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:

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<th>Examples of Practices Inconsistent with the Governor’s Executive Order</th>
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| **Right to Wear Your Own Clothes**          | § 27-65-117(1)(e): “To wear his or her own clothes, 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.” | • Taking the clothing of individuals at the facility prior to the pandemic, or not subject to isolation due to COVID-19;  
• Providing only hospital gowns for individuals;  
• Refusing to permit individual to wear their own clothes after COVID-19 isolation period expired;  
• Failing to advise individuals of their other rights as required by statute. |
| **Right to Frequent Visitors of the Individual’s Choosing** | § 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.” | • Banning all visits at a facility that has not had an individual or staff member test positive for COVID-19;*  
• Refusing access to confidential communication between individual and their counsel;  
• 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. |

*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!

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