

contrary to such professional's clinical judgment;

(ii) prevent any program or facility from discharging any person for whom the provision of appropriate treatment, consistent with the clinical judgment of the mental health professional primarily responsible for such person's treatment, is or has become impossible as a result of such person's refusal to consent to such treatment;

(iii) require a program or facility to admit any person who, while admitted on prior occasions to such program or facility, has repeatedly frustrated the purposes of such admissions by withholding consent to proposed treatment; or

(iv) obligate a program or facility to provide treatment services to any person who is admitted to such program or facility solely for diagnostic or evaluative purposes.

(C) In order to assist a person admitted to a program or facility in the exercise or protection of such person's rights, such person's attorney or legal representatives should have reasonable access to—

(i) such person;

(ii) the areas of the program or facility where such person has received treatment, resided, or had access; and

(iii) pursuant to the written authorization of such person, the records and information pertaining to such person's diagnosis, treatment, and related services described in paragraph (1)(I).

(D) Each program and facility should post a notice listing and describing, in language and terms appropriate to the ability of the persons to whom such notice is addressed to understand, the rights described in this section of all persons admitted to such program or facility. Each such notice should conform to the format and content for such notices, and should be posted in all appropriate locations.

(4)(A) In the case of a person adjudicated by a court of competent jurisdiction as being incompetent to exercise the right to consent to treatment or experimentation described in subparagraph (D) or (E) of paragraph (1), or the right to confidentiality of or access to records described in subparagraph (H) or (I) of such paragraph, or to provide authorization as described in paragraph (3)(C)(iii), such right may be exercised or such authorization may be provided by the individual appointed by such court as such person's guardian or representative for the purpose of exercising such right or such authorization.

(B) In the case of a person who lacks capacity to exercise the right to consent to treatment or experimentation under subparagraph (D) or (E) of paragraph (1), or the right to confidentiality of or access to records described in subparagraph (H) or (I) of such paragraph, or to provide authorization as described in paragraph (3)(C)(iii), because such person has not attained an age considered sufficiently advanced under State law to permit the exercise of such right or such authorization to be legally binding, such right may be exercised or such authorization may be provided on behalf

of such person by a parent or legal guardian of such person.

(C) Notwithstanding subparagraphs (A) and (B), in the case of a person admitted to a program or facility for the purpose of receiving mental health services, no individual employed by or receiving any remuneration from such program or facility should act as such person's guardian or representative.

(Pub. L. 99-319, title II, §201, May 23, 1986, 100 Stat. 485; Pub. L. 102-173, §10(2), Nov. 27, 1991, 105 Stat. 1219.)

REFERENCES IN TEXT

The Mental Health Systems Act, referred to in introductory text, is Pub. L. 96-398, Oct. 7, 1980, 94 Stat. 1564, as amended. Title V of the Mental Health Systems Act is classified generally to subchapter IV (§9501 et seq.) of chapter 102 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9401 of this title and Tables.

AMENDMENTS

1991—Par. (1)(M)(iii). Pub. L. 102-173 substituted "individuals with mental illness" for "mentally ill individuals".

SUBCHAPTER III—CONSTRUCTION

§ 10851. Construction of subchapters I and II; "individual with mental illness" defined

(a) Subchapters I and II of this chapter shall not be construed as establishing any new rights for individuals with mental illness.

(b) For purposes of this section, the term "individual with mental illness" has the same meaning as in section 10802(3)¹ of this title.

(Pub. L. 99-319, title III, §301, May 23, 1986, 100 Stat. 489; Pub. L. 102-173, §10, Nov. 27, 1991, 105 Stat. 1219.)

REFERENCES IN TEXT

Section 10802(3) of this title, referred to in subsec. (b), was redesignated section 10802(4) of this title by Pub. L. 102-173, §4(1), Nov. 27, 1991, 105 Stat. 1217.

AMENDMENTS

1991—Pub. L. 102-173, substituted "individuals with mental illness" for "mentally ill individuals" in subsec. (a) and "individual with mental illness" for "mentally ill individual" in subsec. (b).

CHAPTER 115—CHILD DEVELOPMENT ASSOCIATE SCHOLARSHIP ASSISTANCE PROGRAM

Sec.	
10901.	Authority of Secretary to make grants.
10902.	Application for grants.
10903.	Definitions.
10904.	Annual report by States; contents; manner of payments pursuant to grants.
10905.	Authorization of appropriations.

§ 10901. Authority of Secretary to make grants

The Secretary is authorized to make a grant for any fiscal year to any State receiving a grant under title XX of the Social Security Act [42 U.S.C. 1397 et seq.] for such fiscal year to enable such State to award scholarships to eligible individuals within the State who are candidates for the Child Development Associate credential.

¹ See References in Text note below.