

**PATIENT’S RIGHTS DURING THE COVID-19 PANDEMIC**

On April 10, 2020, Governor Polis issued [Executive Order D 2020 034](#), suspending two specific rights of individuals at inpatient mental health units and institutes,\* but a close reading of the Governor’s Order demonstrates that the suspension of these rights is not limitless:

Statutory Right	Governor’s Executive Order	Examples of Practices Inconsistent with the Governor’s Executive Order
<p><b><u>Right to Wear Your Own Clothes</u></b> § 27-65-117(1)(e): “<u>To wear his or her own clothes</u>, keep and use his or her own personal possessions, and keep and be allowed to spend a reasonable sum of his or her own money.”</p>	<p>F. I temporarily suspend the provision in C.R.S. § 27-65-117(1)(e) that each person receiving evaluation, care, or treatment for a mental health disorder in a public or private behavioral health facility has the right and shall be advised of the right to wear his or her own clothes, <u>to permit the facility to provide new or clean clothing to individuals during a period of isolation due to COVID-19</u>. I encourage public and private behavioral health facilities to allow individuals receiving evaluation, care, or treatment for a mental health disorder to <u>wear their own clothes following the period of isolation due to COVID-19</u>.</p>	<ul style="list-style-type: none"> <li>• Taking the clothing of individuals at the facility prior to the pandemic, or not subject to isolation due to COVID-19;</li> <li>• Providing only hospital gowns for individuals;</li> <li>• Refusing to permit individual to wear their own clothes after COVID-19 isolation period expired;</li> <li>• Failing to advise individuals of their other rights as required by statute.</li> </ul>
<p><b><u>Right to Frequent Visitors of the Individual’s Choosing</u></b> § 27-65-117(1)(d): “To have frequent and convenient opportunities to meet with visitors. Each person may see his or her attorney, clergyman, or physician at any time.”</p>	<p>G. I temporarily suspend the provision in C.R.S. § 27-65-117(1)(d) that each person receiving evaluation, care, or treatment for a mental health disorder in a public or private behavioral health facility has the right and shall be advised of the right to have frequent and convenient opportunities to meet with visitors, including the ability to see his or her attorney, clergy, or physician at any time, to enable these facilities to prevent the spread of COVID-19 <u>in the event an individual or staff member at a facility shows symptoms or tests positive for COVID-19</u>. I encourage public and private behavioral health facilities to <u>provide methods for individuals to interact electronically</u> with visitors, attorneys, clergy, and physicians.</p>	<ul style="list-style-type: none"> <li>• Banning all visits at a facility that has not had a individual or staff member test positive for COVID-19;*</li> <li>• Refusing access to confidential communication between individual and their counsel;</li> <li>• Refusing to explore alternative methods of virtual visitation with clergy, family, friends, etc., such as video phone calls, or other methods of interacting with people of the individual’s choosing who are outside the facility.</li> </ul>

\*Banning all visits at a facility that has not had any positive cases of COVID-19 may not be consistent with the Governor’s Executive Order, however, many facilities have changed visitation policies in response to CMS and CDC Guidance, the extent of the changes will depend on the type of facility at issue.

While it is important for facilities to follow the Governor’s Executive Order to protect the health and safety of individuals in the facility as well as the community at large, patient’s rights overall have not been suspended by this Order. Disability Law Colorado emphasizes the limited scope of the rights suspended by the Governor’s Executive Order and encourages respondent’s counsel to continue to advocate for their client’s rights that remain intact. If respondent’s counsel or their clients would like to consult with Disability Law Colorado about these or other patient’s rights issues, please feel free to contact us at 303.722.0300. Thank you for your continued advocacy for your clients. Be well!