§ 33.02 Notice of rights of individuals with mental disabilities.

(a) In order to ensure that residents of facilities or programs operated or licensed by the office of mental health and facilities or programs operated or certified by the office for people with developmental disabilities are treated consistently with the laws and regulations assuring quality care, the commissioner of the office of mental health and the commissioner of the office for people with developmental disabilities shall promulgate regulations informing residents of their rights under law. Such regulations shall include, but not be limited to, informing residents that they have the right to:

1. a safe and sanitary environment;

2. a balanced and nutritious diet;

3. appropriate personal clothing for residents of hospitals and developmental centers;

4. practice religion;

5. freedom from abuse and mistreatment by employees or other residents of the facility;

6. adequate grooming and personal hygiene supplies for residents of hospitals and developmental centers;

7. a reasonable amount of safe storage space for clothing and other personal property;

8. a reasonable degree of privacy in sleeping, bathing and toileting areas;

9. receive visitors at reasonable times, to have privacy when visited, and to communicate freely with persons within or outside the facility;

10. appropriate medical and dental care for residents of hospitals and developmental centers;

11. an individualized plan of treatment or services and to participate in the development of that plan including the opportunity for a patient sixteen years of age or older to request a significant individual to himself or herself including any relative, close friend or individual otherwise concerned with such person's welfare to participate in the development of such plan, except that at comprehensive psychiatric emergency programs such plan shall be in accordance with the commissioner's regulations and the opportunity for participation by a significant individual shall be provided where practicable. For the purposes of this paragraph, a written treatment plan may include the program narrative for clients served by an integrated community certified by the office for people with developmental disabilities;

12. bring any questions or complaints, including complaints regarding any orders limiting such residents' rights, to the facility director, the mental hygiene legal service, the board of visitors if applicable, and the commission on quality of care for the mentally disabled; and

13. authorize those family members and other adults who will be given priority to visit consistent with the patient's ability to receive visitors.

(b) The foregoing rights may not be limited as a punishment or for the convenience of staff. Any limitation on the rights enumerated shall be permitted for an individual resident of a hospital operated or licensed by the office of mental health or developmental center operated by the office for people with developmental disabilities only upon written order of a physician in the resident's clinical record stating the clinical justification for such limitation and the specific period of time such limitation shall remain in effect. Any limitation on the rights enumerated shall be permitted for an individual resident of any other residential facility or program operated or licensed by the office of mental health or operated or certified by the office for people with developmental disabilities only upon written order by the director or chief executive officer of such facility or program upon receipt of a recommendation by the treating practitioner as defined by paragraph seven of subdivision (a) of section 33.16 of this article with such

order to be placed in the resident's clinical record stating the clinical justification for such limitation and the specific period of time such limitation shall remain in effect.

(c) The commissioners and the facility director shall ensure that a notice of the rights included in regulations promulgated pursuant to this section is posted in each ward or living area of every hospital operated or licensed by the office of mental health and every developmental center operated by the office for people with developmental disabilities, and that such notice is provided to every individual resident of any other residential facility or program operated or licensed by the respective offices upon admission to such facility or program, upon limitation on any right, or at the individual's request. The notice shall include the address and telephone numbers of the office of the facility director or such person's designee responsible for receiving questions or complaints, the board of visitors if applicable, the mental hygiene legal service, the vulnerable persons' central register and the justice center for the protection of people with special needs.