010). Continuity of care: Validation of a self-report measure to assess client perceptions of mental health service delivery. *Community Mental Health Journal*, 46, 192-208. doi 10.1007/s10597-009-9215-6.

4. Can this situation not be therapeutic for me to have to switch living space and treatment staff?

Answer: This may not be therapeutic because continuity of care is interrupted or not maintained when bed reassignment and change in treatment staff occurs. New clinical relationships will have to be developed and treatment plans could be influenced or modified. There are clinical findings about the importance of having a therapeutic alliance with your psychotherapist and even your multi-disciplinary team which can be perceived as a single unit.³ By changing your clinical team, arguably, you would need to develop new therapeutic alliances which may or may not be formed right away.

You will have to show evidence of the results of this change and its impact.

5. Can I wait in jail after my court proceeding for a bed to be available on my same unit at least?

Answer: Unlikely. The jail may have priorities to have their beds assigned to specific individuals who are to be in custody there. Also, the jail may not have adequate clinical staff to meet your clinical needs.

6. Is there a legal argument to make when I want to show up in court, but might lose out on something important like keeping my assigned bed, maintaining my current clinical relationships, and staying in the same treatment program?

Answer: Due process provides that an individual is entitled to a full and fair court proceeding when there is a possible deprivation of life, liberty, or property. A determination of due process rights is made on a case by case basis. Not every court proceeding involves a right to due process especially if fairness is not an

³ Ricardo Pulido (2011). Institutional Therapeutic Alliance in Multi-Professional Treatments with Severely Disturbed Patients, *Psychiatric Disorders - Worldwide Advances*, Dr. Toru Uehara (Ed.), ISBN: 978-953-307- 833-5, InTech, Available from: <http://www.intechopen.com/books/psychiatric-disorders-worldwideadvances/institutional-therapeutic-alliance-in-multi-professional-treatments-with-severely-disturbed-patients>

issue. If a person is entitled to due process and a person exercised their rights to appear in person in court, then an argument might be advanced showing that the losses at the hospital should not occur.

7. Is there an acceptable substitute to an in person court appearance using technology?

Answer: It depends on the type of court proceeding and whether the court will allow another method. The court will do a case by case examination. For a court process that does not involve a deprivation of due process rights, complex issues nor a lengthy proceeding, but instead involves routine court matters, some California courts subscribe to CourtCall⁴ which is a technology service that allows a person to not attend a court proceeding in person. Generally, judges are concerned that any decision issued in a case where the defendant appeared through use of technology is appropriate. This means that judges will consider the complexity of the court proceeding and what is at stake to avoid an appeal. In deciding whether to use technology for a court appearance, the client and his or her attorney should discuss any advantages or disadvantages.

8. What can I do if the hospital tells me that my bed was reassigned due to the delay in transporting me back to the hospital?

Answer: If the transportation is being handled by the Sherriff's department or other law enforcement, contact your defense counsel to obtain a timely transport order from the court back to the hospital. If the transportation is being handled by a private company under contract with the Department of State Hospitals, contact an advocate who may urge the Department to create more or new contracts for transportation.

9. What can I do to be a self-advocate?

Answer: Participate in the administrative complaint process, contact your attorney and/or advocate. Keep a detailed log or journal of what has happened.

⁴ <http://www.courtcall.com/ccallp/main?c=CCHOME>

Gather any documents that relate to the loss of your assigned bed, and write out a description on the losses that occurred due to being reassigned to a new unit.

We want to hear from you! After reading this fact sheet please take this short survey and give us your feedback.

English version: <http://fs12.formsite.com/disabilityrightsca/form54/index.html>

Spanish version: <http://fs12.formsite.com/disabilityrightsca/form55/index.html>

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The California Mental Health Services Authority (CalMHSA) is an organization of county governments working to improve mental health outcomes for individuals, families and communities. Prevention and Early Intervention programs implemented by CalMHSA are funded by counties through the voter-approved Mental Health Services Act (Prop 63). Prop. 63 provides the funding and framework needed to expand mental health services to previously underserved populations and all of California's diverse communities.



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