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## LEGAL QUESTIONS

### **My friend/family member won't follow recommended treatment. What can I do to make him follow through?**

In the United States noncompliance is not a crime and therefore medication or therapy is not enforceable except in the case of minors, and those who are a danger to themselves or others. NAMI Mass offers education programs and support groups that can assist mental health consumers and family members/friends that are living with mental illness. By visiting the link below, you can find the NAMI group closest to you for more information. The contacts there and the families involved with the support groups have been through similar experiences and know of resources in your area to help you cope with your or your family member's illness. In extreme cases where a mental health consumer may be a danger to themselves or others, a friend or family member can [petition the courts to have the person committed to assisted treatment](#).

Your Local NAMI will have more information particular to your state laws concerning these procedures. Or you may contact the [NAMI Legal Center](#) (by [legal@nami.org](mailto:legal@nami.org) or by calling 800-950-6264) that provides lawyer referrals as a service to our members and the general public for

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### Latest Blog Posts

- [ATTENTION ALL VICTIMS: NAMI Connection Starts A Road Map through the Justice System for People with Mental Illness and Trauma](#)
- [Gun Control and NA](#)

**samaritans**  
statewide toll free  
samaritans

**NATIONAL SUICIDE PREVENTION LIFELINE**  
1-800-273-TALK (8255)

Disas 1-800-Text To 911  
TTY for C Impaired: 800-799-4889

De habla hispanica llamar 1-800-628-9454  
texto 'Hal de forma crisis 24/7 emocionales cualquier

### NAMI National

- [Never Again: A Family Member's Story of Nazi Germany and Mental Illness](#)
- [Are You Haunted by Stigma? Here's What You Can Do](#)
- [The Latino Paradox: It Appears to Not Be as Common as You Think](#)

### Recent Tweets

information and guidance through the process. NAMI offers education programs and support groups that can assist persons experiencing mental illness and their family members through the recovery process. Your [local NAMI Affiliate](#) can provide more information. NAMI affiliate groups are comprised of mental health consumers and family members who may know of resources in your area to help you cope.

**Massachusetts General Law Chapter 123 Section 12** authorizes any physician or qualified psychiatric clinical specialist (including a psychologist, nurse or social worker) to authorize restraint of a person who in their judgment is a danger to themselves or others because of mental illness.

**Massachusetts General Law Chapter 125 Section 35** permits the courts to involuntarily commit someone who has lost the power of self-control over the use of controlled substances or whose use of alcohol or drugs puts themselves at risk by substantially injuring their health or substantially interfering with their social or economic functioning. The following adults may petition the courts: spouse, blood relative, physician, guardian, police or court officers.

**Medical Guardianships** are sometimes used to give families more involvement in the treatment plans for persons being treated for mental illness if an individual does not have the capacity to make treatment decisions.

Here is a link to the Mass. Department of Mental Health [Civil Commitment and Hospital Admissions Forms](#).

The Commonwealth of Massachusetts Trial Court has issued a New Protocol for Pre-Arrestment Emergency Psychiatric Hospitalization:

[NewProtocolforPREArrestmentEmergPsychHosp](#)

[Rogers Guardian Brochure](#) (PDF) Authorizing the Use of

#### Tweets

 NAMI Mass-  
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Join us for an OPE  
the New Office!  
#constantcontact  
conta.cc/16qgEiD

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#### Connect With



Antipsychotic Medications, Questions and Answers

[Your Rights Regarding Medication in Mass](#) (Word)

[A Road Map through the Criminal Justice System for Persons with Mental Illness and Their Family](#) presented by NAMI Massachusetts (PDF)

Consider reading this article [What to Do if Someone with Bipolar Refuses Treatment](#). (This really applies regardless of the diagnosis.)

**[How do I file a complaint against a mental health care facility/professional?](#)**

Health Care For All's [Consumer Health Quality Council](#) Members of the Council created this guide to help people successfully navigate the customer service channels at different hospitals. This guide features information about the [contacts and policies at each hospital](#), as well as general advice about addressing health care quality problems whenever—and wherever—they arise. We will add additional hospitals and health centers over time. Please share your experiences and advice with us, so that we can all benefit from a growing body of knowledge.

Contact Deb at

[dwachenheim@hcfama.org](mailto:dwachenheim@hcfama.org), <http://www.assertivepatient.org/>

**[The Assertive Patient: A Guide to Speaking Up When You Are Dissatisfied With A Health Care Experience](#)**

Complaints about an individual physician/psychiatrist – If the physician/psychiatrist works for a hospital or agency, you may contact the doctor's supervisor. You can also file a complaint with the state medical board, [click here](#), or – if he/she is a member – the [American Psychiatric Association \(APA\)](#) (some psychiatrists are members, some are not).

In Mass, there is the Mass. Association of Psychiatrists.

Complaints about other MH Professionals – If employed by a hospital or agency, you may file complaints with the therapist’s Supervisor, the Hospital Ombudsman, or Administrator. Therapists are regulated by their licensing boards (e.g. the state board of health and mental hygiene, counseling, or other licensing board).

If the person is a social worker, you can file a complaint with the [Commonwealth’s board of licensure for social workers](#).

Abuse or neglect in an institutional setting: [Protection and Advocacy Agencies](#) advocate on behalf of individuals with mental illness who are in institutional settings (such as a jail, correctional facility, or state psychiatric facility); allegations of abuse or neglect are one of their top priorities.

In Mass. there is the [Disabled Persons Protection Commission](#) which will take and investigate complaints of physical abuse. Complaints of abuse, neglect, or mistreatment in the hospital setting: Report to the Hospital Ombudsman or Administrator.

For Psychiatric Units in hospitals, report them to the Dept. of Mental Health. For all other Hospital units including emergency rooms, report them to the Dept. of Public Health. [JCAHO \(Joint Commission on Accreditation of Healthcare Organizations\)](#) Complaint Hotline at (800) 994-6610 — JCAHO accredits hospitals, home health agencies, nursing homes, laboratories, outpatient clinics, behavioral health care programs and managed care plans, among others. Complaints should be related to patient rights, care of patients, safety, infection control, medication use, and/or security (and not billing, insurance, or payment disputes).

Complaints about a CMHC (community mental health center): You may file a complaint with the Dept. of Mental

Health. Medicaid and Medicare recipients with complaints about the CMHCs have the following options: Medicare beneficiaries may contact the [Centers for Medicare and Medicaid Services \(CMS\)](#) Regional Medicare Office and the state Peer Review Organization; Medicaid beneficiaries may contact the Mass Health official and perhaps the state Medical Review Board.

Your [Local NAMI Affiliates](#) may be able to assist you as well.

Filing Lawsuits: You should seek a private attorney. [Click here](#) for guidelines on how to find an attorney.

State bar listings may be found at [www.martindale.com](http://www.martindale.com).

**My friend or family member is in jail due to his/her mental illness. How can we help?**

**View this helpful guide for help and resources:** [A Road Map through the Criminal Justice System for Persons with Mental Illness and Their Family](#) presented by NAMI Massachusetts (PDF)

[The National Association of Protection and Advocacy Systems, Inc](#) and the [Bazelon Center for Mental Health Law](#) are designed to deal with the rights of individuals involved with the criminal justice system. They specifically address the needs of incarcerated individuals, whether they are in the correctional system, or hospitalized in a forensic ward.

In Mass., incarcerated individuals and their family members/caregivers who need physical or mental health services can contact the Prisoner Legal Services by clicking [here](#).

Your [Local NAMI Affiliate](#) may also be able to offer suggestions and/or support. [Click here](#) to view NAMI's Fact Sheet on the Criminal Justice System.

**The Family Information** provides information on a variety of topics, one of which is resources and support for families that have a loved one in jail or prison. The site is not directed specifically at families coping with mental illness, but some of the information may still be helpful for families needing support while a loved one is incarcerated.

<http://www.thefamilyinformationcenter.com>

**My employer is not treating me fairly because I have a mental illness. What can I do to fight this?**

The Americans with Disabilities Act (ADA) prohibits discrimination against people with disabilities in employment; state and local government activities; public accommodations; public transportation; telecommunications; and public services. It was signed into law by President George Bush on July 26, 1990. [Click here](#) for more information about the law.

You may contact the Massachusetts Commission Against Discrimination (MCAD) [here](#) to find out how to file a complaint.

**Does NAMI offer legal advice, or have a listing of lawyers?**

The NAMI National Legal Center receives daily calls from our members and the public requesting legal assistance. As a result, we created a lawyer referral panel as a service to those in need of legal assistance. We require attorneys on our Lawyer Referral Panel to complete questionnaires regarding their specialties, fees, education and liability insurance. Communications to the center remain confidential, as does our attorney information. We do not verify qualifications or credentials of attorneys on our panel, and supplement our listings with the Disability Law Directory of the American Bar Association, the Directory of the American College of Trust and Estate Counsel, the National Legal Aid and Defender Association

Directory and the Directory of Local Pro Bono Programs. You may contact the [NAMI National Legal Center](#) by email or by calling 703-524-7600. Please furnish your full name, address with zip code and telephone number to help them find legal aid in your area. Legal Aid / local legal service agencies may assist those unable to pay for legal assistance (limitations often apply, such as no criminal cases). [Click here](#) for legal aid agencies in Mass. [Local NAMI Affiliates](#) may keep lists of attorneys familiar with mental illness issues, or they may be willing to share informal, personal experiences with local lawyers. The [American Bar Association](#) has an [online database of pro-bono attorneys](#). They also offer [guidelines](#) for finding free legal assistance You may also wish to consult this [state by state listing of attorneys](#).

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