



APPENDIX:

**National Examples of Rights and Grievance Reporting Forms and Guides
Developed by States and the District of Columbia & Summary of Select State Grievance Approaches**

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NATIONAL EXAMPLES OF RIGHTS AND GRIEVANCE REPORTING FORMS AND GUIDES DEVELOPED BY STATES AND THE DISTRICT OF COLUMBIA

- Arizona (unknown date): *Human Rights Committees on the Mentally Ill*. This brochure provides an overview of the state's seven human rights committees and their responsibilities.
- California (2004): *Rights for Individuals in Mental Health Facilities Handbook*. This is a handbook for inpatients and family members describing inpatient rights, special areas such as rights in treatment and rights related to medication, and rights that cannot be denied and those that can be with good cause.
- California (unknown date): *Mental Health Patients' Rights poster*.
- Connecticut (1999): *Your Rights as a Client or Patient of the Connecticut Department of Mental Health & Addiction Services*. This is a one page statement of client/patient rights, descriptions of rights, and statutory references.
- District of Columbia (2002): *Consumer Rights Statement*. This two page document outlines consumer rights for individuals receiving mental health services, and is to be distributed to all consumers.
- District of Columbia (2012): *FAIR Grievance and Dispute Resolution Procedure (Finding Answers, Improving Relationships)*. This is a one page document outlining the formal grievance process for consumers in the District of Columbia.
- Maine (2013): *Rights of Recipients of Mental Health Services. Adults Grievance Process Guide*. This describes grievance processes in Maine, the definition of a grievance, who can file a grievance, and how to file one, in either a covered facility or community service. It describes the review process, and contact information, as well as an overview of consumer rights. There is also a reporting form.
- Maine (unknown date): *Summary of Rights of Recipients of Mental Health Services* in Russian, Serbo-Croatian, Somali, Spanish, Vietnamese.
- Nebraska (2011): *Keya House Participant Bill of Rights / Guest Agreement / Confidentiality Agreement / Mental Health Association of Nebraska Privacy Notices*. This material outlines resident rights and responsibilities of the Keya House guest home in Region 5.
- Nebraska (unknown date): *Consumer Grievance Procedure* form used in Region 3.
- Nebraska (unknown date): *Consumer Grievance Policy* used in Region 3. This states the current policy and procedure for consumer grievances in Region 3.
- New Hampshire (2004): *Mental Health Bill of Rights*. This two page statement of mental health rights is required to be publicly posted by all licensees of the New Hampshire Board of Mental Health Practice.

- New York (2010): *Rights of Inpatients in New York State Office of Mental Health Psychiatric Centers*. This booklet describes basic rights of inpatients and rights in special areas such as treatment, criminal investigations, release, work and education, as well as contact information for advocacy and assistance services.
- New York (2010): *Rights of Outpatients in all outpatient programs licensed or run by the Office of Mental Health*. This booklet describes basic rights, objectives, complaint process and access to records rights, and contact information for advocacy and assistance services.
- Texas (unknown date): *Patient's Bill of Rights*. This document outlines rights of individuals who apply to receive mental health services from the State of Texas. It outlines patient rights, right to know one's rights, and right to make a complaint.
- Texas (2007): *Handbook of Consumer Rights*. This handbook describes basic rights for consumers, contact information for complaints, and specific information on rights related to confidentiality, treatment or care, and residential care.
- Vermont (2008): *Community Rehabilitation and Treatment Client Handbook*. This handbook describes consumer rights, as well as the official grievance and appeals process. It also includes a grievance form that a consumer can use, and sample letters asking providers to review complaints, and a letter to the Vermont Department of Mental Health asking them to review a grievance case filed with a provider.
- Vermont (2013): *Grievances and Appeals: Designated Agency Provider Manual Addendum*. This document outlines the grievance and appeals process for covered agencies in Vermont and sample letters and responses.
- Virginia (unknown date): *Provider/Facility Complaint and Abuse Forms*. These forms are for providers to report complaints or abuse/neglect to the state. The forms are in the process of being replaced by an online reporting system.
- Virginia (unknown date): *"It Is Your Right" one-page handout for consumers*.
- Wisconsin (2010): *Client Rights and Grievance Procedure*. This document outlines consumer rights and the formal state grievance procedure.
- Wisconsin (2012): *Best Practices for the Informal Resolution of Grievances*. This document provides guidance for Client Rights Specialists on how to informally address client and staff grievances and concerns prior to using the formal provider or state administrative grievance processes.
- Wisconsin (2012): *Conducting an Investigation*. This document outlines guidance for Client Rights Specialists to conduct an investigation and report on a complaint or grievance.

SUMMARY OF SELECT STATE GRIEVANCE APPROACHES

- Arizona
- Virginia
- Wisconsin

Arizona (unknown date): *Human Rights Committees on the Mentally Ill*. This brochure provides an overview of the state's seven human rights committees and their responsibilities.

Leadership for a Healthy Arizona



Human Rights Committees are made up of people who understand the needs of those with mental illness.

Committee members are dedicated to promoting and protecting the rights of individuals who receive publicly funded behavioral health services.

Bureau for Consumer Rights
150 N. 18th Ave. #210 2nd Floor
Phoenix, Arizona 85007

Arizona Department of Health Services



Arizona Department of Health Services

*Division of Behavioral
Health Services*

Human Rights Committees on the Mentally III



Yisel Sanchez
Human Rights
Committee Coordinator
Tel: 1 800 421-2124
602 364-4577

What We Are.....

- An oversight committee created by the Arizona legislature
- Charged with promoting and protecting the human rights of children and adults enrolled in the public behavioral health system
- There are 7 committees throughout the state having 7-15 members on each committee

Who We Are.....

Volunteers

- Approved by the Committee and appointed by the Director of the Arizona Department of Health Services (ADHS)

Members include:

- Adult consumers
- Parents and other family members of child and/or adult consumers
- Professionals in any of these areas: psychology, law, medicine, education, special education, social work, or behavioral health.

What We Do....

- Provide independent oversight of the public behavioral health system
- Conduct site visits to behavioral health care facilities
- Hear concerns of consumers and other interested parties
- Review incident and accident reports and seclusion and restraint reports submitted by the RBHA
- Express concerns and initiate investigations as needed
- Make recommendations to ADHS and the RBHA regarding improving the delivery and quality of behavioral health services
- Review and provide feedback about ADHS/Division of Behavioral Health Services (DBHS) policy and procedure

Where are the meetings?

For additional information regarding each committee's meeting dates and times, please contact:

Yisel Sanchez

Human Rights Committee Coordinator

602-364-4577

1-800-421-2124

I'm Interested in More Information

Committee You are interested in:

- Maricopa County
- Arizona State Hospital
- Northern
- Southeastern
- Western (Yuma/LaPaz)
- Pima
- Pinal/Gila

Name

Address

Phone

Arizona Department of Health Services
Division of Behavioral Health Services
Bureau for Consumer Rights
150 N. 18th Ave. Suite 210
Phoenix, Arizona 85007

Phone: 602-364-4577

Fax: 602-364-4590

Toll Free: 1-800-421-2124

California (2004): *Rights for Individuals in Mental Health Facilities Handbook*. This is a handbook for inpatients and family members describing inpatient rights, special areas such as rights in treatment and related to medication, and rights that cannot be denied and those that can be with good cause.

Rights for Individuals in Mental Health Facilities

Admitted Under the Lanterman-Petris-Short Act



CALIFORNIA DEPARTMENT OF
Mental Health

How to Reach Your Patients' Rights Advocate

If you have any questions or would like to make a complaint about a possible violation of your rights, please call the advocacy office listed on the back cover of this handbook.

Patients' rights law is composed of a complex and evolving system of statutes, regulations, and court decisions. This handbook should be considered a guide, but it may not accurately reflect all the rights available to persons at all times.

The person in charge of the facility in which you are receiving treatment is responsible for ensuring that all your rights in this handbook are protected. You should be informed of your rights in a language and a manner that you can understand:

- On admission to a facility
- When there is a change in your legal status
- When you are transferred to another unit or facility
- At least once a year

If you believe that your rights may have been denied or violated, please contact your patients' rights advocate, even if your situation is not specifically covered in this handbook.

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Introduction

If you are receiving, either voluntarily or involuntarily, mental health services in one of the facilities listed below, you have the rights outlined in this handbook. Your rights may vary depending on your legal status or the type of facility you reside in. *Your rights may **not** be waived by your parent, guardian, or conservator.*

State Hospital

Acute Psychiatric Hospital

Psychiatric Unit of a General Acute Care Hospital

Skilled Nursing Facility/IMD

Licensed Group Home

Adult Residential Facility

Social Rehabilitation Facility

Licensed Family Home

Adult Day Care Facility

Psychiatric Health Facility

Mental Health Rehabilitation Center

Community Treatment Facility

23-Hour Treatment Facility

You cannot be asked to give up any of your rights or threatened into giving them up as a condition of admission or for receiving treatment; however, you may choose not to exercise a specific right.

Access to the Patients' Rights Advocate

You have the right to see a patients' rights advocate who has no clinical or administrative responsibility for your mental health treatment and to receive his or her services. Your advocate's name and telephone number are located on the back cover of this handbook.

You have the right to contact the patients' rights advocate at any time. The facility where you are staying will provide you with assistance to ensure that you can exercise this right. You have the right to communicate with and to receive visits privately from your patients' rights advocate or attorney.

What to Do If You Have a Complaint

You have the right to complain about your living conditions, any physical or verbal abuse, any threats or acts of cruelty, or your treatment in the facility without being punished for voicing such complaints.

The patients' rights advocate is responsible for investigating and trying to resolve complaints about your rights. If the advocate is unable to help you with your concern, your complaint may be referred, with your permission, to another agency that can assist you.

If you are dissatisfied with the advocate's response to your complaint about your rights, your complaint may be referred to the facility director or to your local mental health director on your request.

Rights While You Are Involuntarily Detained

The following text provides information about being involuntarily detained.

72-Hour Hold or “5150”

When a person, as a result of a mental disorder, is a danger to himself/herself or others or is gravely disabled, a peace officer, a member of the attending staff, or another professional person designated by the county may with probable cause take the person into custody and place him or her in a facility for a 72-hour treatment and evaluation.

The facility shall require a written application stating the circumstances under which there is probable cause to believe that a person is, as a result of mental disorder, a danger to himself/herself or others or is gravely disabled. If the probable cause is based on the statement of a person other than a police officer, a member of the attending staff, or a professional person, this person shall be liable in a civil action for intentionally giving a statement that he or she knows to be false.

If you were brought into a mental health facility against your will because you were considered to be a danger to yourself, a danger to others, or gravely disabled because

of a mental disorder, you may be held for up to 72 hours for treatment and evaluation unless the person in charge can establish that you need an additional 14 days of mental health treatment (*Welfare and Institutions Code Sections 5150 and 5250*).

14-Day Certification for Intensive Treatment or “5250”

If a person is detained for 72 hours under the provisions of *Section 5150* of the *Welfare and Institutions Code* and has received an evaluation, he or she may be certified for not more than 14 days of intensive treatment related to a mental disorder or an impairment by chronic alcoholism under the following conditions:

- The professional staff of the facility that provides evaluation services has analyzed the person’s condition and has found that the person is a danger to himself/herself or others or is gravely disabled.
- The person has been advised of the need for, but has not been willing or able to accept, treatment on a voluntary basis.

If you are held beyond 72 hours, you have the right to remain in the hospital for voluntary treatment. If you do not wish to stay voluntarily, you will automatically be scheduled for a certification review hearing, which will occur at the facility where you are staying within four

days of the end of your 72-hour hold. You may be represented at this hearing by a patients' rights advocate or another person of your choice. You can also request to have family members or someone of your choice at the hearing to help explain your circumstances (*Welfare and Institutions Code Section 5250*). If you want your advocate or a facility staff member to telephone someone for you, make this request before the hearing.



Helpful Hint

If you request a writ of habeas corpus, you give up your right to have a certification hearing. Talk to your advocate for more details about how the writ process works.

Re-certification for Intensive Treatment or “5260”

If during the 14-day certification you attempted or threatened to take your own life and if you remain an imminent threat of taking your life, your doctor may place you on an additional 14-day hold, which is known as a re-certification. You have the right to request a writ of habeas corpus. **Please note that no hearing will take place for this hold** (*Welfare and Institutions Code Section 5260*).

Additional 30-Day Hold or “5270.1”

In some counties, after you have completed a 14-day period of treatment, you may be held for an additional 30 days if your doctor determines that you remain gravely disabled and you are unwilling to accept voluntary treatment. Another certification hearing will automatically be held. You have the right to have a patients’ rights advocate assist you at the hearing. You also have the right to request a writ of habeas corpus at any time during this period and to have a patients’ rights advocate or attorney assist you at the hearing (*Welfare and Institutions Code Section 5270.1*).

Post Certification for Dangerousness or “5300 et. al.”

If sufficient reason exists at the end of the 14-day certification to believe that you are a danger to others because of a mental disorder, the person who is in charge of the facility may petition the court to require you to remain in the facility for further treatment. This treatment is not to exceed 180 days. You have the right to representation by an attorney and to a jury trial (*Welfare and Institutions Code Section 5300 et. al.*).

Temporary Conservatorship

If the person in charge of the facility where you are staying believes that you may benefit from the services of a conservator because you remain *gravely disabled*, you may be placed on a temporary conservatorship (T-con) for up to 30 days. At the end of 30 days, a hearing will be held to determine whether you remain gravely disabled and whether a one-year conservatorship will be necessary. Your advocate or attorney can assist you with the conservatorship hearing process (*Welfare and Institutions Code Section 5352.1*).

Confidentiality

Your record is confidential and can be released only to you or to people who are involved in providing you with medical or psychiatric services, except under court order, or as provided by law. However, other specific people may be given access to your records whenever you, your guardian, or your conservator gives express consent by signing a form that authorizes the release of information.

You must also be informed of your right to have or to not have other persons notified if you are hospitalized.

Medical Treatment

While you are staying in a facility, you have the right to prompt medical care and treatment.



Helpful Hints

- If you don't feel well or are in pain, let your doctor or a treatment staff member know right away.
- If you have any question about your treatment, talk to your doctor or a treatment staff member or ask your advocate to help you.

Right to Refuse Treatment

Voluntary Patients

You can refuse any type of medical or mental health treatment, including medications, unless the situation is an emergency (see the “Definitions” section of this handbook for *emergency treatment*).

Involuntary Patients

You have the right to refuse medical treatment or treatment with medications (except in an emergency) unless a capacity hearing is held and a hearing officer or a judge finds that you do not have the capacity to consent to or refuse treatment. The advocate or public defender can assist you with this matter.

Conservatees

If you are on conservatorship and the judge has granted your conservator power to make mental health treatment decisions, you no longer have the right to consent to or refuse treatment. You should talk with your advocate or attorney for more information. In addition, in some cases, a judge may allow a patient on conservatorship to retain the right to consent to or refuse medical treatment.

All Patients

You have the right to refuse to take part in any research project or medical experiment. You also have the right to refuse electroconvulsive treatment (ECT) or any form of convulsive therapy. However, if a court has determined that you lack the capacity to make this decision, then ECT may be given *without* your consent. An advocate or a public defender can assist you with the hearing process (*Welfare and Institutions Code Section 5326.7*).

Medications and the Informed Consent Process

Voluntary Patients

If you are a voluntary adult patient, you have the right to consent to or refuse taking antipsychotic medications (except in an emergency). You may be treated with antipsychotic medications only after the hospital has completed the *informed consent* process.

Involuntary Patients

If you are being detained against your will, you have the right to refuse treatment with antipsychotic medications *unless the situation is an emergency or a hearing officer or a judge has determined that you are incapable of making this decision.*



Helpful Hint

If your medication interferes with your ability to participate in daily activities or has other unpleasant side effects, let your doctor know.

The Informed Consent Process

Before you give your consent to take any antipsychotic medication, your doctor must first explain to you the following:

1. The reasons for your taking this medication and the benefits that you can expect
2. Your right to withdraw your consent at any time
3. The type and the amount of medication and how often you must take it
4. The common side effects from taking the medication, the effects that you are most likely to experience, and for how long the doctor believes you will need to take the medication
5. Alternative treatments that are available (if any)
6. The potential long-term side effects of taking the medication



Helpful Hint

If you are asked to consent to taking medications without being given a full explanation, talk to your advocate.

Capacity Hearing for Medications

A capacity hearing, which is also called a Riese hearing, may be held to determine whether you may or may not refuse treatment with medications. The capacity hearing will be conducted by a hearing officer at the facility where you are receiving treatment or by a judge in court. The hearing officer will determine whether you have the capacity to consent to or refuse medication as a form of treatment.

You have the right to be represented at the capacity hearing by an advocate or by an attorney. Your representative will help you prepare for the hearing and will answer questions or discuss concerns that you may have about the hearing process.

If you disagree with the capacity hearing decision, you may appeal the decision to a superior court or to a court of appeal. Your patients' rights advocate or attorney can assist you with filing an appeal.



Helpful Hint

If you have any questions about your right to consent to or refuse medications or about the capacity hearing process, talk to your patients' rights advocate or the public defender.

Rights That Cannot Be Denied

Persons with mental illness have the same legal rights and responsibilities that are guaranteed all other persons by the federal and state constitution and laws unless specifically limited by federal or state laws and regulations (*Welfare and Institutions Code Section 5325.1*).

The Right to Humane Care

You have the right to dignity, privacy, and humane care. You also have the right to treatment services that promote your potential to function independently. Treatment must be provided in ways that are least restrictive to you.



Helpful Hints

- If you feel that your treatment is too restrictive, talk to your doctor and find out how your treatment can be changed.
- You can also talk to the patients' rights advocate or file a complaint.

The Right to Be Free from Abuse or Neglect

You have the right to be free from abuse, neglect, or harm, including unnecessary or excessive physical restraint, isolation, or medication. Medication shall not be used as punishment, for the convenience of staff, as a substitute for treatment, or in quantities that interfere with the treatment program. You also have the right to be free from hazardous procedures.



Helpful Hint

If you believe that you have suffered abuse or neglect in the facility or feel that your treatment is more restrictive than necessary, talk to your advocate or let a staff member know.

The Right to Social Activities and Recreation

You have the right to social interaction and participation in activities within the community or within the facility if you are hospitalized.

You have the right to physical exercise and recreational opportunities.

The Right to Education

You have the right to participate in appropriate programs of publicly supported education.

The Right to Religious Freedom and Practice

You have the right to religious freedom and practice.



Helpful Hint

Your right to practice your religion cannot be denied by anyone. You may not be pressured in any way to participate in religious practices, and you do not have to accept a visit from a clergyman of any religion unless you want to. As soon as possible after you are admitted to a facility, you should let the staff know whether you have any special religious needs.

The Right to Be Free from Discrimination

You have the right to receive mental health services without discrimination on the basis of race, color, religion, sex, national origin, ancestry, age, marital status, physical or mental disability, medical condition, or sexual orientation.



Helpful Hint

Talk with a staff member or your advocate if you have any concerns about discrimination.

Rights That May Be Denied with Good Cause

Unless the facility's staff and the doctor have good cause to do so, you cannot be denied any of the following rights:

Clothing

You have the right to wear your own clothes (except as prohibited by law in some state hospitals).

Money

You have the right to keep and be allowed to spend a reasonable sum of your own money or personal funds for canteen expenses and small purchases.

Visitors

You have the right to see visitors each day.



Helpful Hint

Please check with the facility where you are staying for more details on visiting times and policies.

Storage Space

You have the right to have access to storage space for your personal belongings.

Personal Possessions

You have the right to keep and use your own personal possessions, including your own toilet articles.

Telephone

You have the right to have reasonable access to a telephone both to make and to receive confidential calls or to have such calls made for you.



Helpful Hint

If telephones are not placed where you can make private phone calls, ask a facility staff member whether you can have privacy when making your call.



Mail

You have the right to receive mail and unopened correspondence.

Writing Materials

You have the right to have letter-writing materials, including stamps, made available to you.

Good Cause

Good cause for denying any of the rights means that the professional person in charge has a good reason to believe that allowing a specific right would cause:

1. Injury to that person or others; or
2. A serious infringement on the rights of others; or
3. Serious damage to the facility;

and there is no less restrictive way to protect against those occurrences.

Your rights cannot be denied as a condition of admission, a privilege to be earned, a punishment, a convenience to staff, or a part of a treatment program. A denial of a right can be made only by the person authorized by law or regulation to do so, and this denial must be noted in your treatment record. If one of your rights is going to be denied, a staff member must inform you. Any denial of a right must be reviewed on a regular and ongoing basis. Once good cause no longer exists, your right(s) must be restored.



Helpful Hint

If you feel that you have had a right unfairly denied or you would like a right restored, you can talk to your advocate or a staff member or file a complaint.

Definitions

Advocate. The person mandated by state law to ensure that mental health patients maintain their statutory and constitutional rights.

Antipsychotic Medication. Any medication that is customarily prescribed for the treatment of mental disorders, emotional disorders, or both.

Capacity. A determination of whether a person is:

- Aware of his or her situation;
- Able to understand the risks, benefits, and alternatives to the proposed treatment; and,
- Able to understand and knowingly and intelligently evaluate information as it concerns giving consent and to otherwise use rational thought processes to participate in treatment decisions.

Conservator. A person who is appointed by a court to take care of a patient, his or her property, or both when the patient is considered to be gravely disabled as a result of a mental disorder or an impairment by chronic alcoholism. A conservator may be a public agency representative or a private person. A conservator may make decisions about a patient's treatment, placement, and finances.

Emergency Treatment. A situation in which action to impose treatment over a person's objection is immediately necessary for the preservation of life or the prevention of serious bodily harm to the patient or to others and it is impractical to first gain consent from the patient.

Gravely Disabled. A person who is unable, by reason of a mental disorder, to provide for his or her own food, clothing, or shelter. A person is not gravely disabled if someone else is willing and able to provide these basic necessities.

Hearing Officer. A superior court judge, a court-appointed commissioner or referee, or a court-appointed hearing officer who makes decisions in mental health certification review and capacity hearings.

Imminent. About to happen or ready to take place.

Informed Consent. A process by which a patient is informed of any antipsychotic medications that have been prescribed to him or her and the patient's consent is obtained. The informed consent form states that the patient was informed about the prescribed medication(s), including the type of medication, the quantity, the benefits or side effects of the medication, and the other forms of treatment that are available. The mental health facility is also required to keep the signed consent form in the patient's record.

Petition for Writ of Habeas Corpus. A legal request for release from a facility or an institution that a patient can file himself or herself or with the help of an attorney, an advocate, or a facility staff member. If accepted, the writ will entitle a patient to a hearing in a superior court.

Probable Cause. The amount of evidence that justifies issuing a 14-day certification. The mental health facility must establish specific facts that would reasonably lead someone to believe that a person is dangerous to himself, herself, or others or is gravely disabled.



Notes



Notes

**County Patients' Rights Advocate
Address and Telephone Number**

**If you are unable to reach
your patients' rights advocate
you may contact:**

California Office of Patients' Rights
100 Howe Avenue, Suite 210N
Sacramento, California 95825
Telephone: (916) 575-1610

California (unknown date): *Mental Health Patients' Rights poster.*

MENTAL HEALTH PATIENTS' RIGHTS



MOSAIC FOREST

Alice Washington, 2004

Mental health patients have the same legal rights guaranteed to everyone by the Constitution and laws of the United States and California.

YOU HAVE THE RIGHT:

- To dignity, privacy and humane care
- To be free from harm including unnecessary or excessive physical restraint, medication, isolation, abuse and neglect
- To receive information about your treatment and to participate in planning your treatment
- To consent or refuse to consent to treatment, unless there is a legally-defined emergency or a legal determination of incapacity
- To client-centered services designed to meet your individual goals, diverse needs, concerns, strengths, motivations and disabilities
- To treatment services which increase your ability to be more independent
- To prompt medical care and treatment
- To services and information in a language you can understand and that is sensitive to cultural diversity and special needs
- To keep and use your own personal possessions including toilet articles
- To have access to individual storage space for your private use
- To keep and spend a reasonable sum of your own money for small purchases
- To have reasonable access to telephones—both to make and to receive confidential calls or have such calls made for you
- To have access to letter-writing material and stamps—to mail and to receive unopened correspondence
- To wear your own clothes
- To social interaction, participation in community activities, physical exercise and recreational opportunities
- To see visitors every day
- To see and receive the services of a patient-advocate who has no direct or indirect clinical or administrative responsibility for the person receiving mental health services
- To religious freedom and practice
- To participate in appropriate programs of publicly supported education
- To be free from hazardous procedures
- And all other rights as provided by law or regulation

FOR MORE INFORMATION, CONTACT YOUR LOCAL COUNTY PATIENTS' RIGHTS ADVOCATE:

Advocates Please
Place Your Address &
Phone Number Here

IF YOU ARE UNABLE TO CONTACT YOUR LOCAL COUNTY PATIENTS' RIGHTS ADVOCATE, YOU MAY CONTACT:

Office of Patients' Rights—(916) 575-1610
Office of Human Rights—(916) 654-2327

Connecticut (1999): *Your Rights as a Client or Patient of the Connecticut Department of Mental Health & Addiction Services*. This is a one page statement of client/patient rights, descriptions of rights, and statutory references.



Your Rights as a Client or Patient

of the Connecticut Department of Mental Health & Addiction Services



Patricia Rehmer, MSN, Commissioner

You are entitled to be treated in a humane and dignified way at all times, and with full respect to:

- ❖ Personal Dignity
- ❖ Right to Privacy
- ❖ Right to Personal Property
- ❖ Civil Rights

You have the right to freedom from physical or mental abuse or harm; You have the right to a written treatment plan that is developed with your input and suited to your own personal needs, goals and aspirations; You should be informed of your rights by the institution, agency or program. In addition, a list of your rights must be posted on each ward of a hospital.

Other rights you have include:

Humane and dignified treatment: You have the right to receive humane and dignified treatment at all times and with full respect to your personal dignity and privacy. A specialized treatment plan shall be developed in accordance with your needs. Any treatment plan shall include, but not be limited to, reasonable notice of discharge, your active participation in and planning for appropriate aftercare. (See CGS 17a-542)

Personal Dignity: While in an inpatient facility, you have the right to wear your own clothing, to maintain your own personal belongings (given reasonable space limitations) and to be able to have access to and spend your own money for personal purchases.* Except for patients in Whiting Forensic Division, you have the right to be present during any search of your personal belongings. Any exception to these rights must be explained in writing and made a part of your clinical record. (See CGS 17a-548)

Privacy & Confidentiality: You have the right to privacy & confidentiality. Records that would identify your person, manner of treatment or your diagnosis cannot be given to any other person or agency without your written consent. All records maintained by the courts [as they relate to a recipient's treatment] shall be sealed and available only to respondent or counsel.* No person, hospital, treatment facility nor DMHAS may disclose or permit the disclosure of the identity, diagnosis, prognosis or treatment of any service recipient that would constitute a violation of state or federal statutes concerning confidentiality.* (See CGS 17a-500, 17a-688, 52-146f and 42 CFR part 2)

Physician's Emergency Certificate & Commitment: You, your advocate or counsel, can find out more about what Commitment procedures apply by reviewing the appropriate statutes. All persons admitted through a Physician's Emergency Certificate have the right, upon request, to a Probable Cause hearing within 3 business days from admission. All voluntarily admitted patients shall be informed, upon admission, of their ability to leave after three days notice. Any voluntarily confined patient shall not be denied his or her request to leave within three days notice in writing unless an application for commitment has been filed in a court of competent jurisdiction. Different statutes apply depending on your placement in addictions treatment or for a psychiatric disorder. (See CGS 17a-495 et seq.; 17a-502; 17a-506; 17a-682 to 17a-685, 54-56d)

Visiting and Communication Rights: You may receive visitors during scheduled visiting hours. You have the right to visit with and may have private conversations with clergy, attorneys or paralegals of your choice at any reasonable hour. Facilities may reasonably maintain rules regulating visitors. Mail or other communications to or from a service recipient in any treatment facility may not be intercepted, read or censored.* Any exceptions to rights regarding communications must be explained in writing, signed by the head of the facility (or designee) and made a part of your clinical record. (See CGS 17a-546, 17a-547)

Access to Your Medical Record: You or your attorney may have the right, upon written request, to inspect your hospital records. Unless your request is made in connection with litigation, a facility may refuse to disclose any portion of the record which the mental health facility has determined would create a substantial risk that you would inflict a life threatening injury to self or others, experience a severe deterioration in mental state,* or would constitute an invasion of privacy of another. (See CGS 17a-548, 52-146f)

Many of the rights of service recipients in facilities in Connecticut are specified in sections 17a-540 through 17a-550 of the Connecticut General Statutes. There may also be other rights provided by other state and federal statutes as well as by case law, but the ones identified in 17a-540 through 17a-550 are specifically protected and must be adhered to by inpatient or outpatient facilities in Connecticut. These statutes apply to both voluntary and involuntary service recipients, unless otherwise provided.

In general, both public and private facilities are prohibited from depriving you of any of your personal, property or civil rights. These include the right to vote, to hold or convey property and contract, except in accordance with due process of law and unless you have been declared incapable pursuant to sections 45a-644 to 45a-662. Any finding of incapability should specifically state which civil or personal rights you are incapable of exercising.

For more information about your rights as a recipient of services for substance use or mental health disorders in Connecticut, contact 1-800-446-7348.

Restraint & Seclusion: If conditions are such that you are restrained or placed in seclusion, you must be treated in a humane and dignified manner. The use of involuntary seclusion or mechanical restraints is allowed only when there is an imminent danger to yourself or others. Documentation of reasons for these interventions must be placed in your clinical records within 24 hours. Medications cannot be used as a substitute for a more appropriate treatment. (See CGS 17a-544)

Remedies of Aggrieved Persons: If you have been aggrieved by a violation of sections 17a-540 to 17a-549 you may petition the Superior Court within whose jurisdiction you reside for appropriate relief. (See CGS 17a-550)

Disclosure of Your Rights: A copy of your rights shall be prominently posted in each ward where mental health services are provided. (See CGS 17a-548)

Medication, Treatment, Informed Consent & Surgical Procedures: You, your advocate or counsel, can find out more about what procedures apply by reviewing the appropriate statutes (see CGS 17a-543a-j). If you have been hospitalized under any sections of 17a-540 to 550, you shall receive a physical examination within 5 days of admission and at least once every year thereafter. Reports of such exams must be entered into your clinical record. (See CGS 17a-545). No medical or surgical procedures, no psychosurgery or shock therapy shall be administered to any patient without such patient's written informed consent, except as provided by statute.* A facility may establish a procedure that governs involuntary medication treatments but any such decision shall be made by someone not employed by the treating facility and not until the patient's advocate has had reasonable opportunity to discuss such with the facility.* If a facility had determined to administer involuntary medication pursuant to statute, the patient may petition the Probate Court to hold a hearing to decide whether to allow this intervention. Notwithstanding the provisions of this section (17a-540 to 550) if obtaining consent would cause a medically harmful delay, emergency treatment may be provided without consent. (See CGS 17a-543a-f)

Denial of Employment, Housing, Etceteras: You cannot be denied employment, housing, civil service rank any license or permit (including a professional license) or any other civil or legal right, solely because of a present or past history of a mental disorder, unless otherwise provided.* (See CGS 17a-549)

Filing of Grievances: Recipients of services from DMHAS facilities or programs have the right to file a grievance if any staff or facility has: 1) violated a right provided by statute, regulation or policy; 2) if you have been treated in an arbitrary or unreasonable manner; 3) denied services authorized by a treatment plan due to negligence, discrimination, .or other improper reasons; 4) engaged in coercion to improperly limit your treatment choices; 5) unreasonably failed to intervene when your rights have been jeopardized in a setting controlled by the facility or DMHAS; or 6) failed to treat you in a humane or dignified manner. (See CGS 17a-451(u))

Other Rights may be guaranteed by state or federal statute, regulation or policies which have not been identified in this list. You are encouraged to seek counsel to learn of or to better understand these laws and policies.

*There may be exceptions and limitations to some rights. Your rights are detailed in the Connecticut General Statutes, sections 17a-450 et seq.; 17a-540 et seq.; 17a-680 et seq.; 52-146d-j; 54-56d; in Federal regulation 42 CFR part 2, the Rehabilitation Act, the Americans with Disabilities Act; in the Patients' Self-Determination Act, in Section 1983 and in other parts of state and federal law.

District of Columbia (2002): *Consumer Rights Statement*. This two page document outlines consumer rights for individuals receiving mental health services, and is to be distributed to all consumers.

**DISTRICT OF COLUMBIA
DEPARTMENT OF MENTAL HEALTH
Consumer Rights Statement**

The consumer rights statement tells you of the rights that you have when you receive mental health services. If you do not understand your rights, they will be read and explained to you. If the court has said that you are not able to understand these rights, a copy of the rights will be given to someone in your family or anyone you choose.

When you receive services from the Department of Mental Health or any facility contracted to provide mental health services or supports by the Department of Mental Health, you have a right:

- TO BE TREATED AT ALL TIMES WITH DIGNITY AND RESPECT.** You will be treated, at all times, with consideration and respect for your dignity, autonomy and privacy. Respectful treatment shall be extended to family members, personal representatives, attorney-in-fact, or guardian.
- TO BE TOLD WHAT RIGHTS YOU HAVE.**
- TO BE FREE OF DISCRIMINATION.** Mental health services and mental health supports will be given to you free of discrimination on the basis of race, color, religion, national origin, language, culture, sex, age, marital status, personal appearance, sexual orientation, family status, family responsibilities, matriculation, political affiliation, disability, source of income, and place of residence.
- TO BE SAFE FROM HARM.** Be free from physical, emotional, sexual or financial abuse, neglect, harassment, coercion or exploitation when seeking or receiving mental health services and mental health supports.
- TO NOT BE TIED DOWN OR LOCKED IN A ROOM.** Be free from seclusion and restraint of any form that is not medically necessary or that is used as a means of coercion, discipline, convenience or retaliation by staff.
- TO COMPLAIN IF YOU FEEL YOUR RIGHTS HAVE BEEN VIOLATED.** File a grievance if you feel that your rights have been limited, violated or if you are dissatisfied with mental health services or supports provided. If you are dissatisfied with the responses to your grievance by your mental health service provider, you have the right to external review or mediation of your grievance by a neutral party. You may also have the right to request a fair hearing or other remedy.
- TO DECIDE, IN ADVANCE, WHAT TREATMENT YOU WANT.** To make certain health care decisions, including the right to accept or refuse life-sustaining medical treatment, if such treatment becomes necessary, and the right to execute advanced directives about such medical treatment decisions (e.g., living wills, power of attorney). You also have the right to execute advance instructions about mental health treatment preferences. These preferences shall be followed except for good cause. A brochure that further explains these rights is available on each Saint Elizabeths Hospital ward and at every Core Service Agency.
- TO GIVE OR NOT GIVE YOUR CONSENT FOR TREATMENT OF YOUR MENTAL OR PHYSICAL PROBLEMS.** Be provided with information about your proposed mental health services and mental health supports, including their purpose, side effects, potential risks and benefits and feasible alternatives where your informed consent is sought for the provision of services or supports. Unless otherwise provided by law, no services or supports shall be provided to you without your informed consent. Where such information as to services and supports is provided to you and your physician believes that you are incapable of giving informed consent, your physician shall seek certification of your incapacitation. If you are certified as incapacitated, your physician shall seek to obtain consent for the provision of services and supports from your family member or personal representative you have authorized release of information, your attorney-in-fact, durable power of attorney or guardian appointed by the court.
- TO TAKE OR REFUSE TO TAKE MEDICATIONS.** Be free from the administration of medication for the purpose of mental health treatment without your informed consent, unless otherwise provided by law. When seeking informed consent, the Department of Mental Health or your provider shall provide you, your personal representative, durable power of attorney or family members with information about the proposed medication. You also have the right to appeal the decision to a neutral party. Your refusal to consent to medication on the basis of a valid religious objection shall not be overridden without a court order requiring your provider to administer the medication.
- TO BE TREATED IN A PLACE THAT DOES NOT HAVE TOO MANY LIMITATIONS.** Receive individualized mental health services and mental health supports in the least restrictive, most integrated setting appropriate to your individual needs.
- TO TAKE PART IN THE DEVELOPMENT OF YOUR SERVICE PLAN.** Meaningful participation for you, family members, personal representative and/or your attorney-in-fact in the development of your service plan, as well as the opportunity to participate in planning for your transition from one provider to another. Such service planning shall include the right to be informed about your condition and legal status and proposed or current services, the risks and benefits of treatments, therapies and/or other available alternatives. Services offered to you shall not be conditioned upon agreement to accept another service or support. You may revoke your consent to participate at any time and/or request a review or revision of your service plan.
- TO HAVE INFORMATION ABOUT YOU KEPT PRIVATE.** Have your mental health information records and all information about you kept confidential and to have access to your records and be able to request correction of inaccurate information contained in the record in accordance with the Mental Health Information Act of 1978.
- TO HAVE SOCIAL TIME WITH OTHER MALES OR FEMALES.** Opportunities for social interaction with members of either sex, unless such interaction is specifically limited or withheld under your service plan because of substantial risk or potential harm to you or others, or will substantially preclude effective treatment.

- TO REQUEST AN EXAM OF YOUR MENTAL CONDITION.** If you are civilly committed, to request, in writing, an independent examination of your mental condition to determine whether you should remain committed. This examination shall be conducted within 180 days after your commitment. If you cannot afford to pay for the examination, DMH will pay the cost for you.

If you are civilly committed, to be automatically examined every 90 days by a psychiatrist or qualified psychologist designated by DMH to determine whether you continue to be likely to injure self or others due to mental illness if at liberty. You will receive at least 7 days notice prior to the examination. In addition, a copy of the notice of examination will be sent to the Public Defender Service at least seven (7) days prior to the examination. You and the Public Defender Service are responsible for notifying any other person that you want to be aware of the examination. You may have your attorney or family member attend the examination if you request their presence and the doctor approves their attendance.

- TO TALK IN PRIVATE WITH FAMILY AND FRIENDS, AT REASONABLE TIMES.**
- TO PHYSICAL EXERCISE AND TO GO OUTSIDE.** Reasonable opportunities for regular physical exercise and freedom to go outdoors at regular and frequent intervals.
- TO SEE VISITORS YOU WANT TO SEE.** Free communication with, and visitation by, your attorneys, attorney-in-fact, clergy, family members, significant other, personal representatives, and guardians in private and at reasonable times.
- TO GET AND SEND MAIL WITHOUT ANYONE ELSE OPENING IT.** Opportunities to communicate by sealed, uncensored mail or otherwise with officials in the Department of Mental Health, your attorney, the courts and your personal physicians or qualified psychologists. Writing materials and postage stamps shall be made available upon request. Assistance shall be provided in writing, addressing and posting letters and other documents. Mail may be read only if there is reason to believe that such mail contains items, information or substances that may be harmful.
- TO TALK ON THE TELEPHONE IN PRIVATE.** Access to telephones to make and receive confidential calls, including free local calls and reasonable access to free long distance calls if you are indigent, and assistance in calling if requested and needed.
- TO ASK FOR AND GET A COPY OF YOUR BILL FOR THE SERVICES YOU RECEIVED.** Request and receive an itemized copy of your bill for services rendered.
- TO RECEIVE SERVICES AND LIVE IN A HEALTHY, SAFE AND CLEAN PLACE.** Safe, sanitary and humane living and treatment facility conditions.
- TO VOTE IN ALL ELECTIONS IF YOU ARE REGISTERED.** Vote in all elections in the jurisdiction in which you are registered.
- TO PRACTICE OR NOT PRACTICE YOUR RELIGION.** Engage in or abstain from the practice of religion and freedom from harassment aimed at encouraging you to engage in the religious practices of the provider or other consumers.
- TO HAVE A PLACE TO STORE YOUR PROPERTY.** Access to reasonable individual storage space for private use.
- TO WEAR YOUR OWN CLOTHES AND KEEP YOUR OWN THINGS.** Wear your own clothes and to keep, display and use personal possessions, including toilet articles, unless a physician determines and documents in your record that specific limitations are necessary for clinical purposes.
- TO DRESS, WEAR YOUR HAIR AND LOOK THE WAY YOU WANT TO.** Maintain your personal appearance, including head and body hair in a reasonable manner according to personal taste, unless it adversely affects your health or safety or the health and safety of others.
- TO SAY HOW YOU FEEL ABOUT THE SERVICES YOU RECEIVE.** Participate in periodic evaluation of mental health services and supports, including evaluation of providers.
- ENJOY ALL BENEFITS AND PRIVILEGES GUARANTEED BY LAW UNLESS LIMITED BY THE COURTS.**

Department of Mental Health, Office of Consumer and Family Affairs, Division of Consumer Rights
 64 New York Avenue N.E., 4th Floor, Washington, D.C. 20002
 Telephone: (202) 673-4377 Fax: (202) 673-2124

The Department of Mental Health provides that you, your family member or representative shall be given a copy of this statement.

Date "Consumer Rights Statement" presented: _____

I acknowledge that I have read or this statement has been read to me.

 (Consumer's Signature)

 (Witness' Signature)

 Date

 (Guardian, Family or Representative)

 (Witness' Signature)

 Date

District of Columbia (2012): *FAIR Grievance and Dispute Resolution Procedure (Finding Answers, Improving Relationships)*. This is a one page document outlining the formal grievance process for consumers in the District of Columbia.



Department of Mental Health

Grievance and Dispute Resolution Procedure **FAIR: Finding Answers, Improving Relationships**

FAIR—Finding Answers, Improving Relationships—is the formal grievance process through which a consumer can voice a concern or complaint. A grievance can be filed by the individual receiving mental health services or by any person on behalf of the individual. Every consumer has the right to file a grievance without fear of retaliation or loss of service. The **FAIR** process supports self-advocacy and ensures that consumers are heard.

How To File A Grievance

The grievance must be in writing. To facilitate gathering information and to allow a quick resolution, you must file a grievance within six months after the incident that caused your dissatisfaction. However, depending on the circumstances, a grievance can be accepted after six months.

If your grievance is about the provider where you receive services, you can file your grievance there. Each mental health provider is required to identify a grievance coordinator whose job it is to help a consumer file a grievance. You can give the grievance to the grievance coordinator or any employee you choose at your mental health provider. Or, you can file your grievance with the Office of Consumer and Family Affairs who will forward the grievance to the provider. If your grievance is about a DMH rule, the actions of a DMH employee, or Saint Elizabeths Hospital, you must file your grievance with the Office of Consumer and Family Affairs.

When filing a written grievance, be as specific as possible about what caused your dissatisfaction and what you believe is a good solution. The Office of Consumer and Family Affairs can assist you in filing your grievance. You also can contact the

Consumer Action Network (CAN), an independent peer advocacy agency, to assist you.

Resolving a Grievance

Once your grievance is received, a response must be given to you within 10 business days. However, if the grievance alleges abuse, a response is required sooner—within five business days. If you are not satisfied with the decision, you can request an external review through the Office of Consumer and Family Affairs. The request must be received within 10 business days.

External Review. The Office of Consumer and Family Affairs will explain your options to you and schedule the appeal with an External Reviewer who is a skilled professional with training and experience in mediation and dispute resolution. An External Reviewer is not an employee of DMH.

If you choose mediation and a solution is reached, the grievance is settled. If a hearing is held, after listening to both sides, the External Reviewer will issue an advisory opinion to the DMH Director. You will receive a copy of this opinion and you have the right to add comments for the Director to consider. The Director will review the grievance, the response, the advisory opinion and any comments and make a decision within 10 business days.

The Office of Consumer and Family Affairs maintains a record of each grievance. You may request to see the record of your grievance at any time.

For Assistance:

Office of Consumer and Family Affairs:
(202) 673-4377 Fax (202) 673-1933

Consumer Action Network (CAN): (202) 842-0001

Maine (2013): *Rights of Recipients of Mental Health Services. Adults Grievance Process Guide.*

This describes grievance processes in Maine, the definition of a grievance, who can file a grievance, and how to file one, in either a covered facility or community service. It describes the review process, and contact information, as well as an overview of consumer rights. There is also a reporting form.



Paul R. LePage, Governor

Mary C. Mayhew, Commissioner

RIGHTS OF RECIPIENTS OF MENTAL HEALTH SERVICES

ADULTS GRIEVANCE PROCESS GUIDE

Revised: January 2, 2013

DHHS
Non-Discrimination Notice

The Department of Health and Human Services (DHHS) does not discriminate on the basis of disability, race, color, creed, gender, sexual orientation, age, or national origin, in admission to, access to, or operations of its programs, services, or activities, or its hiring or employment practices. This notice is provided as required by Title II of the Americans with Disabilities Act of 1990 and in accordance with the Civil Rights Act of 1964 as amended, Section 504 of the Rehabilitation Act of 1973, as amended, the Age Discrimination Act of 1975, Title IX of the Education Amendments of 1972 and the Maine Human Rights Act and Executive Order Regarding State of Maine Contracts for Services. Questions, concerns, complaints or requests for additional information regarding the ADA may be forwarded to the DHHS' ADA Compliance/EEO Coordinators, 11 State House Station – 221 State Street, Augusta, Maine 04333, 207-287-4289 (V), 207-287-3488 (V), TTY Users: dial 711 (Maine Relay). Individuals who need auxiliary aids for effective communication in program and services of DHHS are invited to make their needs and preferences known to the ADA Compliance/EEO Coordinators. This notice is available in alternate formats, upon request.

GRIEVANCE PROCESS GUIDE

This is a guide to the Rights of Recipients of Mental Health Services Grievance Process. The purpose of this guide is to help you understand the process and to file a grievance if you believe that your rights have been violated.

In this guide you will learn:

- What a grievance is;
- What the grievance process is;
- How to file a grievance;
- How to appeal a grievance;
- How to prepare a grievance;
- Where to get help with your grievance.

The best way to protect your rights is to know what they are. At the end of this guide you will find a list of your basic rights and information about getting a copy of the Rights of Recipients of Mental Health Services (RRMHS). There is also a list of agencies you can contact for more information about your rights and the grievance process.

What is a Grievance?

If you believe that someone has violated your rights while you are seeking or receiving mental health services, you can file a grievance.

A grievance is a formal written complaint about a possible rights violation. Filing a grievance is a way to make sure that you are heard when you believe that one of your rights has been violated. For example:

- Your community support worker might give information about you to someone without your written permission. You believe that this is a violation of your right to confidentiality. You can file a grievance.
- Your community support worker has promised to help you fill out forms to get housing but keeps rescheduling the appointments. You have spoken with his or her supervisor but nothing happened. You can file a grievance.
- You want to work but need support. You have asked your treatment team to make supported employment part of your plan. Your team tells you that you aren't able to work and refuses to help you get supported employment. You can file a grievance.

These are just a few examples of why someone might file a grievance. Your reason might be different from these examples, but the Grievance Process is the same no matter what your grievance is about.

What is the Grievance Process?

The Grievance Process is a system of rules written to make sure that your grievance is heard and responded to. The person who files a grievance – you – is called the Grievant. The agency, hospital or person against whom the grievance is filed is called the Respondent. Both the Grievant and the Respondent have the right to be treated fairly in the Grievance Process.

What Can be Grieved?

You can file a grievance if you think one or more of your rights under the Rights of Recipients of Mental Health Services, the Settlement Agreement in Bates vs. the Department of Health and Human Services or any other applicable law or regulation.

How to file a Grievance

How a grievance is filed, depends on whether the possible rights violation happened in the community or an inpatient psychiatric facility.

Filing a Grievance in the Community

Level 1: Each mental health service provider must have a grievance process and grievance forms available. If the agency doesn't have a form or if you don't want to use the agency's form, you can write out your grievance on a piece of paper. There is also a sample form at the end of this guide.

Give your written grievance to the person in charge of the agency or program where the rights violation happened. That person has five (5) working days to:

- Review your grievance;
- Review any relevant documentation;
- Interview you and any witnesses, if he or she believes it necessary;
- Provide you with a decision in writing.

If the person responding to your grievance needs more time, he or she may have five (5) additional working days. You will be notified of the extension in writing.

Level 2: If you don't agree with the Level 1 decision, you can appeal to Level 2.

A Level 2 appeal must:

- Be made within ten (10) working days from the day you received the Level 1 decision;
- Be in writing;
- Be given to the person who made the decision at Level 1. That person must forward your appeal and any related documentation to the Director of the DHHS Office of Substance Abuse and Mental Health Services

The Director of the DHHS Office of Substance Abuse and Mental Health Services:

- Will review your grievance;
- Will request more information, if needed;
- May speak or meet with you and other people who have information about your grievance;
- Will answer your appeal in writing within five (5) working days.

If more time is needed to respond to your appeal, the Director may ask you in writing for an additional five (5) working days.

Level 3: If you don't agree with the decision made at Level 2, you can appeal to the Commissioner of the Department of Health and Human Services. A Level 3 appeal must:

- Be made within ten (10) working days after you received a Level 2 decision;
- Be in writing;
- Be sent to: Commissioner

DHHS
11 State House Station -- 221 State St.
Augusta, ME 04333-0011

The Commissioner has five (5) working days to respond to your appeal. The reply may simply notify you that a hearing will be scheduled.

Filing a Grievance in an Inpatient Facility

Level 1: Each inpatient facility or psychiatric hospital unit must have grievance forms available. If the hospital or facility doesn't have a form or you don't want to use the hospital's or facility's form you can write out your grievance on a piece of paper. There is also a sample form at the end of this guide.

Give your written grievance to the person in charge of the inpatient unit where the rights violation happened. That person has five (5) working days to:

- Review your grievance;
- Review any relevant documentation;
- Interview you and any witnesses, if he or she believes that's necessary;
- Provide you with a decision in writing.

If the person responding to your grievance needs more time, he or she may have five (5) additional working days. You will be notified of the extension in writing.

Level 2: If you don't agree with the Level 1 decision, you can appeal to Level 2.

A Level 2 appeal must be:

- Made within ten (10) working days from the day you received the Level 1 decision;
- Made in writing to the Superintendent or Chief Operating Officer of the hospital;
- Given to the person who made the decision at Level 1. This person will forward your appeal and any related documentation to the Superintendent or Chief Operating Officer of the inpatient facility;

The Superintendent or Chief Operating Officer of the hospital:

- Will review your grievance;
- Will request more information if needed;
- May speak or meet with you and other people who have information about your grievance;
- May order an administrative hearing;
- Will answer your appeal in writing within five (5) working days.

If more time is needed to respond to your appeal, the Superintendent or Chief Operating Officer may ask you in writing for an additional five (5) working days.

Level 3: If you don't agree with the decision made at Level 2, you can appeal to the Commissioner of the Dept. of Health and Human Services.

A Level 3 appeal must:

- Be made within ten (10) working days after you received a Level 2 decision;
- Be in writing;
- Be sent to: Commissioner

Department of Health and Human Services
11 State House Station - 221 State St.
Augusta, ME 04333-0011

The Commissioner has five (5) working days to respond to your appeal. The reply may simply notify you that a hearing will be scheduled..

Administrative Hearings

An Administrative Hearing is a formal meeting conducted by an Administrative Hearings Officer. The RRMHS Grievance Process requires that an Administrative Hearing be held at Level 2 or at Level 3. If there was not a hearing at Level 2, there must be one at Level 3.

At the Administrative Hearing, you can:

- Explain your grievance;
- Present evidence to support your grievance;
- Present witnesses to support your grievance;
- Challenge the evidence presented by the other side;
- Question the other side's witnesses.

An Administrative Hearings Officer is a person who knows about the Grievance Process and the law. He or she will listen to both sides before making an impartial decision.

The Administrative Hearings Officer will:

- Listen carefully to both sides;
- Review the evidence;
- Determine what the "facts" of the case are;
- Recommend a decision to the Commissioner of the Department of Health and Human Services.

The Commissioner will review the Administrative Hearing Officer's recommendations and issue a final written decision.

The Commissioner's Level 3 decision is called "final agency action." That means there are no more Grievance Process appeals. If you don't agree with the Commissioner's decision, you can appeal to the Maine Superior Court.

Preparing a Grievance

If you're thinking about filing a grievance, there are some things that you can do to prepare.

Write down what happened that made you want to file a grievance.

- Who was involved?
- What happened?
- When did it happen?
- Where did it happen?
- Were there any witnesses?

Know what right was violated.

- Read through the Rights of Recipients of Mental Health Services.
- If you can't find the section that applies to the right you think was violated, contact an advocate or someone else who knows about your rights. You will find a list of places to get help with filing a grievance at the end of this guide.

Think about what you want your grievance to accomplish. This is very important. Knowing what you would like the outcome of your grievance to be will help you to get the result that you want.

Start a file and keep it up-to-date. Your file should include:

- Copies of your formal grievance and appeals;
- Copies of letters related to your grievance;
- Copies of any documents you are using as evidence;
- Notes of any phone conversations you have about your grievance;
- A list of your witnesses;
- A calendar of appeal dates and deadlines.

Burden of Proof

The agency or inpatient facility against which a grievance is filed has the burden of proof. That means that the agency or inpatient facility has to prove that you are wrong. You don't have to prove that you are right. When you are preparing or appealing a grievance, you have the right to copies of any information and documentation the agency or inpatient facility used to respond to your grievance. Review this information carefully to see whether it supports the response you received.

Where to Get Help Filing a Grievance

The Grievance Process can be confusing, but there is help available. There are advocates who can either represent you or provide you with information. Advocates have experience helping people protect their rights. They understand the Rights of Recipients of Mental Health Services and the Grievance Process.

There are several agencies that provide advocacy services and/or information. These are some of the places you can contact for help.

The Disability Rights Center

24 Stone Street

Augusta, ME 04330-2007

1-800-452-1948 (v/tty) for clients/families (In state only)

1-207-626-2774 (v/tty)

(The Disability Rights Center has advocates at The Riverview Psychiatric Center and the Dorothea Dix Psychiatric Center)

National Alliance on Mental Illness (NAMI)
1 Bangor St.
Augusta, ME 04330
(207) 622-5767 or 1-800-464-5767

Maine Equal Justice Partners
126 Sewall St.
Augusta ME 04330
(207) 626-7058
1- 866- 626-7059

Dept. of Health and Human Services
Substance Abuse and Mental Health Services
Grievance Coordinator.
11 State House Station- 41 Anthony Avenue
Augusta, ME 04333-0011
(207) 287-4243
AMHS Main Line #: (207) 287-4243
TTY Users: Dial 711 (Maine Relay)

Each of these agencies will either provide you with assistance or information or direct you to an agency that can. Don't be afraid to ask for help.

Basic Rights of Recipients of Mental Health Services

Before filing a grievance, it's always a good idea to review your rights are under the Rights of Recipients of Mental Health Services. Grievances are about rights violations. The rights listed below are your basic rights under the Rights of Recipients of Mental Health Services.

Recipients have the same human, civil and legal rights accorded all citizens, including the right to live in a community of their choice without constraints upon their independence, except those constraints to which all citizens are subject. Recipients have the right to a humane psychological and physical environment within, the facility or program. Recipients have the right to be treated with courtesy and dignity. Recipients are at all times entitled to respect for their individuality and to recognition that their personalities, abilities, needs, and aspirations are not determinable on the basis of a psychiatric diagnosis. Recipients have the right to have their privacy assured and protected to the greatest extent possible in light of their treatment needs. Recipients shall not be incapacitated nor denied any right, benefit, privilege, franchise, license, authority or capacity of whatever nature that they would otherwise have, simply due to their status as recipients of mental health services.

There shall be no limitation on the freedom of religious belief.

Discrimination in the provision of services due to race, creed, sex, age, national origin, political belief or handicapping condition shall be prohibited.

All basic rights shall remain intact unless specifically limited through legal proceedings, as in the case of guardianship or in an emergency or when necessary to protect the rights or safety of the recipient or others, only as outlined in specific sections of these rules.

Services delivered to recipients shall be based on their identified individual needs and shall be delivered according to flexible models that accommodate changes in recipients' needs and the variations in the intensity of their needs. To the extent possible, recipients will not be required to move from one setting to another in order to receive the services appropriate to their changed needs.

Recipients have the right to refuse all or some of the services offered, subject to the exceptions noted below. A person's refusal of a particular mode or course of treatment shall not per se be grounds for refusing a recipient's access to other services that the recipient accepts. Only the following services may be imposed against a recipient's wishes:

- Involuntary hospitalization pursuant to 34-B M.R.S.A. §§ 3863 et seq.;
- Forensic services pursuant to 15 M.R.S.A. § 101-B in a residential or hospital setting;
- Services permitted under applicable law in the case of a person under guardianship, upon the guardian's informed consent and within the limits of the guardian's authority;
- Emergency treatment in a residential or hospital setting during a psychiatric emergency, pursuant to procedures set out in these rules; or
- Treatment in a residential or hospital setting pursuant to the administrative hearing provisions of these rules for individuals who lack capacity to consent to services.

Recipients have the right to exercise their rights pursuant to these rules without reprisal, including reprisal in the form of denial of or termination of services.

Recipients with long term mental illnesses have the following additional rights, to the extent that state and community resources are available

- The right to a service system that employs culturally normative and valued methods and settings,
- The right to coordination of the disparate components of the community service system;
- The right to individualized developmental programming that recognizes that each recipient with long-term mental illness is capable of growth or slowing of deterioration;
- The right to a comprehensive array of services to meet the recipient's needs; and
- The right to the maintenance of natural support systems, such as family and friends of recipients with long-term mental illnesses, individual, formal and informal networks of mutual and self-help.

For a complete copy of the Rights of Recipients of Mental Health Services, please contact:

Dept. of Health and Human Services
Substance Abuse and Mental Health Services
11 State House Station-41 Anthony Avenue
Augusta, ME 04333-0011
(207) 287-4243
TTY Users: Dial 711 (Maine Relay)

Or on the web at: <http://www.maine.gov/dhhs/samhs/mentalhealth/rights-legal/index.html>

DEPT. OF HEALTH AND HUMAN SERVICES
SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES

Level 1 Grievance Reporting Form

Today's Date: _____

Your Name: _____

Address: _____

Phone/TTY: _____

Name of Agency/Service Provider Involved:

Location of Agency/Service Provider (city/town):

Date(s) that the incident happened: _____

Name(s) of People Involved: _____

Briefly Describe What Happened (use the back of this form if necessary):

What is the specific issue that needs to be addressed?

How can this matter be resolved?

Your Notes and Contact Information

Maine (unknown date): *Summary of Rights of Recipients of Mental Health Services* in Russian, Serbo-Croatian, Somali, Spanish, Vietnamese.



Adult Mental Health Services

An Office of the
Department of Health and Human Services

John E. Baldacci, Governor

Brenda M. Harvey, Commissioner

ПРАВА ПОЛЬЗУЮЩИХСЯ СЛУЖБАМИ ПСИХИЧЕСКОГО ЗДОРОВЬЯ

Ниже приведено суммарное изложение Ваших основных прав, как получателя услуг согласно акту «Права пользующихся службами психического здоровья» (Rights of Recipients of Mental Health Services). Вы можете получить полную копию Прав от нашего агентства или от Department of Health and Human Services по адресу: State House Station-Marquardt Bldg.-2nd Floor, Augusta, Maine 04333; телефон: (207)287-4243 или 1-800-606-0215 для глухих. Вы можете найти полное изложение Ваших прав по электронному адресу <http://www.maine.gov/dhhs/mh/rights-legal/index.html>. Если Вы глухи или не понимаете английский язык, то Вам будут предоставлены услуги квалифицированного переводчика бесплатно, чтобы Вы смогли понять Ваши права и план лечения.

- 1. Основные права.** Вы обладаете теми же гражданскими, человеческими и юридическими правами, что и все граждане штата Мэн. У Вас есть право на вежливое, достойное и уважительное отношение к Вам.
- 2. Конфиденциальность и доступ к Вашему делу.** Вы имеете право на конфиденциальность Вашего дела. Информация о Вашем деле может быть выдана кому либо только с Вашего разрешения. Вы имеете право получить доступ к Вашему делу в любое приемлемое время. Вы можете добавить комментарии в письменной форме к Вашему делу для прояснения информации, которую Вы считаете неточной или неполной. Никто не имеет права доступа к Вашему делу, без Вашего разрешения, кроме тех случаев, описанных в полной версии Прав.
- 3. Индивидуальное лечение или план услуг.** У Вас есть право получить индивидуальный план лечения, разработанный Вами и нашим сотрудником, работающим с Вами, основанный на Ваших нуждах и целях. План должен существовать в письменной форме, и у Вас есть право на получение его копии. В плане должно быть конкретно указано, кто что будет делать, должны быть установлены временные промежутки, в которые будут достигнуты цели, и должно быть оговорено, как определяется успех лечения. План должен быть основан на Ваших действительных нуждах и, если необходимая услуга недоступна, в плане должно быть подробно оговорено, как Вам можно помочь.
- 4. Согласие.** Услуги или лечение не могут быть предоставлены Вам без Вашего согласия. В случае если у Вас есть опекун то он или она имеют право принимать решения без вашего на то согласия. У Вас есть право получить информацию о возможных рисках и ожидаемых положительных результатах от всех услуг и лечения, включая лекарства, в понятной для Вас форме. Если у Вас есть какие-либо вопросы, Вы можете задать их нашему сотруднику или кому-либо другому, у кого Вы хотите спросить, до принятия решения об услугах или лечении. Если опекун имеет право принимать решения за Вас, то и опекун имеет полное право получить информацию о всех рисках и ожидаемых положительных результатах или о предлагаемых услугах или лечении.
- 5. Помощь в защите прав.** Вы имеете право выбрать человека, представляющего Ваши интересы, чтобы он помог Вам понять Ваши права, защитить Ваши права или помочь Вам выработать план

лечения или услуг. Если Вы хотите назначить представителя, то Вы должны это сделать в письменной форме. Вы можете связываться с представителем в любое время, когда пожелаете, Вы можете поменять представителя или отказаться от его услуг в любое время.

6. **Об изоляции и уединении.** Вас не могут изолировать или связывать при амбулаторном лечении. Вы можете быть связаны только в условии клинического лечения в согласии с процедурой описанной в "Правах пользующихся службами психического здоровья" Часть Б (Part B), раздел VII
7. **Право на обжалование.** Вы имеете право подать жалобу для оспаривания любого возможного нарушения Ваших прав или сомнительной практики работы. У Вас есть право на то, чтобы на Вашу жалобу ответили в письменной форме с объяснением причин, повлиявших на принятие решений. Вы можете оспорить любое решение, подав апелляцию в Отдел Психического Здоровья (Division of Mental Health). Вас не могут наказать никаким образом за то, что Вы подали жалобу. Против вас не могут быть предприняты ответные действия враждебного характера за то, что Вы подали жалобу. Вам помогут составить и подать жалобу в если вы свяжетесь с Координатором по Обжалованиям (Grievance Coordinator) по адресу: 11 State House Station-Marquardt Bldg. 2nd Floor, Augusta, Maine 04333, телефон: 287-4249 или в Центре Прав Нетрудоспособных (Disability Rights Center) по адресу: P.O. Box 2007, Augusta, Maine 04333-2007; телефон: 1-800-452-1948.

Я получил (-ла) копию краткого изложения Прав получателей услуг по психическому здоровью.

Дата

Подпись клиента

Дата

Подпись свидетеля



John E. Baldacci, Governor

Brenda M. Harvey, Commissioner

DEPARTMENT OF HEALTH AND HUMAN SERVICES - Office of Adult Mental Health Services (Kancelarija za usluge mentalnog zdravlja odraslih)

Kratak pregled prava primalaca usluga iz oblasti mentalnog zdravlja

Ovo je kratak pregled vaših osnovnih prava kao primaoca usluga po Pravima primaoca usluga iz oblasti mentalnog zdravlja. Imate pravo da dobijete kompletan dokument o pravima preko ove službe ili preko Department of Health and Human Services, Office of Adult Mental Health Services, 11 State House Station-Marquardt Bldg. 2nd Floor, Augusta, Maine 04333, broj telefona (207) 287-4243 ili 1-800-606-0215 (za gluve osobe). Takođe, možete naći punu verziju prava na <http://www.maine.gov/dhhs/mh/rights/-legal/index.html>. Ukoliko ste gluvi ili ne razumijete engleski, tumač će vam biti dostupan kako biste mogli razumjeti svoja prava.

1. **Opšta prava:** Vi imate ista građanska, ljudska i zakonska prava kao i svi ostali građani. Imate pravo da se s vama postupa učtivo i s punim poštovanjem vaše ličnosti i dostojanstva.
2. **Povjerljivost i dostupnost dokumenata:** Imate pravo da se vaši dokumenti čuvaju povjerljivim i da mogu biti dati na uvid nekome drugom samo uz vaš pismeni pristanak. Imate pravo da pregledate vaše dokumente u bilo koje razumno vrijeme. Možete dodati pisane komentare u vaše dokumente kako biste razjasnili informacije za koje vjerujete da su netačne ili nepotpune. Nikom osim vama ne mogu biti dostupni vaši zdravstveni dokumenti osim uz vašu izričitu dozvolu mogu ih vidjeti i drugi, izuzev u slučajevima opisanim u knjizi o cjelokupnim pravima.
3. **Individualizovani tretman ili plan usluge:** Imate pravo da zahtijevate plan tretmana i liječenje koje će socijalni radnik napraviti zajedno sa vama, a koji će biti u skladu vaših potreba. Plan liječenja mora biti u pismenoj formi i imate pravo na kopiju. Plan mora sadržati detalje šta će ko raditi, vremenski period u kojem će zadaci i ciljevi biti postignuti i kako će se ocjenjivati uspjeh tretmana. Plan mora biti zasnovan na vašim stvarnim potrebama i u slučaju da su neophodne usluge nedostupne, plan se mora korigovati.
4. **Davanje saglasnosti:** Nijedan tretman ne može vam se nametati bez vašeg pristanka. Ukoliko imate staratelja, on ili ona su ovlašćeni da donesu odluke bez vašeg pristanka. Imate pravo da budete informisani o mogućim rizicima i očekivanim beneficijama svih usluga i tretmana, uključujući i lijekove, na način koji razumijete. Ukoliko imate bilo kakvih pitanja, možete se obratiti svom zaduženom radniku ili drugoj osobi prije nego donesete odluku o tretmanu ili uslugama. Ako je staratelj ovlašćen da donosi odluke u vaše ime, staratelj ima pravo da bude u potpunosti informisan o svim rizicima i beneficijama ili predloženim tretmanima ili uslugama.
5. **Pomoć u cilju zaštite prava:** Vaše je pravo da imenujete predstavnika po vašem izboru da vam pomogne da razumijete svoja prava, da zaštiti vaša prava ili da vam pomogne u izradi plana

usluge ili tretmana. Ukoliko želite predstavnika, morate to učiniti u pismenoj formi. Možete imati pristupa predstavniku u bilo koje doba i možete ga zamijeniti ili otkazati mu u bilo kom trenutku.

6. Izolovanost i zadržavanje. Ne možete biti izolovani ili zadržani u društvenim ustanovama. Jedino možete biti zadržani u bolnici u skladu sa procedurama opisanim u Pravima primaoca usluga iz oblasti mentalnog zdravlja, dio B, odjeljak VII.
7. Pravo na ulaganje žalbe. Imate pravo žalbe ako su vam prava prekršena ili se ne slažete sa tretmanom. Odgovor na žalbu treba da primite u pismenoj formi u kojoj će stajati razlozi odluke. Na odluku se možete žaliti Office of Adult Mental Health Services (Kancelarija za usluge mentalnog zdravlja odraslih). Ne možete biti kažnjeni ni na koji način zbog ulaganja žalbe. Niko vam se ne može svetiti zbog podnošenja žalbe. U pisanju žalbe može vam pomoći Grievance Coordinator (Koordinator za žalbe) 11 State House Station-Marquardt Bldg. 2nd Floor, Augusta, Maine 04333, telefon službe je: 287-4249 ili Disability Rights Center of Maine (Centar za zaštitu invalida), P. O. Box 2007, Augusta, Maine 04338. Telefon je: 1-800-452-1948

Uručena mi je kopija kratke verzije dokumenta "Prava korisnika usluga iz oblasti mentalnog zdravlja".

Potpis klijenta _____

Datum _____

Potpis svjedoka _____

Datum _____



John E. Baldacci, Governor

Brenda M. Harvey, Commissioner

Waxda Caadimaadka iyo Adeega Bulshada - Xafiiska Daryeelka Cafimaadka Maskaxda

Xuquuqda Daryeel Caafimaad Maskaxeed Heleyaasha oo Kooban

Tani waa xuquuqda daryeel hele ahaaneed oo kooban taasoo ku salaysan ama hoos tagaysa xuquuqda heleyaasha adeega caafimaadka maskaxda. Waxaad xaq u leedahay inaad ka heshid koobi xuquuqdaada ah hay'adan ama waaxdaa caafimaadka iyo adeega bulshada., xafiiska adeega caafimaadka maskaxda ee dadka waaweyn, 11 State House Station-Mrquard Bldg-2nd Floor, Augusta, Maine 04333, Tel: 287-4200 (Codka), 287-2000 ("TTY" – taleefoonka dhagoolaha). Waxaad ka heli kartaa koobi ama nuqul dhamaystiran oo ku saabsan xuquuqda ciwaankan <http://www.maine.gov/dhhs/mh/rights-legal/index.html>. Hadii aad dhagool tahay ama aadan fahmin ingiriisiga, waxaa lagu heli karaa tarjumaan lacag la'aan ah si aad u fahamtid xuquuqdaada .

1. Xuquuqda Aasaasiga ah: Waxaad leedahay mid la mid ah shacab, dadnimo, yo xuquuqda sharci ee ay yihiin muwaadiliinta oo dhama. Waxaad xaq u leedahay in laguula dhaqmo xushmad iyo ixtiraam buuxa ee shakhsiyadaada iyo sharaftaada.
2. Dhowrsoonid iyo Awood u Lahaanta Rekodhka: Waxaad xaq u leedahay in rekodhkaaga loo hayo si aad ku kalsoon tahay lana bixin karo wargalin iyo ogolaanshahaaga oo buuxa. Waxaad xaq u leedahay inaad iska eegto rekodhkaaga wakhti kasta oo macquul ah. Waad ku dari kartaa warbixin qoraal ah rekodhkaaga si aad u saxdo warbixin aad rumaysantahay inay khaldantahay ama aan dhamaystirayn. Qof kale ma arki karo rekodhkaaga ilaa aad adigu khaas ahaan ugu ogolaato in ay arkaan, ka sokow marxaladaha ku qeexan buuga xuquuqda dhamaystiran.
3. Daawayn Gaar ahaaneed ama Qorshayn Adeeg: Waxaad xaq u leedahay qorshe gaar ahaaneed. Oo ay diyaareen adiga iyo qofka kula shaqaynaya, oo kusalaysan baahidaada iyo u jeedadaada. Qorshahu waa inuu noqdo mid qoraal ah oo aad xaq uleedahay inaad haysato nuqulkiisa. Qorshaha waxaa looga baahan yahay inuu si faahfaahsan uga hadlo qofkasta waxa uu qabanayo. Waxkhtiga loogu talagalay hawsha, xiliga ay dhamaanayso iyo sida loogu guulaysanayo. Qorshuhu waa inuu ku salaysnaado baahidaada dhabta ah iyo, hadii wax qabadka baahidaada lawaayo, faahfaahi sida baahidaada loo heli karo.
4. Ogolaansho la Ogyahay: Adeeg ama daawayn laguma siin karo oo ka dhan ah ogolaanshahaaga, hadii uu jiro qof kaa mas'uul ah, isagu/iyadu waa loo ogol yahay inuu sameeyo go'aan adiga ogolaanshahaaga la'aantii.. Waxaad xaq u leedahay in lagu ogaysiiyo khatarta suuro galka ah iyo faaiidooyinka la filaayo ee dhamaan adeegayada iyo daaweynta, ee ay ku jiraan daawooyinta, hab aad fahmi karto hadii aad wax su'aal ah qabto(ama la ogaysiiyo qofka kaa mas'uulka ah) waxyaabaha khatarta ah ama faa'idada ah ee la sii saadaaliyay ee adeeg walba iyo maamulidba oo ay ku jirto daawo siinta iyadoo ay tahay hab aad fahmi karto. Hadii aad su'aalo qabtid, waxaad waydiin kartaa u qaybsanaha howlahaaga ama qof walba oo aad doorato inta aadan go'aan ka gaarin arimaha maamulka iyo adeega.
5. Kaalmaynta Ilaalinta Xuquuqda: Waxaad xaq u leedahay in aad doorato qof mas'uul ah oo kaa caawiya fahmida xuquuqdaada ama kaa caawiya ka shaqaynta maamulida ama qorshaha adeegaaga. Hadii aad

rabtid qof mas'uul ah waa inaad qoraal ahaan ku sheegtaa qofka aad dooratay. Waad la kulmi kartaa mas'uulkaaga waqti kasta oo aad rabtid waana beddeli ama baabi'in kartaa doorashadaada waqti kasta.

6. Xuriyada ka fog Figinta iyo Hakinta: Laguma figin karo ama hakin karo habaynta bukaan socodka. Waxa kaliya oo lagu hakinkaraa xaalad aan u dulqaadan Karin taasoo ku salaysan qodobka xaquuqda adeeg heleha Caafimaadka Maskaxda, Qaybta B, Waaxda VII.
7. Xuquuqda Diiwaan Gelinta: Waxaad xaq u leedahay inaad keentid cabashadaada iyo dood kasta oo waxyeeli karta xuquuqdaada ama su'aalo howleed oo kasta. Waxaad xaq u leedahay in cabashadaada lagaaga jawaabo qoraal, iyadoo la socoto sababaha go'aanka waxaad racfaan u qaadan kartaa go'aan ka kasta ee qaybta caafimaadka maskaxda. Laguma ciqaabi karo sinaba feelgelinta cabashadaada. Waxaad la xiriiri kartaa xafiiska ama maamulka the Office of Advocacy, 60 State House Station, Maine 04333, Tel: 287-4228 (Codka), 287-1798 ("TTY" – taleefoonka dhagoolada) ama xarunta laxaad la'aanta (Disability Rights Center), P.O.Box 2007, Augusta, Maine 04338-2007, Tel: 1-800-452-1948 (Codka iyo "TTY" – taleefoonka dhagoolada).

Waxaan helay nuqul (copy) oo ah soo uruurinta xuquuqda ka qaybqaataha Adeega Caafimaadka Maskaxda.

Taariikhda

Saxiixa loo adeegaha

Taariikhda

Saxiixa goobjoogaha



John E. Baldacci, Governor

Brenda M. Harvey, Commissioner

(Departamento de Salud y Servicios Humanos - Oficina de servicios para la salud mental de los adultos)

Recopilación de los derechos de los beneficiarios de los servicios de salud mental

Esta es una recopilación de sus derechos fundamentales como beneficiario de los servicios que se tienen en la comunidad bajo los Rights of Recipients of Mental Health Services. Usted tiene derecho a una copia de los derechos por parte de esta agencia o del Department of Health and Human Services, Office of Adult Mental Health Services, 11 State House Station-Marquardt Bldg (Edificio Marquardt).-2do piso, Augusta, Maine 04333, Teléfono: (207) 287-4243, TTY (Teléfono de tablero para los sordos): 1-800-606-0215. Usted también puede obtener una copia completa de sus derechos si entra a <http://www.maine.gov/dhhs/mh/rights-legal/index.html>. Si usted es sordo o no entiende inglés habrá a su disposición un intérprete calificado, sin costo alguno, para que pueda entender sus derechos.

1. Derechos básicos: Usted tiene los mismos derechos legales, humanos y civiles que tiene todo ciudadano. Usted tiene derecho a que se le trate con cortesía, respeto y dignidad por ser la persona que es.
2. Confidencialidad y acceso a la historia clínica: Usted tiene derecho a que se mantenga su historia clínica en privado y a que sea revelada sólo si usted lo autoriza. Usted puede revisarla en el momento adecuado. Usted puede agregar comentarios por escrito para aclarar información que no considere exacta ni completa. Nadie más puede revisar su historia clínica a menos que usted específicamente los autorice con excepción de los casos descritos en el libro de Rights of Recipients of Mental Health Services.
3. Tratamiento individual o plan de servicio: Usted tiene derecho a un plan individual, elaborado por usted y un trabajador social, basado en sus necesidades y metas. El plan debe hacerse por escrito y usted tiene derecho a conservar una copia del mismo. El plan debe detallar lo que cada quien hará, los marcos de tiempo en que cada tarea y objetivo se lograrán y como se medirá el éxito de los mismos. El plan debe tener base en sus verdaderas necesidades y si algún servicio que se necesite no está disponible de detalles de como se va a cumplir con esa necesidad.
4. Autorización estando al corriente de lo que se hace: A usted no se le pueden brindar tratamiento ni servicios en contra de su voluntad. Si hay una persona que ve por usted, esta persona puede tomar decisiones sin que usted de consentimiento. Usted tiene derecho a que se le informe de los posibles riesgos y de los beneficios que se anticipan de todos los servicios y tratamiento, incluyendo los medicamentos, de manera que usted entienda. Si tiene preguntas puede consultar con el trabajador social o con cualquier otra persona de su elección antes de tomar decisiones acerca del tratamiento o servicios. Si se le ha asignado una persona para que decida por usted, esta persona tiene derecho a ser informada de todos los riesgos y beneficios y del tratamiento o servicios que se propongan.
5. Ayuda para la protección de los derechos: Usted tiene derecho a nombrar un representante de su gusto para que le ayude a entender y a proteger sus derechos o para que le ayude a resolver por cual tratamiento o plan de servicio optar. Si usted desea un representante, debe asignar a alguien por escrito. Usted puede consultar con el representante, cambiar o cancelar sus servicios en cualquier momento que lo desee.

6. Derecho a que no se le aisle ni restrinja: A usted no se le puede aislar o restringir en sitios de la comunidad. A usted sólo se le puede restringir en un lugar destinado para pacientes de acuerdo con los procedimientos que se describen en los Rights of Recipients of Mental Health Services, parte B de la sección VIII.
7. Derecho a presentar una queja: Usted tiene derecho a presentar una queja para retar la posible violación de sus derechos o de prácticas que sean dudosas. Usted tiene derecho a que su queja responda por escrito explicando el porqué de las decisiones. Usted puede apelar cualquier decisión a la Office of Adult Mental Health Services. A usted no se le puede penalizar de ninguna manera por presentar una queja. Para que le ayuden a presentar una queja comuníquese con el Grievance Coordinator (Coordinador de quejas), 11 State House Station-Marquardt Bldg (Edificio Marquardt).-2do piso, Augusta, Maine 04333, Teléfono: 287 4249 o The Disability Rights Center of Maine (Centro de derechos de los minusválidos de Maine), PO Box (Apartado aéreo) 2007, Augusta Maine 04338-2007. Teléfono: 1-800-452-1948

He recibido una copia de la recopilación de los Rights of Recipients of Mental Health Services.

Fecha

Firma del cliente

Fecha

Firma del testigo



Adult Mental Health Services

An Office of the
Department of Health and Human Services

John E. Baldacci, Governor

Brenda M. Harvey, Commissioner

BỘ Y TẾ VÀ PHỤC VỤ NHÂN ĐẠO Văn Phòng Giúp Đỡ Sức Khỏe Tâm Thần Người Lớn

TÓM TẮT QUYỀN HẠN CỦA NGƯỜI THỤ HƯỞNG TRONG SỰ GIÚP ĐỠ SỨC KHOẺ TÂM THẦN

Đây là bản tóm tắt những quyền hạn căn bản của quý vị với tư cách là người thụ hưởng các giúp đỡ cộng đồng theo luật Quyền hạn của Người thụ hưởng Giúp đỡ Sức khỏe Tâm thần. Quý vị được quyền nhận một bản đầy đủ về các quyền hạn tại văn phòng cơ quan này hoặc từ Bộ Y Tế và Giúp đỡ Nhân Đạo, Văn phòng Sức khỏe Tâm thần Người lớn, số 11 State House Station, tòa nhà Marquardt Tầng 2, Augusta, Maine 04333, điện thoại số:(207) 287-4243, TTY số: 1-800-606-0215. Quý vị cũng có thể tìm được bản sao toàn bộ các quyền hạn này tại <http://www.maine.gov/dhhs/mh/rights-legal/index.html>. Nếu quý vị bị điếc, hay không biết tiếng Anh, chúng tôi sẽ sắp xếp một thông dịch viên sẵn sàng để giúp quý vị hiểu quyền hạn của mình.

- Quyền cơ bản.** Quý vị có quyền dân sự, quyền con người và các quyền hợp pháp khác cũng như bất kỳ các công dân khác. Quý vị có quyền được đối xử lịch sự, hoàn toàn được tôn trọng với quyền lợi cá nhân và phẩm giá của mình.
- Tính bảo mật và truy cập hồ sơ lưu.** Quý vị có quyền được yêu cầu giữ kín hồ sơ của mình và hồ sơ chỉ được tiết lộ khi có sự thông báo quý vị hoàn toàn đồng ý. Quý vị có quyền xem lại hồ sơ của mình bất kỳ thời gian nào hợp lý. Quý vị có thể viết thư phê bình hay đóng góp ý kiến vào hồ sơ lưu của mình, để làm sáng tỏ các thông tin trong hồ sơ mà quý vị cho rằng thiếu chính xác hay không đầy đủ. Không ai được quyền xem hồ sơ của quý vị trừ khi người đó nhận được sự uỷ quyền đặc biệt của quý vị hoặc các trường hợp cá biệt, đã được mô tả trong bộ luật trọn vẹn về Quyền hạn này.
- Sự chữa trị cá nhân hay kế hoạch giúp đỡ.** Quý vị có quyền có bản kế hoạch cá nhân, được quý vị và nhân viên phụ trách của quý vị cùng phát triển, dựa theo các nhu cầu và mục đích của quý vị. Bản kế hoạch đó phải được viết ra và quý vị được quyền có một bản sao của kế hoạch này. Bản kế hoạch cần nêu rõ các chi tiết mà mọi người sẽ thực hiện, khung thời gian giới hạn với nhiệm vụ và mục đích sẽ được hoàn thành và xác định được sự thành công như thế nào. Kế hoạch này phải được dựa trên các nhu cầu thực tế của quý vị và, nếu khi chưa có thể có sẵn được một sự giúp đỡ cần thiết, thì hãy cho biết chi tiết làm thế nào để các nhu cầu của quý vị được đáp ứng.
- Thông báo chấp thuận.** Sẽ không có một sự giúp đỡ hay chữa trị nào mà không có sự đồng ý hay trái với ý muốn của quý vị. Nếu quý vị có người giám hộ, ông ấy hay bà ấy được ủy quyền lập quyết định mà không cần sự đồng ý của quý vị. Quý vị có quyền được biết, khả năng có những rủi ro, cùng các lợi ích được biết trước của sự giúp đỡ và chữa trị, kể cả thuốc men, trong chừng mực nào quý vị có thể hiểu được. Nếu có bất kỳ thắc mắc nào, quý vị có thể hỏi nhân viên phụ trách của quý vị hay một người nào mà quý vị đã chọn, trước khi đi tới quyết định chữa trị hay nhận các sự giúp đỡ khác. Nếu người giám hộ đã được ủy quyền lập quyết định thay cho quý vị, người giám hộ, có quyền được thông báo tất cả các rủi ro và lợi ích cùng các đề nghị chữa trị hoặc giúp đỡ.
- Sự giúp đỡ để Bảo vệ Quyền hạn.** Quý vị có quyền chỉ định một đại diện theo sự chọn lựa của quý vị để giúp quý vị hiểu quyền hạn của mình, bảo vệ quyền hạn hoặc giúp đỡ quý vị thực hiện việc chữa trị. Nếu quý vị muốn có một đại diện, quý vị phải viết thành văn bản sự chỉ định người này. Quý vị có thể tiến hành làm việc với vị đại diện này bất kỳ lúc nào quý vị cần, hoặc quý vị có thể thay đổi hay hủy bỏ sự chỉ định người đại diện bất kỳ lúc nào.

6. Sự tự do xuất phát từ Sự cách biệt và Giam giữ. Quý vị không thể bị cách biệt hay giam giữ trong môi trường cộng đồng. Quý vị chỉ có thể bị giữ lại là một bệnh nhân trong môi trường nội trú khi phù hợp với các thủ tục đã được định rõ trong luật các Quyền hạn của Người thụ hưởng Các Giúp đỡ Sức khỏe Tâm Thần, Phần B, Mục VII.
7. Quyền được đệ trình khiếu nại. Quý vị có quyền khiếu nại phản đối việc có thể bị vi phạm quyền hạn hay bất kỳ các thực hành đáng ngờ. Quý vị có quyền có bản trả lời khiếu nại, với những lý do cho các quyết định. Quý vị có thể đệ trình bất kỳ quyết định nào tới Văn phòng Giúp đỡ Sức khỏe Tâm Thần Người lớn. Quý vị không thể bị phạt vạ vì bất kỳ lý do nào do việc đệ trình khiếu nại này. Quý vị không thể bị trả thù vì việc đệ trình khiếu nại này. Để được giúp đỡ khiếu nại, quý vị có thể liên hệ Văn phòng Điều phối Khiếu nại, số 11 State House Station-Tòa nhà Marquardt, Tầng 2, Augusta, Maine 04333. Điện thoại số: 287-4249 hay Trung Tâm Quyền hạn về Khuyết tật Tiểu bang Maine Hộp thư PO Box 2007, Augusta Maine 04338-2007. Điện thoại số: 1-800-452-1948.

Tôi có nhận một bản tóm tắt các Quyền Hạn Của Người Thụ Hưởng Trong Sự Giúp Đỡ Sức Khoẻ Tâm Thần.

Ngày

Chữ ký khách hàng

Ngày

Chữ ký người chứng

Nebraska (2011): *Keya House Participant Bill of Rights / Guest Agreement / Confidentiality Agreement / Mental Health Association of Nebraska Privacy Notices*. This material outlines resident rights and responsibilities of the Keya House guest home in Region 5.

Participant Bill of Rights

As a person receiving Keya House services, you have the right to:

- Be treated with dignity and respect.
- Ask questions and get answers about services.
- Participate fully in all decisions about services.
- Request changes in services.
- Refuse services.
- Be informed about the rules that will result in discharge from a program if violated.
- Participate fully in decisions regarding discharge from program and receive advance notice regarding the pending discharge.
- Not be subjected to verbal, physical, sexual, emotional or financial abuse; harsh or unfair treatment.
- Make complaints, have them heard, get a prompt response, and not receive any threats or mistreatments as a result.
- File a grievance if you are not satisfied with the response to a complaint.
- Be assisted by an advocate of your choice; for example, family, friend, case manager, or organization, etc.
- Meet and participate with social, religious and community groups of your choice.
- Exercise all civil and legal rights afforded to you by law; for example, vote, marry, obtain a driver's license, write a will, etc.
- Not be discriminated against on the basis of race, age, sex, religion, national origin, sexual orientation, disability, or marital status.
- To ask for what you want.
- To say "NO".
- To change your mind, make mistakes, and follow your own values and standards.
- To express your feelings, both positive and negative, in a manner that will not harm others.
- To recovery and HOPE.
- To live productively in the community and be happy!

Keya House Guest Signature: _____

Date: _____

Peer Companion Signature: _____

Date: _____

The Keya House

Guest Agreement

Date _____

Welcome to the Keya House. The Keya House is a voluntary hospital diversion program for persons with a behavioral health diagnosis who have the desire to learn more about their recovery. Our purpose is to provide you with necessary supports so that you may attain your personal recovery goals.

We believe that there is a place **for everyone** who has the desire to seek growth on their road to recovery. Therefore, our focus extends not only to you as participant but also any other support persons you wish us to coordinate services with. We believe that you are the expert and have the ability to direct us in the services and supports you would like us to provide.

As you consider your decision as to whether a stay at the Keya House is appropriate and a good fit for you, it is important that you consider the following items. As part of the program, you will be asked to fill out data collection forms periodically. This information will be used to assess your needs as well as provide quality assurance within the program.

The House is equipped with a variety of traditional and non-traditional self-help and pro-active tools to maintain your wellness. Our peer companions are compassionate, understanding, and knowledgeable in promoting your self-determination away from crisis in your journey towards recovery. We hope you enjoy your stay at the House. We ask that you read and sign the agreements below as evidence of your commitment to keep the environment safe and pleasant, and to assist all in getting to a better place in life. This is a list of what is necessary for you to do to be involved with the program. If you follow through with this list, you will always be honored as a guest at the Keya House. ***With that in mind, to be a part of the Keya House Program, you agree to do the following:***

- **I agree** that I am voluntarily entering The Keya House as a guest who is interested in getting to a better place in life.
- **I agree** to fill out the necessary forms and check out paperwork.
- **I understand that** alcohol and illegal drugs are not permitted on our premises at any time.
- **I understand that** no one under the influence of alcohol or illegal drugs will be permitted to enter or stay at the House.
- **I understand that** The Keya House maintains a ZERO TOLERANCE policy toward violence, sexual harassment, or the possession of weapons of any type. Anyone violating this policy is choosing to no longer be a guest at Keya House.
- **I understand that** all visitors must be authorized by the Peer Companion or designated staff. Visiting hours are from 7am to 11pm.
- **I understand and agree** that entering the private area of another guest is strictly prohibited.

- **I agree** to sleep in my bedroom and not in the common areas of the house.
- **I understand and agree** that smoking (including electronic cigarettes) is **ONLY** allowed outside in designated area and I agree to put cigarette butts in the ashtray and to keep area clean.
- **I understand and agree** that eating is restricted to the dining and living room area only. No food or drink is allowed in bedrooms with exception of water.
- **I understand and agree** that I am required to cook for and clean up after myself. Cleaning includes all common areas of the house.
- **I understand and agree** to not leave garbage or personal items in the common areas of the house.
- **I agree** to dress appropriately in the common area of the house.
- **I agree** to show respect to staff, volunteers and fellow guests while staying in The Keya House.
- **I understand and agree** that if I am being disrespectful or threatening toward staff or guests, I am choosing to no longer be a guest at Keya House.
- **I understand and agree** to not ask for or give money or cigarettes to other guests or staff.
- **I understand and agree** that I am responsible for taking my own medication.
- **I understand and agree** to keep my personal items safe. The Keya House is not responsible for any lost items. A lock box is provided during your stay.
- **I understand that** if I leave Keya House and do not return or contact Keya House within 24 hours, my belongings will be packed and put into locked storage. Items will be discarded after 30 days.
- **I understand and agree** that The Keya House doors will be locked at all times.

I understand and agree to everything above, knowing that these agreements are designed to support my recovery and my well being,

Guest Signature _____

Date _____

Peer Companion _____

Date _____

Mental Health Association of Nebraska

Keya House

**Confidentiality Agreement
for
Guest Served**

I agree to maintain the confidentiality of any information I may hear or see while being served by the Keya House Program as well as after I have checked out from the Keya House.

This includes, but is not limited to, discussing any other participants I may see at the Keya House or other information I may come in contact with or that is presented through any other media during my stay at the house.

Keya Guest Signature

Date

Peer Companion Signature

Date

Mental Health Association of Nebraska

Notice of Information Privacy Practices

THIS NOTICE DESCRIBES HOW MEDICAL INFORMATION ABOUT YOU MAY BE USED AND DISCLOSED AND HOW YOU CAN GET ACCESS TO THIS INFORMATION. PLEASE REVIEW IT CAREFULLY.

Contact Information

The Department of Health and Human Services of the State of Nebraska, and those Agencies inclusive of health care facilities and medical assistance programs that are affiliated under the common control of the Nebraska Partnership for Health and Human Services Act, including the Mental Health Association of Nebraska, are required by federal law to maintain the privacy of Protected Health Information and to provide notice of its legal duties and privacy practices with respect to Protected Health Information. This notice fulfills the "Notice" requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) Final Privacy Rule. If you have questions about any part of this Notice of Information Privacy practices or desire to have further information concerning information practices at the State of Nebraska, Department of Health and Human Services please direct them to:

The HIPAA Privacy & Security Office
301 Centennial Mall South – 5th Floor
PO Box 95026
Lincoln, Nebraska 68509-5026.
E-mail: hipaa.office@hss.ne.gov

Mental Health Association of Nebraska
1645 'N' Street, Suite A
Lincoln, NE 68508
402-441-4371
www.mha-ne.org

This Notice is published and was effective: December 11, 2009

This Notice of Information Privacy Practices explains how the Mental Health Association of Nebraska (MHA-NE), and its programs and services, will use or disclose your Protected Information. Protected Information includes records, notes, etc. that are individually identifiable without your prior consent.

MHA-NE engages in the following practices involving the use and disclosure of Individually Identifiable Information to carry out program operations:

For Services: We may use your medical information to provide you with peer support services. We will not disclose identifiable information about you to any person or organization without your prior consent. Different programs within MHA-NE may share your information in order to coordinate the different things you need.

Emergencies: We may use or disclose your Protected Information in an emergency situation. If this happens, your physician will try to obtain your consent as soon as reasonably practicable after the delivery of treatment. If your physician, or another physician in the practice, is required by law to treat you and the physician has attempted to obtain your consent but is unsuccessful, he or she may still use or disclose your Protected Information to treat you.

For Payment: MHA-NE does not charge a fee for services provided to program participants, and will not share your protected information with any person or organization without your prior consent.

Other Permitted and Required Uses and Disclosures That May Be Made Without Your Consent, Authorization, or Opportunity to Object for Purposes Other Than Those Identified Above

MHA-NE is permitted to make the following uses and disclosures of Individually Identifiable Health Information should circumstances warrant such uses and disclosures:

Required By Law: We may use or disclose your Protected Information to the extent that the use or disclosure is required by law. The use or disclosure will be made in compliance with the law and will be limited to the relevant requirements of the law. You will be notified, if required by law, of any such uses or disclosures.

Public Health: We may disclose your Protected Information for public health activities and purposes to a public health authority that is permitted by law to collect or receive the information. The disclosure will be made for the purposes of preventing or controlling disease, injury, or disability, or for the purposes of conducting public health surveillance, public health investigations, and public health interventions. We may also disclose your Protected Information, if directed by the public health authority, to a foreign government agency that is collaborating with the public health authority.

Communicable Diseases: We may disclose your Protected Health Information, if authorized by law, to a person who may have been exposed to a communicable disease or may otherwise be at risk of contracting or spreading the disease or condition.

Health Oversight: We may disclose Protected Information to a health oversight agency for activities authorized by law, including audits, investigations, and inspections; licensure or disciplinary actions;

civil, administrative or criminal proceedings or actions; or other activities necessary for appropriate oversight of the health care system, government benefit programs, other government regulatory programs, and civil rights laws.

Abuse or Neglect: We may disclose your Protected Information to a public health authority that is authorized by law to receive reports of abuse or neglect. In addition, we may disclose your Protected Health Information if we believe that you have been a victim of abuse, neglect, or domestic violence to the governmental entity or agency authorized to; receive such information. In this case, the disclosure will be made consistent with the requirements of applicable federal and state laws.

Food and Drug Administration: We may disclose your Protected Health Information to a person or company required by the Food and Drug Administration to report adverse events, biologic product deviations, product defects, or problems; to track products; to enable product recalls; to make repairs or replacements; or to conduct post marketing surveillance, as required.

Legal Proceedings: We may disclose Protected Health Information in the course of any judicial or administrative proceeding in response to an order of a court or administrative tribunal (to the extent such disclosure is expressly authorized), and in certain conditions in response to a subpoena, discovery request, or other lawful process.

Law Enforcement: We may also disclose Protected Information, so long as applicable legal requirements are met, for law enforcement purposes. These law enforcement purposes include: (1) legal processes and purposes otherwise required by law, (2) limited information requests for identification and location purposes, (3) treating victims of a crime, and (4) suspicion that death has occurred as a result of criminal conduct.

Criminal Activity: Consistent with applicable federal and state laws, we may disclose your Protected Information if we believe that the use or disclosure is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public. We may also disclose Protected Information if it is necessary for law enforcement authorities to identify or apprehend an individual.

YOUR RIGHTS

You have the following rights regarding protected information we maintain about you:

Right to Inspect and Copy. You have the right to inspect and copy all information that is collected during your involvement in MHA-NE programs and services. To inspect and copy your protected information, you must contact the program coordinator or his/her designee. If you request a copy of information, we may charge a fee for the cost of copying, mailing, or other supplies associated with your request.

Right to Amend. If you feel that protected information about you is incorrect or incomplete, you may ask us to amend the information. You have the right to request an amendment as long as the information is kept by or for MHA-NE. To request an Amendment, contact the program coordinator or his/her designee. In addition, we may deny your request if you ask us to amend information that:

Was not created by us, unless the person or entity that created the information is no longer available to make the amendment;

Is not part of the protected information kept by or for MHA-NE; or,

Is accurate and complete.

Right to Request Restrictions. You have the right to request a restriction or limitation on the medical information we use or disclose about you for treatment, payment, or health care operations. You also have the right to request a limit on the medical information we disclose about you to someone who is involved in your care or the payment for your care, like a family member or friend. For example, you can ask that we not use or disclose information about a surgery you had performed.

Right to Request Confidential Communications. You have the right to request that we communicate with you about program matters in a certain way or at a certain location. For example you can ask that we only contact you at work or by mail. To request confidential communications, please contact the peer specialist working within the program. We will accommodate all reasonable requests. Your request must specify how or where you wish to be contacted.

COMPLAINTS

If you believe your privacy rights have been violated, you may file a complaint with **MHA-NE** or with the **Secretary of the U.S. Department of Health and Human Services**. To file a complaint with MHA-NE, you may contact the Executive Director at 402-441-4371, Monday through Friday from 9:00 a.m. to 4:30 p.m., except State holidays, or HIPAA.office@hss.state.ne.us for further information about the complaint process. To file a complaint with HHS, contact: **Secretary, Health and Human Services, Office of Civil Rights, U.S. Department of Health and Human Services, 200 Independence Avenue, SW Room 509F, HHH Building Washington, D.C. 20201, 1-866-OCR-PRIV (627-7748), 1-866-778-4989-TTY. You will not be penalized for filing a complaint.**

OTHER USES OF MEDICAL INFORMATION

If you provide us permission to use or disclose protected information about you, you may revoke that permission, in writing, at any time. If you revoke your permission, we will no longer use or disclose protected information about you for the reasons covered by your written authorization. You understand that we are unable to take back any disclosures we have already made with your permission, and that we are required to retain our records of the services we provided to you.

Changes to the Notice of Information Practices

The Mental Health Association of Nebraska reserves the right to amend this Notice at any time in the future. Until such amendment is made, MHA-NE is required by law to abide by the terms of this Notice.

Acknowledgement of receipt of this notice:

Signature of Recipient

Date

Nebraska (unknown date): *Consumer Grievance Procedure* form used in Region 3.

CONSUMER GRIEVANCE PROCEDURE:

If a situation remains unresolved, Step 1 of the Grievance Procedure should be implemented. Each grievance will be taken seriously and investigated thoroughly.

1. Upon receipt of this written grievance, the Regional Administrator (RA) shall notify in writing, within five (5) working days of receipt of the written grievance, the grievant(s) that such grievance has been received. At this time, the RA shall inquire if the grievant(s) has informed the contract agency, individual(s), or organization that the grievance is against that a grievance has been filed. If the contract agency, individual(s), or organization has not been notified, the RA shall inquire of the grievant(s) in what manner he/she would want the grievance to be handled.

The grievant(s) will be encouraged to meet with the RA and the individual(s) whom the grievance has been filed to discuss the grievance and work towards resolution before the process proceeds. If the grievant(s) does not wish to have such a meeting the grievance process will continue as outlined below.

2. Within five (5) working days of when the RA has discussed the grievance with the grievant(s), the RA shall then inquire of the contract agency, individual(s), or organization to follow-up on the grievance to determine the circumstances around the grievance.
3. From the date that this notice is sent to the contract agency, individual(s), or organization that a grievance has been stated against such contract agency, individual(s), or organization shall have ten (10) working days to give a written explanation of the grievance.
4. The RA shall review this information and determine what follow-up action should be taken.
5. The RA shall notify the contract agency, individual(s), or organization of whom the grievance has been filed of the follow-up action needed and establish a timeline for when such action shall be completed.
6. The RA shall notify the grievant(s) of such follow-up action required of the contract agency, individual(s), or organization that the grievance has been filed. The grievant(s) shall have ten (10) working days from the date of the response from the RA to respond to the written response. The written response from the grievant(s) shall indicate whether he/she is satisfied with the answer given by the RA. If the RA does not receive a written response from the grievant(s) within the ten (10) working day limit, the RA shall consider that the grievant(s) is satisfied with the response and the matter dropped.
7. If the grievant(s) is not satisfied with the response of the RA, the RA shall then forward the written information to the Executive Committee of the Regional Governing Board (RGB) for review.
8. The RGB Executive Committee may determine if it will hear the grievance, and if so, at what time and place. If the Executive Committee does not hear the grievance, the RA's decision shall be final.
9. If the RGB Executive Committee reviews the grievance, its decision shall be put in writing and copies shall be given to the grievant(s), contract agency, individual(s), or organization whom the grievance was filed against, and the RA.

CONSUMER GRIEVANCE PROCESS FORM

It is the intent of consumers to arrive at a solution to any stated grievance. Grievances involving Health Services/ employees should be resolved utilizing the Communication Policy, if possible. Discussion(s) would take place between the parties involved and, if necessary a coaching party, to settle differences and, thereby eliminate the need for a written grievance.

If the situation remains unresolved, Step 1 of the Grievance Procedure (as stated on page 2) should be implemented. Each grievance shall be taken seriously and investigated thoroughly. This form is to allow a grievance to be stated against a contract agency of Region 3 Behavioral Health Services, an employee(s) of Region 3 Behavioral Health Services, or Region 3 Behavioral Health Services. Please state your grievance below:

A. The name of the contract agency, individual(s), or organization whom you wish to file a grievance against:

B. Please describe the manner in which you have had contact with the above named contract agency, individual(s), or organization:

C. Please describe your grievance against the above named contract agency, individual(s), or organization. (If you need additional room to describe the grievance, please attach the information to this form.)

Please read the statement below, provide your signature and return this form in its entirety as indicated.

My signature below indicates that the above information provided by me is true. My signature also indicates that I have read the above stated Grievance Procedure and agree to comply with its terms.

Signature of Grievant

Date

Please print Grievant Name

Please return this form to:

Regional Administrator
Region 3 Behavioral Health Services
P.O. Box 2555
Kearney, NE 68848-2555
308-237-5113

Nebraska (unknown date): *Consumer Grievance Policy* used in Region 3. This states the current policy and procedure for consumer grievances in Region 3.

GRIEVANCE

SUBJECT

CONSUMER GRIEVANCE

SCOPE OF POLICY

CONTRACT AGENCY, INDIVIDUAL, OR ENTITY

RESPONSIBILITY FOR COMPLIANCE

REGIONAL ADMINISTRATOR OR HIS/HER DESIGNEE

POLICY

It is the policy of Region 3 Behavioral Health Services to provide an individual consumer or consumer entity an avenue to file a grievance involving a contract agency, individual, or organization

PROCEDURE

The grievance procedure shall function as a method to review and resolve grievances which arise from circumstances which an individual or entity believes demonstrates discriminatory conduct, harassment, coercion, reprisal, or action by a contract agency, individual(s), or organization which the individual(s) or entity believes is discriminatory, unfair or illegal. Filing a grievance shall not result in retaliation or barriers to services.

Discrimination for purposes of this policy shall be defined as treatment different from others, adverse treatment, harassment or abuse, whether by a contract agency, individual(s), or organization which is motivated in whole or in part by race, creed, color, religion, sex, national origin, age, disability, marital status, pregnancy, sexual orientation, or ancestry.

If an individual(s) or entity believes he/she has been subjected to conduct, corrective action or management decisions that they feel are discriminatory, unfair or illegal, this procedure is available to him/her.

Grievances should be resolved utilizing the Communication Policy, if possible. Discussion(s) would take place between the parties involved and, if necessary a coaching party, to settle differences and, thereby eliminate the need for a written grievance

If the situation remains unresolved, Step 1 of the Grievance Procedure (see Consumer Grievance

GRIEVANCE

Process document) may be implemented. Each grievance shall be taken seriously and investigated thoroughly. This form is to allow a grievance to be stated against a contract agency of Region 3 Behavioral Health Services, an employee(s) of Region 3 Behavioral Health Services, or Region 3 Behavioral Health Services.

The Regional Administrator and/or his/her designee shall ensure all grievances are reviewed annually to determine trends, as well as areas needing improvement to facilitate changes that result in better customer service and results for persons served. All information shall be on a “need to know” basis. Any identifying, confidential information shall not be disclosed in this public forum.

New Hampshire (2004): *Mental Health Bill of Rights*. This one page statement of mental health rights is required to be publicly posted by all licensees of the New Hampshire Board of Mental Health Practice.

MENTAL HEALTH BILL OF RIGHTS

“This Mental Health Bill of Rights is provided by law to persons receiving mental health services in the State of New Hampshire. Its purpose is to protect the rights and enhance the well being of clients, by informing them of key aspects of the clinical relationship. As a client of a New Hampshire Mental Health Practitioner, you have, without asking, the right:

- (1) To be treated in a professional, respectful, competent and ethical manner consistent with all applicable state laws and the following professional ethical standards:
 - a. for psychologists, the American Psychological Association;
 - b. for independent clinical social workers; the National Association of Social Workers;
 - c. for pastoral psychotherapists; the American Association of Pastoral Counselors
 - d. for clinical mental health counselors; the American Mental Health Counselor Association; and
 - e. for marriage and family therapists; the American Association for Marriage and Family Therapists.
- (2) To receive full information about your treatment provider’s knowledge, skills, experience and credentials.
- (3) To have the information you disclose to your mental health provider kept confidential within the limits of state and federal law. Communications between mental health providers and clients are typically confidential, unless the law requires their disclosure. Mental health providers will inform you of the legal exceptions to confidentiality, and should such an exception arise, will share only such information as required by law. Examples of such exceptions include but are not limited to:
 - a. abuse of a child;
 - b. abuse of an incapacitated adult;
 - c. Health Information Portability and Accountability Act (HIPAA) regulation compliance;
 - d. certain rights you may have waived when contracting for third party financial coverage;
 - e. orders of the court; and

f. significant threats to self, others or property.

(4) To a safe setting and to know that the services provided are effective and of a quality consistent with the standard of care within each profession and to know that sexual relations between a mental health provider and a client or former client are a violation of the law (RSA 330-A:36).

(5) To obtain information, as allowed by law, pertaining to the mental health provider's assessment, assessment procedures and mental health diagnoses (RSA 330-A:2 VI).

(6) To participate meaningfully in the planning, implementation and termination or referral of your treatment.

(7) To documented informed consent: to be informed of the risks and benefits of the proposed treatment, the risks and benefits of alternative treatments and the risks and benefits of no treatment. When obtaining informed consent for treatment for which safety and effectiveness have not been established, therapists will inform their clients of this and of the voluntary nature of their participation. In addition, clients have the right to be informed of their rights and responsibilities, and of the mental health provider's practice policies regarding confidentiality, office hours, fees, missed appointments, billing policies, electronic communications, managed care issues, record management, and other relevant matters except as otherwise provided by law.

(8) To obtain information regarding the provision(s) for emergency coverage.

(9) To receive a copy of your mental health record within 30 days upon written request (except as otherwise provided by law), by paying a nominal fee designed to defray the administrative costs of reproducing the record.

(10) To know that your mental health provider is licensed by the State of New Hampshire to provide mental health services.

a. You have the right to obtain information about mental health practice in New Hampshire. You may contact the Board of Mental Health Practice for a list names, addresses, phone numbers and websites of state and national professional associations listed in Mhp 502.02 (a)(1)(a-e).

b. You have the right to discuss questions or concerns about the mental health services you receive with your provider.

c. You have the right to file a complaint with the Board of Mental Health Practice.”

(b) A licensee shall post a copy of the above mental health bill of rights in a prominent location in the office of the mental health practitioner and provide a copy upon request.

(c) A licensee shall provide a copy of the mental health bill of rights to the client and/or agency if the assessment, consultation or intervention is provided outside the office.

New York (2010): *Rights of Inpatients in New York State Office of Mental Health Psychiatric Centers*. This booklet describes basic rights of inpatients and rights in special areas such as treatment, criminal investigations, release, work and education, as well as contact information for advocacy and assistance services.

Rights of Inpatients

**IN NEW YORK STATE
OFFICE OF MENTAL HEALTH
PSYCHIATRIC CENTERS**

**State of New York
David A. Paterson
Governor**

Office of Mental Health
Michael F. Hogan, Ph.D.
Commissioner



THE LAWS AND POLICIES of New York State protect the rights of people who are inpatients in state psychiatric centers.

This booklet discusses those rights, and ways in which you can proceed if you believe your rights - or those of someone you know - are being violated.

Each person who enters one of our hospitals is entitled to care and treatment that is suited to his or her needs. Staff people are expected to administer this treatment skillfully, safely and humanly with full respect for the patient's dignity and personal integrity.

Michael F. Hogan, Ph.D.
Commissioner

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Rights and the laws

Most people are admitted to New York State psychiatric centers under the Mental Hygiene Law. If you are among them, you are entitled to a broad array of basic rights. Certain of these rights are absolute and cannot be limited. Others may be limited by law for medical reasons. If you have been admitted under the Criminal Procedure Law or Correction Law, different standards may apply to your rights.

If your rights are limited for medical reasons, the clinical grounds must be explained to you and placed in writing in your record. The amount of time that this limitation is to remain in effect also must be stated.

You may appeal any limitation of your rights. You may go first to the director of your hospital. Help is also available from the Mental Hygiene Legal Service (MHLS), your hospital's Board of Visitors and the New York State Commission on Quality of Care and Advocacy for Persons with Disabilities. The telephone numbers for each should be displayed on "Inpatient Rights" posters in your psychiatric center. Staff people also can help you get those numbers, and other sources of information are listed at the end of this booklet.

Civil rights

The fact that you are in a psychiatric center cannot be used by itself as grounds to deprive you of any of your civil rights.

The law specifically provides that you retain the right to register and vote in elections, the right to civil service ranking and appointment and rights connected with getting, losing or being denied a license, permit, privilege or other benefit provided by any law.

You also have the right to be protected from abuse and mistreatment by employees or other residents.

If you believe you have been subjected to mental, verbal, sexual or physical abuse, or if you see this happen to someone else, please report it as soon as possible.

Personal rights

All patients in New York State psychiatric centers have the rights listed in this section, unless there is a specific provision of another law – such as the Criminal Procedure Law or Correction Law for individuals admitted under these laws – which provides otherwise.

You have the right to:

- ◆ Appropriate personal clothing.
- ◆ A safe and sanitary environment.
- ◆ A balanced and nutritious diet.
- ◆ Practice the religion of your choice, or no religion.
- ◆ Freedom from abuse and mistreatment by employees or other residents.
- ◆ Adequate grooming and personal hygiene supplies.
- ◆ A reasonable amount of safe storage space for clothing and other personal property.
- ◆ Reasonable privacy in sleeping, bathing and toileting areas.
- ◆ Receive visitors at reasonable times, have privacy when visited, and communicate freely with people inside or outside the psychiatric center.
- ◆ Appropriate medical and dental care.
- ◆ An individualized plan for treatment and active participation in developing that plan.
- ◆ Contact the facility director, the Mental Hygiene Legal Service, the hospital's Board of Visitors, or the New York State Commission on Quality of Care and Advocacy for Persons with Disabilities about any questions or complaints. (Addresses and telephone numbers are posted at hospitals, and some appear at the back of this publication.)

The rights stated above shall not be limited as a punishment or for the convenience of staff. These rights can be limited only upon written order of a physician. This order must be placed in the patient's clinical record and state the time period and clinical justification for the limitation.

Privacy and confidentiality

The law also gives you right to privacy and confidentiality when talking with those who examine or treat you and to confidentiality of your clinical records and other information about you.

The Office of Mental Health will provide you with a separate *Notice of Privacy Practices* that will tell you how we use and disclose your confidential mental health treatment information. It will also tell you what your rights are with regard to your mental health treatment information, and who you can contact if you have questions or a complaint about how we have used or shared your treatment records.

Generally, no information about you may be given out unless you or your legal representative give written permission.

In limited circumstances, however, the law does allow or require release of records or information to certain individuals or entities. For example, government agencies and insurance companies can receive information necessary to make payments for services provided. In most cases a disclosure will be noted in your record, and you are entitled to learn about it upon request.

A psychiatric center may wish to take a photograph of you so it can issue you a photo identification card. You have the right to be informed of the purpose and use of the photograph, and any objections you may have will be considered.

People admitted under the Criminal Procedure Law or Correction Law may be required to have photographs on file for law enforcement purposes.

Work and education

Except for maintaining personal possessions and living area when able, no patient will be required to perform any work.

However, work is regarded as one of the mainstays of recovery, so State Office of Mental Health facilities do offer opportunities for work or work training in keeping with state and federal labor laws.

You must be told verbally and in writing about work or work training. You must be told the rate of pay, the pay period, how total pay is determined, what deductions are made and the reason for each of them. You also must be told about the provisions of State Office of Mental Health regulations about work and work training.

If you are between the ages of 5 and 21, you have a right to the same educational and vocational services that you are entitled to outside a state psychiatric center.

Communications

Correspondence

You may send and receive sealed, unopened and uncensored mail unless your treatment team decides that certain limits are necessary for your well-being or that of other people.

You must be notified of any limitation on your mail, and you may appeal the decision to the director of your psychiatric center.

If, for any reason, you are unable to read or write, the treatment team will assign one of its members to read or write for you, and will provide reasonable time for this. If you do not speak English, someone who speaks your language will assist you when necessary.

Persons who are non-English speaking, deaf or hard-of-hearing shall not be denied care and treatment or otherwise discriminated against. Each facility shall take reasonable steps to ensure that: necessary steps are taken to provide information in appropriate languages; the timely availability of interpreters is provided, when necessary for effective communication; persons serving as interpreters are sufficiently competent to ensure effective communication. Communication with persons who are deaf or hard-of-hearing must be provided in accordance with the Americans with Disabilities Act (Public Law 101-336). That law can be obtained at Department of State, Office of Information Services, 41 State Street, Albany, NY 12207, and the Office of Mental Health, Counsel's Office, 44 Holland Avenue, Albany, NY 12229.

Telephone

You will have reasonable access to a telephone.

Visitors

You have the right to have visitors at reasonable times, and to have privacy when they visit. You also have the right to refuse visitors.

Any limitation on visiting must be upon written order of your doctor, and will be discussed with you in advance. This order is to be placed in your clinical record. It must state the clinical justification for this limitation and the specific time that the limitation will be in effect.

Mental hygiene law admissions

When you are admitted, you will receive a notice that tells you your admission status and states your right to receive assistance from the Mental Hygiene Legal Service.

When someone is admitted to a New York psychiatric center under the Mental Hygiene Law, the admission falls under one of three general categories: informal, voluntary or involuntary.

Informal admission occurs when someone requests treatment and is admitted without a formal or written application. The patient is free to leave at any time while on such admission status.

Voluntary admission occurs when someone who is 16 or older applies in writing for admission. If the person is under 18, the parent, legal guardian, custodian or next of kin may have authority to apply on the person's behalf.

A voluntary status patient may make a written request for discharge at any time. If the patient is under age 18, the request for discharge may also be made by the person who applied for the patient's admission, by another person of equal or closer relationship, or by the Mental Hygiene Legal Service.

A voluntary patient who submits a written request to leave the hospital must be released unless the director of the psychiatric center believes that the person meets the requirements for involuntary admission and therefore needs to stay. In this case, the director must apply to a judge within 72 hours for authorization to keep the patient.

If you are hospitalized as either a voluntary or informal status patient, you must be informed periodically of your status and rights, including your right to assistance from Mental Hygiene Legal Service. In addition, once a year the psychiatric center director and the Mental Hygiene Legal Service must review each voluntary or informal status patient's suitability and willingness to remain on such status.

Involuntary admission can take place in one of three ways:

1. Medical certification, which requires that two physicians examine a person and certify that he or she needs involuntary care and treatment in a psychiatric facility. This is sometimes known informally as a "two p.c." shorthand for "two physicians certify." This certification must be accompanied by an application for admission, made by someone familiar with the individual (for example, a legal guardian, custodian, next of kin, treating psychiatrist or someone who lives with the person) or by one of a number of government officials.

If you are involuntarily admitted on a medical certificate, or converted to that status, you may be kept in a psychiatric center for up to 60 days. If you - or a relative, friend or the Mental Hygiene Legal Service - believe that you do not need to be involuntarily hospitalized you or any of the others may apply for a court hearing on this matter.

At the end of this 60 days, and periodically after that, the psychiatric center director must apply to a judge for authorization to retain you as an involuntary status patient. You must be notified when such an application is made, and you have the right to object and to be represented by the Mental Hygiene Legal Service or your own attorney at the hearing.

2. Certification by a director of community services, or an examining physician designated by the director of community services.

This certificate states that the person has a mental illness which is likely to result in serious harm to self or others and for which immediate inpatient care and treatment is appropriate.

If you are admitted in this way, you must be examined within 72 hours by a staff psychiatrist. If the psychiatrist confirms that you meet the requirements for involuntary admission based on medical certification, you may be kept in the psychiatric center for up to 60 days. The procedure for involuntary retention beyond 60 days, and the patient's right to a hearing, are the same as outlined in Section 1, above.

3. Emergency admission based on the claim that the person has a mental illness which is likely to result in serious harm to self or others and for which immediate observation, care and treatment in a psychiatric center is appropriate.

If you are admitted in this way, you must be examined within 48 hours by a staff psychiatrist. If he or she confirms that you meet the requirements for emergency admission, you may be kept in the psychiatric center for up to 15 days. For you to be kept involuntarily beyond 15 days, you must meet the requirements for, and be converted to, an involuntary admission based on medical certification. (See Section 1, above, for a description of your right to a hearing.)

Criminal procedure law and correction law admissions

Individuals may be admitted and retained by a psychiatric center under the following provisions of the Criminal Procedure Law (CPL) or Correction Law.

- ◆ A person who is confined in jail awaiting trial or sentencing may be admitted to a psychiatric center under Section 508 of the Correction Law. This admission is equivalent to an involuntary admission under the Mental Hygiene Law, except that the patient remains under guard and in custody of jail officials.
- ◆ A person who is a defendant in a criminal proceeding, who is or may be incapable of understanding the proceedings or helping in his or her own defense, may be committed under one of several court orders under Article 730 of the Criminal Procedure Law. An order of examination requires that the person be confined in a hospital for up to 30 days while a psychiatric examination is conducted. If necessary to complete the examination, the judge may authorize confinement for an additional period of up to 30 days. An order of

commitment or retention commits, for a period of one or two years, a defendant who is legally incapable and indicted for a felony. A defendant may be retained on one of these court orders for no longer than two-thirds of the maximum sentence he or she could have received upon conviction of the felony charge. At the time one of these orders expires, the individual must be converted to a Mental Hygiene Law admission status - informal, voluntary or involuntary - or discharged.

- ◆ A person who has been found not responsible for a crime by reason of what the law calls mental “disease or defect” may be committed to a hospital by a court order under Section 330.20 of the Criminal Procedure Law. These are: examination orders which commit the individual for 30-day periods for psychiatric evaluation; orders of civil commitment with an order of conditions imposed by the judge committing a person found to be mentally ill; and commitment orders in which a person is found to have a dangerous mental disorder and to require placement in a secure facility.
- ◆ An individual serving a prison sentence may be admitted to a secure hospital under Section 402 of the Correction Law. Except in emergencies, advance court authorization must be obtained. The patient, or someone acting on his or her behalf, may seek a hearing. If a person is admitted on an emergency basis, court authorization must be obtained afterward.

Guardians

If you are legally incapacitated while you are an inpatient at a state psychiatric center, a judge may appoint a guardian to make decisions on your behalf.

The judge decides whether a guardian is needed and who it will be (typically considering friends and relatives, if they qualify). You have the right to be represented by the Mental Hygiene Legal Service or another lawyer at the proceeding.

Health care proxy and advance directives

You have the right to complete a health care proxy, which appoints a health care agent - another adult to make health care decisions for you in the event that you lose capacity to make decisions. You also

have rights, consistent with New York State Law, relating to advance directives - a person's written instructions relating to the provision of care in the event the person lacks capacity to make health care decisions. When you are admitted, the hospital will tell you about these rights and, upon request, will provide you with a form to designate an agent and offer additional assistance.

Your right to quality care

You have the right to an individual plan of treatment.

This basic treatment plan shall include a statement of the goals of treatment, appropriate programs, treatment or therapies to be undertaken to meet the goals and a specific timetable for reviewing progress. You must have the opportunity to participate as fully as you are able in establishing and revising your individual treatment plan. This includes the right to ask that the plan be revised.

You have a right to receive services that are suited to your needs provided in a skillful, safe and humane manner. Under state and federal law, staff people may not discriminate against you because of race, color, sex, creed, religion, age, national origin or the nature and severity of your disability.

As an inpatient, you will receive periodic medical and dental examinations. Treatment for medical and dental problems is available, with appropriate follow-up services as needed.

Medications may be used only for therapeutic purposes, and the purpose and possible side effects, along with alternative treatments available, must be explained to you.

In case of serious illness or injury, your guardian, family or a close friend whom you have designated will be notified immediately.

Your right to object

You have a right to object to any form of care and treatment, and to appeal decisions with which you disagree.

If you object, the treatment team must make every effort to provide an alternative treatment or procedure which will be acceptable to you.

Medications or other medical treatments proposed for you must be explained to you. If you object, you have the right to have the proposed treatment, and your objections, fully reviewed both by Office of Mental Health physicians and by a court. Except in an emergency, you cannot be treated over your objection without court authorization, and you have a right to have the Mental Hygiene Legal Service or another representative assist you in administrative and court procedures.

Restraint and seclusion

Restraint and seclusion of patients are last-resort safety measures to prevent injury, and Office of Mental Health policy states that they are to be used only in emergency situations.

Specific types of restraining devices which doctors may order include four-point restraints, five-point restraints, wrist-to-belt restraints and calming blankets. Camisoles and restraining sheets may be used only upon authorization of the OMH chief medical officer or his designee, and only with the particular patient for whom authorization is given. Staff people are expected to use the least restrictive type of restraint which is appropriate and effective.

Seclusion occurs when a person is placed alone in a room which he or she cannot leave at will.

You can be restrained or secluded only upon the written order of a doctor, based on personal examination. If a doctor is not immediately available, a senior clinician can start the procedure while waiting for the doctor to arrive only if the patient presents an immediate danger to self or others. An order is valid for no more than two hours for adults and to renew an order, the physician must conduct another examination and write another order. Patients in restraint or seclusion must be monitored continuously and their vital signs taken regularly. Restraint and seclusion are not to be used as punishment, or for the convenience of staff or as a substitute for treatment, and excessive force shall not be used.

As soon as practicable after a person has been restrained or secluded, and as soon as the person is willing, staff must review the circumstances surrounding the episode with the individual. They must try to identify with the person's help what could have been done differently and how a future emergency could be averted.

Hospital quality assurance programs also are expected to monitor restraint and seclusion.

Surgery and other treatments

Surgery, electroconvulsive therapy (shock treatment), major medical treatment or experimental drugs or procedures are allowed only with appropriate authorization.

Unless you are under age 18 or a judge determines that you lack the capacity to consent to treatment, such procedures may be performed only with your informed consent. This means agreeing to the procedure after being given full and comprehensive information on potential benefits and harm.

If a person is under age 18 or lacks the capacity to consent to treatment, authorization for such procedures may be obtained from a close relative, a health care agent (the person designated in a health care proxy), a court-appointed surrogate, a surrogate decision-making committee or a judge. However, even with consent of a surrogate, such procedures cannot be administered in a non-emergency to someone who objects unless he or she is on involuntary status and has been given a chance to seek judicial or administrative review of the decision.

In emergencies, the psychiatric center director may authorize a procedure necessary to preserve life or limb without obtaining consent of people. Electroconvulsive therapy is not regarded as an emergency treatment, and its use cannot be authorized by a psychiatric center director as an emergency procedure.

Research

A patient may participate in research only if it does not conflict with his or her individual treatment plan. Agreeing or refusing to participate in research will not deprive you of any rights, privileges or protection provided in the law.

You have the right to refuse to participate in any staff training activity that is not an integral part of your treatment plan.

Criminal background

When you are admitted, an automatic computer check is made to determine whether you have a criminal history. Information from the Division of Criminal Justice Services can be summarized and included in your clinical record, although the report itself is to be destroyed within two weeks of receipt. You will be given written notice that your criminal history information will be obtained and that there is an opportunity to request correction of inaccurate information.

Discharge

A person admitted under the Mental Hygiene Law will be discharged to the community after the person's treatment team or a judge has determined that the individual no longer needs inpatient care and treatment.

A service plan will be prepared for the person being discharged. That individual, along with his or her authorized representative, must be given the opportunity to actively participate in its development.

The plan will include:

- ◆ A statement of the person's need, if any, for supervision, medication, aftercare services and help finding work.
- ◆ A specific recommendation of the type of residence in which the patient is to live and a listing of the services available in such a residence.

Staff also must consult with the local department of social services, and must process any applications for public assistance, Medicaid and Supplemental Security Income (SSI) before the individual is released.

People committed under the Criminal Procedure Law or Correction Law will be released or discharged under terms of those laws.

Conditional release

A person may be released conditionally rather than discharged, if he or she has clinical needs that require supervised placement.

An involuntary status patient may be released conditionally only for the remainder of the court-authorized retention period. For example, if a judge has ordered that someone be retained for 30 days, and ten days have passed, the person could be released conditionally for the remaining 20 days. If a staff physician of the psychiatric center determines that such a person on conditional release may be in need of involuntary rehospitalization, such person may be recommitted for a period of up to 72 hours, during which time the person shall be evaluated for rehospitalization (in accordance with the procedures for involuntary admission under the Mental Hygiene Law explained above) or released, either conditionally or unconditionally.

A voluntary status patient may be released conditionally only if the individual consents. If the patient is under 18, the parent, legal guardian, custodian or next of kin may have authority to consent on the patient's behalf. The person may be returned to the facility only if he or she consents, unless his or her psychiatric condition has changed to the point where an involuntary admission is required.

Assisted Outpatient Treatment (Kendra's Law)

Background

New York State has enacted legislation that provides for Assisted Outpatient Treatment (AOT) of certain persons with mental illness who, in view of their treatment history and present circumstances, are unlikely to survive safely in the community without supervision. This legislation is commonly referred to as "Kendra's Law" and is set forth in Section 9.60 of the Mental Hygiene Law. Those individuals in the community, or about to return to the community from correctional facilities or hospitals, who are suffering from mental illness and are unlikely to survive safely without some formal supervision, may be found in need of AOT. AOT is a general

term describing the services which a person may be required to receive in the community, including case management services, medication, drug testing, educational and vocational training, group therapy, substance abuse treatment and counseling, and supervision of living arrangements. Before a court may order assisted outpatient treatment, it must be satisfied that AOT is the least restrictive alternative for the patient.

Eligibility

In order to be found in need of assisted outpatient treatment, an individual must:

- ◆ be at least 18 years old and have a mental illness;
- ◆ be unlikely to survive safely in the community without supervision, based on a clinical determination;
- ◆ have a history of lack of compliance with treatment that has lead to (a) at least two hospitalizations for mental illness in the preceding 36 months, or (b) resulted in one or more acts of violence toward self or others, or threats of serious physical harm toward self or others, within the preceding 48 months (when calculating the 36 month or 48 month “look-back” period, the duration of the current hospitalization, or of any hospitalization which ended in the six months immediately preceding the filing of the petition, is excluded);
- ◆ be unlikely to voluntarily participate in outpatient treatment interventions that would allow the person to live safely in the community;
- ◆ in view of the person’s treatment history and current behavior, be in need of AOT to avoid a relapse or deterioration that would likely result in serious harm to the person or others; and
- ◆ be likely to benefit from AOT.

Process

The process begins by the filing of a petition with the county court or the supreme court for the county where the subject individual is present or is believed to be present. A petition is a formal written statement to the court setting out the facts which demonstrate that the individual in question meets the criteria for AOT. A petition can be filed by a roommate, certain family members, the director of a hospital where the person is hospitalized, a qualified psychiatrist who is either treating the person or supervising the person’s treatment, a licensed psychologist or social worker who is currently treat-

ing the person, the director of a public or charitable organization providing mental health services or housing, the local director of community services or social services official or a parole or probation officer assigned to supervise the person.

In addition to the petition, an affidavit of an examining physician is required which shows, among other things, that the physician examined the patient within 10 days of filing the petition and that the subject of the petition meets the criteria for AOT. A copy of the petition is served on a number of persons including the person alleged to be mentally ill and in need of AOT and the person's closest known relative and the Mental Hygiene Legal Services among others. The court has 72 hours to set a hearing date, although the hearing can be adjourned for "good cause." At the hearing, the court considers all the evidence, which may include testimony from the person bringing the petition, and other admissible forms of evidence. After all information is supplied to the court, a determination is made whether the person meets the criteria for AOT. If the court determines the person meets the criteria for AOT, the initial order will require the person to receive assisted outpatient treatment for up to six months from the date of the order. The AOT order can be extended by a similar petition process for successive periods of up to one year.

Non-compliance with an order of AOT

If a patient fails to comply with an AOT order, his or her treatment team works with the patient to achieve compliance. If a physician determines that the person still has not complied with an AOT order and that the patient may be in need of involuntary admission to a hospital, the physician may recommend that the patient be removed from the community for examination and transported to a hospital. The patient may be retained for up to 72 hours to determine if he or she is in need of inpatient care and treatment. The patient must be released at the end of 72 hours unless he or she is admitted as an inpatient pursuant to the provisions of the Mental Hygiene Law pertaining to hospital admissions. The refusal of the patient to take required medication, or the failure of a test to determine such medication compliance or to determine alcohol or drugs use, may be considered by the physician when determining whether removal to a hospital for examination is necessary.

Legal assistance for you

The Mental Hygiene Legal Service (MHLS) provides legal services, advice and assistance, including representation, about all matters arising out of your hospitalization here. MHLS is an agency of the New York State Supreme Court, and is not part of the Office of Mental Health or any psychiatric center. MHLS staff members are lawyers or social workers who have a legal background. Their function is to help you understand and protect your rights as a patient.

If you object to being hospitalized, the MHLS can arrange for you to have a court hearing before a judge, who will decide if you need to remain. If you don't have your own lawyer, MHLS can either represent you or get a lawyer for you. It can also obtain an additional psychiatric opinion.

MHLS helps patients in other ways, including investigating complaints of patient abuse and mistreatment.

All patients, their families and others who work on behalf of patients have the right to communicate freely and privately with MHLS representatives at any time. The names, office address and telephone numbers of MHLS representatives are posted at each psychiatric center, and staff are required to provide this information to patients upon request. In addition, each psychiatric center's switchboard can connect a caller to MHLS or provide the telephone number. All MHLS services are free.

Telephoning for help

The State Office of Mental Health offers a toll-free Customer Relations Line. Call:

1-800-597-8481

The number for Spanish-speaking callers (en Español) is:

1-800-210-6456

The TDD number for callers who are deaf or hearing impaired is:

1-800-421-1220

To contact the State Commission on Quality of Care and Advocacy for Persons with Disabilities, a statewide oversight agency, call toll free:

1-800-624-4143

To contact Protection and Advocacy for Individuals with Mental Illness (PAIMI) call:

(518) 388-2892

or call toll free **1-800-624-4143**

To contact The Joint Commission or to express concern about this organization, call:

1-800-994-6610

or email

complaint@jointcommission.org

New York (2010): *Rights of Outpatients in all outpatient programs licensed or run by the Office of Mental Health.* This booklet describes basic rights, objectives, complaint process and access to records rights, and contact information for advocacy and assistance services.



Rights of Outpatients

**in all outpatient programs
licensed or run by
the Office of Mental Health**

State of New York

David A. Paterson, Governor

Office of Mental Health

Michael F. Hogan, Ph.D.
Commissioner

From the Commissioner of Mental Health

One of our important roles at the State Office of Mental Health is to offer meaningful information to help people make choices and decisions about mental health issues.

It is our hope that an understanding of the rights of outpatients will help foster respectful relationships between people who use mental health services, family members, staff people and members of the community.

Michael F. Hogan, Ph.D
New York State
Commissioner of Mental Health

The rights of people in outpatient mental health programs are protected by both law and regulation.

The State Office of Mental Health (OMH) licenses outpatient programs in five categories - clinic, continuing day treatment, day treatment for children, intensive psychiatric rehabilitation treatment and partial hospitalization. In 2006, OMH also began a phased implementation process for the issuance of Personalized Recovery Oriented Services (PROS) licenses. A new comprehensive recovery-oriented program model that integrates treatment, support and rehabilitation services, PROS has four service components: Community Rehabilitation and Support; Intensive Rehabilitation; Ongoing Rehabilitation and Support; and Clinical treatment. Generally, you will not stay overnight in an outpatient program.

Your civil rights continue if you participate in an outpatient program. The law specifically mentions your continued right to register and vote in elections, apply for permits and licenses, take civil service tests and apply for jobs and be appointed without discrimination if you qualify.

Under the law you have the right to be treated confidentially, with respect and dignity by all staff people.

Treatment or access to programs may not be limited or denied because of race, creed, color, sex, national origin, age, marital status, or disabilities which are unrelated to treatment. If you think that you are being discriminated against on any of these grounds - or if you believe that you are a victim of mental, verbal, physical or sexual abuse - this booklet tells where you may file an official complaint.

The fact that you are receiving psychiatric treatment does not mean you are mentally incompetent. You are considered legally competent unless a judge has ruled that you are incompetent.

You also have the same right as other citizens to designate a "health care proxy" or prepare an "advance directive." Because some people have recurring episodes of mental illness, these documents may be of particular interest to people who use mental health services. The documents allow you to provide instructions about your future treatment, to be used later if you are unable to give instructions at the time you are being treated.

Basic Information

When you are admitted to an outpatient program or shortly after, you should be informed about your rights. These rights may be restricted only upon written order of a physician. Any such order must be placed in your clinical record and must state the clinical justification for the limitation and the specific time period when it will remain in effect. Your rights may not be limited as punishment or for the convenience of staff people.

These rights include:

- The right to freedom from abuse and mistreatment by employees.
- The right to a reasonable degree of privacy, including bathroom privacy.
- The right to an individualized service plan and a full explanation

of the services provided, and the right to participate in the development of your individualized service plan.

- The right to be informed of the provider's grievance policies and procedures, and the right to bring any questions or complaints to the director of the program or the organizations listed at the back of this booklet.
- The right to receive clinically appropriate care and treatment suited to your needs and skillfully, safely and humanely administered with full respect for your dignity and personal integrity.
- The right to be treated in a way which acknowledges and respects your cultural environment.

In a separate category, your outpatient program may inform you about these additional elements, although they are not rights set forth in law or regulation:

- The name of the staff member who will have primary responsibility, for example, as your principal contact person or personal service coordinator.
- Alternate treatments available to you.
- The rules of conduct in your program.
- The cost of treatment.
- The limit, if there is one, on how long you can stay in the program.
- The program's relationship with other agencies regarding additional services.
- The program's source of funding.
- The authority under which the program operates.

Participation and Objections

For most people, participating in an outpatient program is voluntary. Occasionally someone is ordered by a court to obtain outpatient services under the Assisted Outpatient Treatment Program (also known as Kendra's Law) or as a condition of parole from prison. While your full participation in the program is a central goal, if you object to your individualized service plan, or if it is not working to your satisfaction and you want it changed, that alone is not reason to discharge you from the program. Periodically, you can expect to review your plan with staff people to look at your progress. You can be discharged if participation is no longer clinically appropriate or if you engage in conduct which poses a risk of physical harm to yourself or others.

You have the right to make an informed choice on whether you will participate in research projects. These could involve new medications, a series of questions posed by an interviewer or questionnaires. If you refuse to participate, a program cannot use that as grounds to deny you further treatment. If you decide to participate, your signed informed consent is required.

Privacy and Confidentiality

The law protects your right to privacy and confidentiality during treatment. This includes conversations between you and staff people who provide services, and information in your record. You have the right to see your treatment record unless there is a clinical reason why you should not, and to

request that your physician discuss your treatment record with you. You may ask to have your record sent to any other service provider or your attorney. If you are under age 18, a parent or legal guardian may make this request.

The Office of Mental Health will provide you with a separate Notice of Privacy Practices that will tell you how we use and disclose your confidential mental health treatment information. It will also tell you what your rights are with regard to your mental health treatment information, and who you can contact if you have questions or a complaint about how we have used or shared your treatment records.

Generally, information from your treatment record cannot be released without your written consent. In limited circumstances, however, the law may allow or require release of records or information to certain individuals, governmental agencies or provider organizations. Most disclosures will be noted in your record, and you are entitled to learn about them upon request. The law states that notations do not have to be kept when records are disclosed to the Mental Hygiene Legal Service, quality of care reviewers or government finance agents dealing with payments. The law also says that for disclosures made to insurance companies licensed under the State Insurance Law, such a notation needs to be entered only at the time the disclosure is first made.

Access to Records

You must be given an opportunity to inspect your clinical record when you have submitted a written request. The law does allow some limitations on this access, based on clinical justification. A program can impose a reasonable charge for all inspections and copies. The charge cannot exceed what these services actually cost the program. In no case can a program charge more than 75 cents per page.

If you disagree with some part of your record, you can submit a written statement challenging the information in the record to be permanently attached to the record.

Problems or Complaints

You have the right to information on how to make a complaint. A provider of service must give a notice of recipients' rights to each person upon admission, and post the rights in a conspicuous location.

If you have a problem or complaint, the person who runs the program is responsible for making sure your rights are protected. If this does not work, or is inappropriate, there are other organizations that can help.

For assistance:

A staff member, such as the personal service coordinator or principal contact person, or director of the program.

New York State Office of Mental Health

44 Holland Ave., Albany NY 12229
Toll free: 1-800-597-8481, En Espanol: 1-800-210-6456,
TDD 1-800-421-1220 for people who are deaf or hearing impaired

New York State Commission on Quality of Care and Advocacy for Persons with Disabilities

401 State Street, Schnectady, NY 12305
Telephone (518) 388-2888

Protection and Advocacy for Individuals Who Are Mentally Ill (PAIMI)

New York City Region:

New York Lawyers for the Public Interest

151 W. 30th Street, 11th Floor, New York, NY 10001-4007
Telephone: (212) 244-4664

Western New York Region:

Neighborhood Legal Services

237 Main Street, Suite 400, Buffalo NY 14203
Telephone: (716) 847-0650

Hudson Valley Region:

Disability Advocates

5 Clinton Square, Albany NY 12207
Telephone: (518) 432-7861

North Country Region:

Legal Aid of Northeastern NY, Inc.

100 Court St., P. O. Box 989, Plattsburgh NY 12901
Telephone: (518) 563-4022. Or
17 Hodskin St., P.O. Box 648, Canton NY 13617
Telephone: (315) 386-4586

Central New York Region:

Legal Services of Central New York

The Empire Building,
472 S. Salina St., Suite 300, Syracuse NY 13202
Telephone: (315) 475-3127

Long Island Region:

Touro College, Jacob Fuchsberg Law Center

225 Eastview Drive, Central Islip, NY, 11722
Telephone: (631) 761-7080

Mental Hygiene Legal Service

First Judicial Department

41 Madison Ave, 26th floor, New York NY 10010
Telephone: (212) 779-1734

Second Judicial Department

170 Old Country Road, Mineola NY 11501
Telephone: (516) 746-4545

Third Judicial Department

40 Steuben Street, Suite 501, Albany, NY 12207
Telephone: (518) 474-4453

Fourth Judicial Department

50 East Ave., Suite 402, Rochester NY 14604
Telephone: (585) 530-3050

National Alliance for the Mentally Ill of New York State

260 Washington Ave., Albany NY 12210
Telephone: (518) 462-2000

**To contact The Joint Commissioner to express concern
about this organization, call**

1-800-994-6610

or email

complaint@jointcommission.org.



For additional copies of this booklet fax your request to:
Utica Print Shop (315) 735-5041

Last Revised: April, 2010

Texas (unknown date): *Patient's Bill of Rights*. This document outlines rights of individuals who apply to receive mental health services from the State of Texas. It outlines patient rights, right to know one's rights, and right to make a complaint.

Patient's Bill of Rights

When you apply for or receive mental health services in the State of Texas, you have many rights. Your most important rights are listed on these six pages. These rights apply to all persons unless otherwise restricted by law or court order. A judge or lawyer will refer to the actual laws. If you want a copy of the laws these rights come from, you can call the Health Facility Licensure and Certification Division of the Texas Department of Health at **1-888-973-0022**.

It is the responsibility of this hospital under law to make sure you have been informed of your rights. But just giving you this information does not mean your rights have been protected. This hospital is required to respect and provide for your rights in order to maintain licensure and do business in this state.

Your Right To Know Your Rights

You have the right, under the rules by which this hospital is licensed, to be given a copy of these rights before you are admitted to the hospital as a patient. If you so desire, a copy should also be given to the person of your choice. If a guardian has been appointed for you or you are under 18 years of age, a copy will also be given to your guardian, parent, or conservator.

You also have the right to have these rights explained to you aloud in simple terms in a way you can understand within 24 hours of being admitted to the hospital to receive services (e.g., in your language if you are not English-speaking, in sign language if you are hearing impaired, in Braille if you are visually impaired, or other appropriate methods).

Your Right To Make a Compliant

You have the right to make a complaint and to be told how to contact people who can help you. These people and their addresses and phone numbers are listed below.

You have the right to be told about Advocacy, Inc., when you first enter the hospital and when you leave. Information about how to contact Advocacy, Inc., is also listed below.

If you believe any of your rights have been violated or you have other concerns about your care in this hospital, you may contact one or more of the following:

**Health Facility Licensing and Compliance Division
Texas Department of Health
1100 W. 49th Street, Austin, TX 78756**

1-888-973-0022

**Advocacy, Incorporated
7800 Shoal Creek Boulevard, Suite 171 E, Austin, TX 78757**

1-800-315-3876

If you have been involuntarily committed and you believe that your attorney did not prepare your case properly or that your attorney failed to represent your point of view to the judge, you may wish to report the attorney's behavior to the Ethics Committee of the State Bar of Texas by writing:

**Disciplinary Council
State Bar of Texas
1414 Colorado
P.O. Box 12487
Austin, TX 78711-2487**

If you are a voluntary patient OR if you have been taken to the hospital against your will, turn to pages five and six for a listing of your special rights under law in Texas. All patients should read pages three and four which explain the rights that apply to everyone receiving services at this hospital.

STATEMENT THAT YOU HAVE RECEIVED THIS PAMPHLET AND THAT IT HAS BEEN EXPLAINED

____ I certify that I have received a copy of this six-page document prior to admission.

____ I certify that staff have explained its content to me in a language I understand within 24 hours of admission (if involuntarily committed).

____ I certify that staff have explained its content to me in a language I understand prior to admission (if voluntarily committed).

Name _____ Witness _____

Date _____ Date _____

Relationship of witness to patient: _____

Basic Rights for All Patients

1. You have all the rights of a citizen of the State of Texas and the United States of America, including the right of *habeas corpus* (to ask a judge if it is legal for you to be kept in the hospital), property rights, guardianship rights, family rights, religious freedom, the right to register to vote, the right to sue and be sued, the right to sign contracts, and all the rights relating to licenses, permits, privileges, and benefits under the law.

2. You have the right to be presumed mentally competent unless a court has ruled otherwise.

3. You have the right to a clean and humane environment in which you are protected from harm, have privacy with regard to personal needs, and are treated with respect and dignity.

4. You have the right to appropriate treatment in the least restrictive appropriate setting available. This is a setting that provides you with the highest likelihood for improvement and that is not more restrictive of your physical or social liberties than is necessary for the most effective treatment and for protections against any dangers which you might pose to yourself or others.

5. You have the right to be free from mistreatment, abuse, neglect, and exploitation.

6. You have the right to be told in advance of all estimated charges being made, the cost of services provided by the hospital, sources of the program's reimbursement, and any limitations on length of services known to the hospital. As part of this right, you should have access to a detailed bill of services, the name of an individual at the facility to contact for any billing questions, and information about billing arrangements and available options if insurance benefits are exhausted or denied.

7. You have the right to fair compensation for labor performed for the hospital in accordance with the Fair Labor Standards Act.

8. You have the right to be informed of those hospital rules and regulations concerning your conduct and course of treatment.

Personal Rights

Unless otherwise specified, these personal rights can only be limited by your doctor on an individual basis to the extent that the limitation is necessary to your welfare or to protect another person. The reasons for and duration of the limitation must be written in your medical record, signed, and dated by your doctor, and fully explained to you. The limit on your rights must be reviewed at least every seven days and if renewed, renewed in writing.

9. You have the right to talk and write to people outside the hospital. You have the right to have visitors in private, make private phone calls, and send and receive sealed and uncensored mail. *In no case may your right to contact or be contacted by an attorney, the department, the courts, or the state attorney general be limited.*

This right includes a prohibition on barriers to communication imposed by a hospital, such as:

- rigid and restrictive visiting hours;
- policies that restrict hospitalized mothers and fathers from visiting with their minor children;
- policies that restrict parents from visiting their hospitalized children
- limited access to telephones; and
- failure to provide assistance to patients who wish to mail a letter.

10. You have the right to keep and use your personal possessions including the right to wear your own clothing and religious or other symbolic items. You have the right to wear suitable clothing which is neat, clean and well-fitting.

11. You have the right to have an opportunity for physical exercise and for going outdoors with or without supervision (as clinically indicated) at least daily. *A physician's order limiting this right must be reviewed and renewed at least every three days. The findings of the review must be written in your medical record.*

12. You have the right to have access to appropriate areas of the hospital away from your living unit, with or without supervision (as clinically appropriate), at regular and frequent times.

13. You have the right to religious freedom. However, no one can force you to attend or engage in any religious activity.

14. You have the right to opportunities to socialize with persons of the opposite sex, with or without supervision, as your treatment team considers appropriate for you.

15. You have the right to ask to be moved to another room if another person in your room is disturbing you. The hospital staff must pay attention to your request, and must give you an answer and a reason for the answer as soon as possible.

16. You have the right to receive treatment of any physical problems which affect your treatment. You also have the right to receive treatment of any physical problem that develops while you are in the hospital. If your physician believes treatment of the physical problem is not required for your health, safety, or mental condition, you

have the right to seek treatment outside the hospital at your own expense.

17. You have the right not to be unnecessarily searched unless your physician believes there is a potential danger and orders a search. If you are required to remove any item of clothing, a staff member of the same sex must be present and the search must take place in a private place.

Confidentiality

18. You have the right to review the information contained in your medical record. If your doctor says you shouldn't see a part of your record, you have the right at your expense to have another doctor of your choice review that decision. The doctor must also reconsider the decision to restrict your right on a regular basis. The right extends to your parent or conservator if you are a minor (unless you have admitted yourself to services) and to your legal guardian if you have been declared by a court to be legally incompetent.

19. You have the right to have your records kept private and to be told about the conditions under which information about you can be disclosed without your permission, as well as how you can prevent any such disclosures.

20. You have the right to be informed of the current and future use of products of special observation and audiovisual techniques, such as one-way vision mirrors, tape recorders, television, movies, or photographs.

Consent

21. You have the right to refuse to take part in research without affecting your regular care.

22. You have the right to refuse any of the following:

- surgical procedures;
- electroconvulsive therapy (prohibited for minors under the age of 16);
- unusual medications;
- behavior therapy
- hazardous assessment procedures;
- audiovisual equipment; and
- other procedures for which your permission is required by law.

This right extends to your parent or conservator if you are a minor, or your legal guardian when applicable.

23. You have the right to withdraw your permission at any time in matters to which you have previously consented.

Care and Treatment

24. You have the right to be transported to, from, and between private psychiatric hospitals in way that protects your dignity and safety. You have the right not to be

transported in a marked police or sheriff's car or accompanied by a uniformed officer unless other means are not available.

25. You have the right to a treatment plan for your stay in the hospital that is just for you. You have the right to take part in developing that plan, as well as the treatment plan for your care after you leave the hospital. *This right extends to your parent or conservator if you are a minor, or your legal guardian when applicable. You have the right to request that your parent/conservator or legal guardian take part in the development of the treatment plan. You have the right to request that any other person of your choosing, e.g., spouse, friend, relative, etc., take part in the development of the treatment plan. You have a right to expect that your request be reasonably considered and that you will be informed of the reasons for any denial of such a request. Staff must document in your medical record that the parent/guardian, conservator, or other person of your choice was contacted to participate.*

26. You have the right to be told about the care, procedures, and treatment you will be given; the risks, side effects, and benefits of all medications and treatment you will receive, including those that are unusual or experimental, the other treatments that are available, and what may happen if you refuse the treatment.

27. You have the right to receive information about the major types of prescription medications which your doctor orders for you (effective May 1, 1994).

28. You have the right not to be given medication you don't need or too much medication, including the right to refuse medication (this right extends to your parent or conservator if you are a minor, or your legal guardian when applicable). However, you may be given appropriate medication without your consent if:

- your condition or behavior places your or others in immediate danger; or
- you have been admitted by the court and your doctor determines that medication is required for your treatment and a judicial order authorizing administration of the medication has been obtained.

29. You have the right to receive a list of medications prescribed for you by your physician, including the name, dosage, and administration schedule, within four hours of the facility administrator or designee receiving such a request in writing.

30. You have the right not to be physically restrained (restriction of movement of parts of the body by person or device or placement in a locked room alone) unless your doctor orders it and writes it in your medical record. In an emergency, you may be restrained for up to one hour before the doctor's order is obtained. If you are restrained,

you must be told the reason, how long you will be restrained, and what you have to do to be removed from restraint. The restraint has to be stopped as soon as possible.

31. You have the right to meet with the staff responsible for your care and to be told of their professional discipline, job title, and responsibilities. In addition, you have the right to know about any proposed change in the appointment of professional staff responsible for your care.

32. You have the right to request the opinion of another doctor at your own expense. You have the right to be granted a review of the treatment plan or specific procedure by hospital medical staff. This right extends to your parent or conservator if you are a minor, or your legal guardian, if applicable.

33. You have the right to be told why you are being transferred to any program within or outside the hospital.

34. You have the right to a periodic review to determine the need for continued inpatient treatment.

If you have questions concerning these rights or a complaint about your care, call the Health Facility Licensure and Certification Division for the Texas Department of Health at 1-888-973-0022.

Voluntary Patients – Special Rights

1. You have the right to request discharge from the hospital. If you want to leave, you need to say so in writing or tell a staff person. If you tell a staff person you want to leave, the staff person must write it down for you.

2. You have the right to be discharged from the hospital within four hours of requesting discharge. There are only three reasons why you would not be allowed to go:

❖ First, if you change your mind and want to stay at the hospital, you can sign a paper that says you do not wish to leave, or you can tell a staff member that you don't want to leave, and the staff member has to write it down for you.

❖ Second, if you are under 16 years old, and the person who admitted you (your parents, guardian, or conservator) doesn't want you to leave, you may not be able to leave. If you request release, staff must explain to you whether or not you can sign yourself out and why. The hospital must notify the person who does have the authority to sign you out and tell that person that you want to leave. That person must talk to your doctor, and your doctor must document the date, time, and outcome of the conversation in your medical record.

❖ Third, you may be detained longer than four hours if your doctor has reason to believe that you might meet the criteria for court-ordered services or emergency detention because:

- ⊗ you are likely to cause serious harm to yourself;

- ⊗ you are likely to cause serious harm to others; or
- ⊗ your condition will continue to deteriorate and you are unable to make an informed decision as to whether or not to stay for treatment.

If your doctor thinks you may meet the criteria for court-ordered services or emergency detention, he or she must examine you in person within 24 hours of your filing the discharge request. You must be allowed to leave the hospital upon completion of the in-person examination unless your doctor confirms that you meet the criteria for court-ordered services and files an application for court-ordered services. The application asks a judge to issue a court order requiring you stay at the facility for services. The order will only be issued if the judge decides that either:

- ⊗ you are likely to cause serious harm to yourself;
- ⊗ you are likely to cause serious harm to others; or
- ⊗ your condition will continue to deteriorate and you are unable to make an informed decision as to whether or not to stay for treatment.

Even if an application for court-ordered services is filed, you can not be detained at the hospital beyond 4:00 p.m. of the first business day following the in-person examination unless the court-order for services is obtained.

3. You have the right not to have an application for court ordered services filed while you are receiving voluntary services at the hospital unless your physician determines that you meet the criteria for court-ordered services as outlined in §573.022 of the Texas Health and Safety Code and:

- ❖ you request discharge (see number 2 above);
- ❖ you are absent without authorization;
- ❖ your doctor believes you are unable to consent to appropriate and necessary treatment; or
- ❖ you refuse to consent to necessary and appropriate treatment recommended by your doctor and your doctor states in the certificate of medical examination that:

⊗ there is no reasonable alternative treatment; and

⊗ you will not benefit from continued inpatient care without the recommended treatment.

4. Your doctor must note in your medical record and tell you about any plans to file an application for court-ordered treatment or for detaining you for other clinical reasons. If the doctor finds that you are ready to be discharged, you should be discharged without further delay.

Note: The law is written to ensure that people who do not need treatment are not committed. The Texas Health and Safety Code says that any person who intentionally causes or helps another person cause the unjust commitment of a person to a mental hospital is guilty of a crime punishable by a fine of up to \$5,000 and/or imprisonment in county jail for up to one year.

Emergency Detention – Special Rights for People Brought Against to the Hospital Against Their Will

1. You have the right to be told:
 - where you are;
 - why you are being held; and
 - that you might be held for a longer time if a judge decides that you need treatment.
2. You have the right to call a lawyer. The people talking to you must help you call a lawyer if you ask.
3. You have a right to be seen by a doctor. You will not be allowed to leave if the doctor believes that:
 - you may seriously harm yourself or others;
 - the risk of this happening is likely unless you are restrained; and
 - emergency detention is the least restrictive means of restraint.

If the doctor decides you don't meet all of these criteria, you must be allowed to leave. A decision concerning whether you must stay must be made within 24 hours, except that on weekends and legal holidays, the decision may be delayed until 4:00 in the afternoon on the first regular workday. The decision may also be delayed in the event of an extreme weather emergency or disaster. If the court is asked to order you to stay longer, you must be told that you have a right to a hearing within 72 hours (excepting weekends, holidays, or extreme weather emergencies or disasters).

4. If the doctor decides that you don't need to stay here, the hospital will arrange for you to be taken back to where you were picked up if want to return, or to your home in Texas, or to another suitable place within reasonable distance.
5. You have the right to be told that anything you say or do may be used in proceedings for further detention.

Order of Protective Custody – Special Rights

1. You have the right to call a lawyer or to have a lawyer appointed to represent you in a hearing to determine whether you must remain in custody until a hearing on court-ordered mental health services is held.
2. Before a probable cause hearing is held, you have the right to be told in writing:
 - that you have been placed under an order of protective custody;
 - why the order was issued; and
 - the time and place of a hearing to determine whether you must remain in custody until a hearing on court-ordered mental health services can be held.

This notice must also be given to your attorney.

3. You have the right to a hearing within 72 hours of your detention, except that on weekends or legal holidays, the hearing may be delayed until 4:00 in the afternoon on the first regular workday. The hearing may also be delayed in the event of an extreme weather emergency or disaster.

4. You have the right to be released from custody if:
 - 72 hours has passed and a hearing has not taken place (excepting weather emergencies and extensions for weekends and legal holidays);
 - an order for court-ordered mental health services has not been issued within 14 days of the filing of an application (30 days if a delay was granted); or
 - your doctor finds that you no longer need court-ordered mental health services.

Involuntary Patients – Special Rights

Under most circumstances, you or a person who has your permission may, at any time during your commitment, ask the court to ask a physician to reexamine you to determine whether you still meet the criteria for commitment. If the physician determines you no longer meet the criteria for commitment, you must be discharged. If the physician determines you continue to meet the criteria for commitment, the physician must file a Certificate of Medical Examination with the court within 10 days of the filing of your request. If a certificate is filed, or if a certificate has not been filed within 10 days and you have not been discharged, the judge may set a time and place for a hearing on your request.

Texas (2007): *Handbook of Consumer Rights*. This handbook describes basic rights for consumers, contact information for complaints, and specific information on rights related to confidentiality, treatment or care, and residential care.

**Handbook
of Consumer
Rights**

**Mental
Health
Services**



Consumer Services and Rights Protection

2007

This Book Belongs To:

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Handbook of Mental Health Consumer Rights

This handbook is provided to make you aware of the rights guaranteed to you while you are receiving services within the Department of State Health Services (DSHS) system. This listing of rights is not complete, but rather, it should increase your awareness that you retain your rights as a citizen unless there is a specific reason to restrict them under law or court order.

The information in this handbook should not be considered the granting or denying of any right guaranteed under the law. In addition to your rights, as a consumer of mental health services, you may also have responsibilities. These may include, but are not limited to, active participation in treatment, attending scheduled appointments, taking medications as prescribed, and following through on treatment recommendations. If you have a question or concern regarding your rights and responsibilities as a consumer of services in the public mental health system, you should contact the Rights Protection Officer at the facility or community MHMR center where you are being served.

Under law, the state facility or community mental health center is responsible for making sure that you have been informed of your rights. The DSHS system is required to respect and provide for your rights.

To help you determine which rights in this handbook apply to you, you should be aware of your status with respect to the following conditions:

- the type of treatment program you are in (outpatient, inpatient, or other residential);
- your legal status (competent adult, adult or minor with a guardian, emancipated minor, or minor with a conservator);
- your admission status (voluntary, emergency detention, Order of Protective Custody, Court Order for Temporary or Extended Services, or Forensic Commitment).

If you are not sure of your status, ask your treatment provider or ask for assistance from your Rights Protection Officer.

Your Right to be Informed of Your Rights

You have the right to be given a copy of these rights before you agree to accept voluntary services or when you are admitted to involuntary services. A copy can also be given to the person of your choice. If a guardian has been appointed for you, or you are less than 18 years-of-age (less than 16 years-of-age if you have been admitted voluntarily to inpatient services), another copy will be given to your guardian, parent, or conservator.

You also have the right to have these rights explained to you aloud in a language you can understand within 24 hours of being admitted for services. This same explanation must also be given to your guardian, parent, or conservator, as appropriate.

You have the right to make a complaint and to be informed of whom to call for help. The addresses and phone numbers are listed below. You have the right to make a complaint without any form of retaliation.

Your Right to Make a Complaint

If you believe any of your rights have been violated or you have other questions, concerns, or complaints about your rights or your care, you may contact one or more of the following:

- Rights Protection Officer – see stamp on front of handbook.
- Texas Department of State Health Services
Office of Consumer Services and Rights Protection
Mail Code 2019
P.O. Box 12668
Austin, TX 78711-2668
1-800-252-8154
- Advocacy, Inc.
7800 Shoal Creek Blvd., Suite 171-E
Austin, TX 78757
1-800-252-9108 (voice and TDD)

- Joint Commission on Accreditation of Healthcare Organizations ¹
One Renaissance Blvd.
Oakbrook Terrace, IL 60181
1-800-994-6610

You have the right to be told about Advocacy, Inc. when you first enter an inpatient unit and also when you leave. Advocacy, Inc., is a federally-funded agency which is independent of DSHS and whose purpose is to protect and speak up for your rights.

If you believe you have been abused or neglected, you can complain to:

Texas Department of Family and Protective Services
P.O. Box 149030
Austin, TX 78714-9030
Mail Code E-561
1-800-647-7418

If you believe your attorney did not prepare your case properly or that your attorney failed to represent your point of view to the judge when you were involuntarily committed, you may report the attorney's behavior to the State Bar of Texas by writing or calling:

State Bar of Texas
Chief Disciplinary Counsel
La Costa Center, Suite 300
6300 La Calma Dr.
Austin, TX 78752
1-800-932-1900

You have the right to be offered the opportunity to complete a satisfaction survey at discharge from an inpatient program, telling us what you did like or did not like. You may request an early survey at any time during your stay by asking your social worker or by contacting the Office of Consumer Services. This right extends to your family.

¹ Applies to inpatient programs and accredited outpatient programs.

Basic Rights for All Persons Receiving Mental Health Services

(Outpatient as well as
Residential Inpatient
Programs)

1. You have all the rights of a citizen of the State of Texas and the United States of America, including the right of *habeas corpus* (this means you have the right to ask the court if it is legal, based on the procedures of your court commitment, for you to be kept in the hospital), property rights, guardianship rights, family rights, religious freedom, the right to register and vote, the right to sue and be sued, the right to sign contracts, and all the rights relating to licenses, permits, privileges, and benefits under the law.
2. You have the right to be presumed mentally competent unless a court has ruled otherwise.
3. You have the right to be treated without discrimination due to your race, religion, sex, ethnicity, nationality, age, sexual orientation, or disability. If you believe you have been discriminated against for any of the reasons listed above, you may contact the HHSC Civil Rights Office at 1-888-388-6332.
4. You have the right to be treated in a clean and humane environment in which you are protected from harm, have privacy with regard to personal needs, and are treated with respect and dignity.
5. You have the right to appropriate treatment in the least restrictive, appropriate setting available that provides protection for you and the community.
6. You have the right to be free from mistreatment, abuse, neglect, and exploitation. If you believe you have been abused, neglected or exploited, you should contact DFPS at 1-800-647-7418.
7. You have the right to protection of your personal property from theft or loss.

8. You have the right to be told in advance of all estimated charges being made, the cost of services provided, sources of the program's reimbursement, and any limitations on length of services. You should be given a detailed bill of services upon request, the name of an individual to contact for any billing questions, and information about billing arrangements and available options if insurance benefits are exhausted or denied. You may not be denied services due to an inability to pay for them.
9. You have the right to fair compensation for any work performed in accordance with the Fair Labor Standards Act.
10. When you are admitted to an inpatient or outpatient program, you have the right to be informed of all rules and regulations related to those programs.

Confidentiality

11. You have the right to review the information contained in your medical record. If your doctor says you shouldn't see parts of your record, you have the right to have the decision reviewed. The right to review your records extends to your parent or conservator if you are a minor (unless you have admitted yourself to services) and to your legal guardian.
12. You have the right to have your records kept private. You also have the right to be told about the conditions under which information about you can be shared without your permission. You should be aware that your records may be shared with employees of the DSHS system (state facilities and community MHMR centers) who need to see them in order to provide services to you. You should also be aware that your status as a person receiving mental health services may be shared with jail personnel if you are incarcerated.

13. You have the right to be informed of the use of any media devices, such as one-way vision mirrors, tape recorders, television, movies, or photographs.
14. Except in an emergency, medical and/or surgical procedures require your permission or the permission of your guardian or legal representative. You have the right to know the advantages and disadvantages of medical and surgical procedures
15. You have the right to consent or withhold consent to take medication unless a court has ordered you to take them, your guardian has consented to their administration, or there is an emergency situation in which you or someone else might be harmed due to your behavior.
16. You have the right to consent or withhold consent to participate in research.
17. You have the right to withdraw your permission at any time in all matters for which you have previously consented. If you do not grant consent or if you withdraw your consent for any particular treatment, it will have no effect upon your eligibility for any other care and treatment.

Care and Treatment

18. You have the right to an individualized treatment plan. You have the right to take part in developing that plan, as well as the treatment plan for your care after you leave the hospital or community program. Your parent/conservator (if you are a minor), or your legal guardian, has the right to participate in the development of the treatment plan. You have the right to request that any other person that you choose take part in the development of the treatment plan. Your request should be reasonably considered and you will be informed of the reasons for any denial. Staff must document in your medical record that the parent, guardian, conservator, or other person of your choice was contacted and invited to participate.

19. You have the right to be free from unnecessary or excessive medication.
20. You have the right to be told about the care, procedures, and treatment you will be given. You also have the right to be told about the risks, side effects, and benefits of all medications and treatment you will receive, including those that are unusual or experimental, the other treatments that are available, and what may happen if you refuse the treatment.
21. You have the right to meet with the staff responsible for your care and to be told of their disciplines, job titles, and responsibilities. In addition, you have the right to know about any proposed change in the appointment of professional staff responsible for your care.
22. You have the right to request and receive a second opinion from another professional treatment provider at your own expense. You have the right to be granted a review of your treatment plan or a specific procedure by in-house staff.
23. You have the right to be told why you are being transferred to any program within or outside of the agency.
24. You should be notified of your right to appeal a decision by a community MHMR center to deny, terminate, or reduce services or support. If you are a Medicaid recipient, you also have the right to request a Medicaid Fair Hearing.
25. You have the right to receive services that address both psychiatric and substance use disorders.
26. You have the right to appeal a decision made by the MHMR center to deny, terminate or reduce services or support, based on non-payment.

Additional Rights of Persons Admitted to Inpatient/Residential Programs

1. You have the right to exercise religious freedom, including the right to refuse religious activity.
2. You have the right to ask to be moved to another room. The staff must pay attention to your request and give you an answer and a reason for the answer as soon as possible.
3. You have the right to receive treatment for physical or medical problems which affect your treatment. If your physician believes treatment of the physical problem is not required for your health, safety, or mental condition, you have the right to seek treatment outside the inpatient unit at your own expense.
4. If you are in a state hospital or a state center and there is no way to pay for your own transportation home when you are released, the state will pay the cost of transportation.
5. If you are an adult, without a guardian, who has been admitted to an inpatient program, you have the right to be given information about your health care decisions and to execute advanced directives as allowed by state law.
6. You have the right to have individuals of your choosing notified of your admission and/or discharge.
7. You and your family have the right to be notified of the availability of the trust fund for the safekeeping of your personal funds.

8. You have the right to be informed in writing about any prescription medications ordered by your treating physician, including the name of the medication, the conditions under which it may be prescribed, any risks, benefits, and side-effects and the source of the information provided. This right extends to your family, so long as you agree to it.
9. You have the right to receive a written list of the medication prescribed to you within four (4) hours of requesting it in writing. The list must include the name of each medication, its dosage, how it is given, and how often it is given as well as the name of the doctor who prescribed it. This right extends to your family, with your consent.
10. You have the right to be free from physical restraint and seclusion unless a physician orders it. You may be restrained or secluded in an emergency situation without a physician's order. If the physician does not agree with this decision, you will be released. You must be told why you were restrained or secluded and what you must do to be released.

If you are in an inpatient program, the following rights (11-16) may be limited by your physician, but only on an individual basis in order to maintain your physical and/or emotional well-being or to protect another person. The reasons for any limitation must be written in your medical record, dated, signed by your physician, and fully explained to you and any person legally authorized to represent your interest. Unless otherwise specified, the limit on your rights must be reviewed no less often than every seven- (7) days and if renewed, renewed in writing.

11. You have the right to communicate with others, in writing, by phone and in person, with as much privacy as possible. These rights are:
 - reasonable visiting hours,
 - opportunities for parents to visit with their minor children,
 - access to a telephone, and to send and receive sealed and uncensored mail.
12. In no case may your right to contact an attorney or an attorney's right to contact you be limited. You also have the right to have unrestricted visits with the Rights Protection Officer, Advocacy, Inc. representative, private physicians, and other mental health professionals at reasonable times and places.
13. You have the right to keep and use your personal possessions, including the right to wear your own clothing and religious or other symbolic items. You have the right to wear suitable clothing, which is neat, clean, and well fitting. If you do not have adequate clothing, it will be made available for you.
14. You have the right to daily opportunities for physical exercise and to spend time outside, with or without supervision. A physician's order limiting this right must be reviewed and renewed no less often than every three (3) days. Any limitation to this right must be written in your medical record and explained to you, your parent, or guardian.
15. You have the right to go to areas of the campus away from the unit, including recreation areas, the canteen or snack area, with or without supervision, when you are not supposed to be participating in treatment activities.
16. You have the right to have opportunities to meet with persons of the opposite sex, with or without supervision, as your treatment team considers appropriate for you.

Additional Rights of Persons Admitted to Inpatient Programs

Voluntary Admissions-Special Rights
NOTE: This section does not apply to forensic commitments.

1. You have the right to request your discharge from voluntary admission to a hospital or crisis stabilization unit at any time. You can make this request in writing or by telling a staff person. The staff person must document your request for discharge.

2. By law, you have the right to be discharged from the hospital within four (4) hours after you make a request to be discharged. There are only three reasons why you would not be released:
 - If you change your mind and decide to stay, you can sign a paper that says that you do not wish to leave, or you can tell a staff member that you do not want to leave. The staff member has to write it down for you.
 - If you are under 18 years old and the person who admitted you (your parents, guardian, or conservator) does not want you to leave, you may not be able to leave. If you request your release, staff must explain to you whether or not you can sign yourself out and why. The hospital or crisis stabilization unit must notify the person who has the authority to sign you out and inform them of your request to leave. The doctor or another member of your treatment team must talk to your parent or guardian and document the date, time, and outcome of the conversation in your medical record.
 - You may be detained longer than four (4) hours if a doctor has reason to believe that you might meet the criteria for court-ordered services or emergency detention because:
 - You are likely to cause serious harm to yourself,
 - You are likely to cause serious harm to others, or
 - Your condition will continue to deteriorate and you are unable to make an informed decision as to whether or not to stay for treatment.

- If the doctor thinks you meet the criteria for court-ordered services or emergency detention, he or she must examine you in person within 24 hours of your filing the discharge request. You must be allowed to leave the hospital upon completion of the in-person examination unless your doctor confirms that you meet the criteria for court-ordered services and files an application for court-ordered services. The application asks the judge to issue a court order requiring you to stay at the facility for services.
 - Even if an application for court-ordered services is filed, you cannot be detained at the hospital beyond 4:00 p.m. of the first business day following the in-person examination unless a court order (order for emergency detention or order of protective custody) is obtained.
 - If the judge agrees with the physician's request, a court order requiring you to stay at the facility will be issued. You have the right to speak with your attorney prior to your court hearing. You also have the right to attend and participate in all scheduled court hearings unless you waive this right. If you waive the right to appear at your court hearing, however, an order for court-ordered services may be issued without your input.
3. You have the right not to have an application for court-ordered services filed while you are receiving voluntary services at an inpatient unit unless your doctor determines that you meet the criteria for court-ordered services and:
- you request your discharge,
 - you are absent without authorization,
 - your doctor believes you are unable to consent to appropriate and necessary treatment, or
 - you refuse to consent to necessary and appropriate treatment and your doctor states in a certificate of medical examination that:
 - there is no reasonable alternative treatment and
 - you will not benefit from continued inpatient care without the recommended treatment.

Your doctor may consider the option of discharging you if you refuse to consent to treatment.

4. The doctor must document in your medical record and inform you about any plans to file an application for court-ordered treatment or for detaining you for other clinical reasons. If the doctor finds that you are ready to be discharged, you should be discharged without further delay.
5. You have the right to be free from threats or misleading statements about what might happen if you request to be discharged from a voluntary admission to the inpatient program.

Note: The law is written to ensure that people who do not need treatment are not committed. The Texas Health and Safety Code says that any person who intentionally causes or helps another person cause the unjust commitment of a person to a mental hospital is guilty of a crime punishable by a fine of up to \$5,000 and/or imprisonment in county jail for up to one year.

Emergency Detention– Special Rights

(Admission for up to 48 hours
for evaluation)

NOTE: This section does not
apply to forensic commitments.

1. You have the right to be told:
 - where you are,
 - why you are being held, and
 - that you might be held for a longer time if a judge decides that you need treatment.
2. You have the right to call a lawyer. The staff must help you call a lawyer if you ask. If you contact a lawyer and engage his or her services, the cost of those services is your responsibility.
3. You have a right to be examined by a doctor as soon as possible, but in no case more than 12 hours after you have been apprehended. You will not be allowed to leave if the doctor believes that you may seriously harm yourself or others, the risk of this happening is likely unless you are detained in an inpatient setting, and emergency detention is the least restrictive means of restraint. If the doctor decides you do not meet all of these criteria, you must be allowed to leave within 48 hours after you were detained, except on weekends and legal holidays, when the decision and your release may be delayed until 12:00 noon on the first regular workday. The decision and your release may also be delayed in the event of an extreme weather emergency. If the court is asked to order you to stay longer, you must be told that you have a right to a hearing within 72 hours.
4. If the doctor decides that you do not need to stay in the inpatient unit, the hospital or crisis stabilization unit will arrange for you to be taken back to where you were picked up if you want to return, or to your home in Texas, or to another suitable place within reasonable distance.
5. You have the right to be told that anything you say or do may be used in legal proceedings for further detention.

Order of Protective Custody – Special Rights

(Admission for up to 14 days)
NOTE: This section does not apply to forensic commitments.

1. You have the right to call a lawyer or to have a lawyer appointed to represent you in a hearing (called a “probable cause hearing”) to determine whether you must remain in custody until a hearing on court-ordered mental health services (temporary or extended commitment) is held. The court appointed lawyer represents you at no cost to you.
2. Before a probable cause hearing is held, you have the right to be told in writing:
 - that you have been placed under an order of protective custody,
 - why the order was issued, and
 - the time and place of a hearing to determine whether you must remain in custody until a hearing on court-ordered mental health services can be held. This notice must also be given to your attorney.
3. You have the right to a probable cause hearing within 72 hours of your detention on an order of protective custody, excluding weekends or legal holidays, when the hearing may be delayed until 4:00 in the afternoon on the first regular workday, or in the event of an extreme weather emergency.
4. You have the right to be released from custody if:
 - 72 hours have passed and a hearing has not taken place(except weather emergencies and extension for week-ends and legal holiday),
 - an order for court-ordered mental health services has not been issued within 14 days of the filing of an application (30 days if a delay was granted by the court), or
 - a doctor finds that you no longer need protective custody or court-ordered mental health services.

Court-ordered Services-Special Rights

*Temporary (up to 90 days) or
Extended (up to 12 months
Commitment)*

*NOTE: This section does not apply
to forensic commitments.*

1. You or another person may, at any time during your commitment, ask the court to grant a motion for re-hearing.
2. If you are on a court order for extended mental health services, you may ask a judge to order a physician to re-examine you to determine whether you still meet the criteria for commitment. If the judge agrees to review the commitment, a physician must file a certificate of medical examination with the court within ten (10) days of the filing of your request with the court.
3. If the physician says that you continue to meet the criteria for commitment, or if no certificate of medical examination has been filed within ten (10) days and you have not been discharged, the judge may set a time and place for a hearing on your request. If the doctor says that you do not meet the criteria for commitment, you must be discharged.

www.dshs.state.tx.us/mentalhealth.shtm



**Consumer Services and
Rights Protection**

www.dshs.state.tx.us/mhservices/MHConsumerRights.shtm

Vermont (2008): *Community Rehabilitation and Treatment Client Handbook*. This handbook describes consumer rights, as well as the official grievance and appeals process. It also includes a grievance form that a consumer can use, and sample letters asking providers to review complaints, and a letter to the Vermont Department of Mental Health asking them to review a grievance case filed with a provider.

COMMUNITY REHABILITATION AND TREATMENT CLIENT HANDBOOK



State of Vermont
Agency of Human Services
Department of Mental Health

January 2008

Toll-free in the State of Vermont only:

1-888-212-4677

TTY Relay Service Numbers:

1-800-253-0195 (voice)

1-800-253-0191 (TTY)

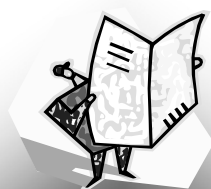
V/TTY: 711



Upon request, the Department of Mental Health will furnish the contents of this handbook in an alternative format for someone who has a reading or visual impairment.

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Enrollment

To be eligible for the Community Rehabilitation and Treatment (CRT) program, you must be an adult with a severe and persistent mental illness. This handbook can help you get the mental-health care you need. Please read it now. Save this handbook so you can look at it later if you have questions.

If all of your questions are not answered here, please call the Vermont Department of Mental Health (DMH) at the toll-free number: 1-888-212-4677. People are there to help you Monday through Friday from 7:45 a.m. to 4:30 p.m. (except holidays). If you have a hearing disability, you may call the TTY Relay Service at 1-800-253-0191 or 711.

Your Designated Agency (DA)

DMH has a contract with a private nonprofit agency in your area to provide mental-health care. It is called a designated agency, or community mental health center. Here is a list of the names and telephone numbers for all designated agencies that offer mental-health services for adults in Vermont:

<u>Designated Agency</u>	<u>Serving</u>
1. Clara Martin Center Randolph & Bradford, Vermont CRT Randolph 1-802-728-4466 CRT Bradford 1-802-222-4477 Crisis 1-800-639-6360	Orange County
2. Counseling Service of Addison County Middlebury, Vermont CRT Middlebury 1-802-388-6751 Crisis 1-802-388-7641	Addison County
3. Health Care & Rehabilitation Services of Southeastern Vermont White River Junction, Brattleboro & Springfield, Vermont CRT Springfield 1-802-886-4500 CRT Brattleboro 1-802-254-7500 CRT White River Junction 1-802-295-9337 Crisis 1-800-622-4235	Windsor & Windham Counties
4. HowardCenter Burlington, Vermont CRT Burlington 1-802-488-6208 Crisis 1-802-488-6400	Chittenden County

- | | |
|---|--|
| <p>5. Lamoille County Mental Health Services
Morrisville, Vermont
CRT Morrisville 1-802-888-5026 or 1-802-888-5513
Crisis 1-802-888-4914</p> | <p>Lamoille County</p> |
| <p>6. Northeast Kingdom Human Services
Newport & St. Johnsbury, Vermont
CRT Newport area 1-802-334-5246
Crisis 1-802-334-6744
CRT St. Johnsbury area 1-802-748-3181
Crisis St. Johnsbury 1-802-748-3181</p> | <p>Caledonia, Essex & Orleans
Counties</p> |
| <p>7. Northwestern Counseling & Support Services
St. Albans, Vermont
CRT St. Albans 1-802-524-6554
Crisis 1-802-524-6554</p> | <p>Franklin & Grand Isle
Counties</p> |
| <p>8. Rutland Mental Health Services
Rutland, Vermont
CRT Rutland 1-802-775-4388
Crisis 1-802-775-1000</p> | <p>Rutland County</p> |
| <p>9. United Counseling Services
Bennington, Vermont
CRT Bennington 1-802-442-4968 or 1-802-447-8923
Crisis 1-802-442-5491</p> | <p>Bennington County</p> |
| <p>10. Washington County Mental Health Services
Montpelier, Vermont
CRT Montpelier 1-802-223-6328
Crisis 1-802-229-0591</p> | <p>Washington County</p> |



Community Rehabilitation and Treatment (CRT) Services

When you first ask for services, you will be evaluated to see if you are eligible for CRT services. Determining eligibility involves looking at your diagnosis of mental illness. It will also involve looking at how well you do in daily activities, in your job and home, and other information.

Once you are enrolled for CRT services, you will be assigned a case coordinator who will become familiar with your treatment needs. A case coordinator is an individual at the agency who can best understand your needs and talk to you about them. You and your case coordinator will decide how much and what types of mental health services you need.

You and your case coordinator will design a service plan for you. The plan will list the services (and their type and frequency) that you will get to meet your mental health needs.

Your DA and your case coordinator are committed to providing you with responsive care and to making sure that you get the services that you need. Your DA offers all of the services listed below; however, your DA may offer only some of these services to you depending on your needs.

- ★ Service Planning and Coordination (case management)
- ★ Community Supports (someone to help you with activities of daily living)
- ★ Psychiatric Medication
- ★ Education to help you understand mental illness, medications, and services, and to provide information to answer your questions
- ★ Involving family and friends as you wish
- ★ Help finding and keeping a job
- ★ Help finding and keeping a home
- ★ Assistance with admission for mental-health treatment at a hospital
- ★ Help making a plan before a crisis

Emergency and Crisis Stabilization Services

You can reach Emergency Services by telephone twenty-four hours a day, seven days a week. The DA is required to return your call within an average of fifteen minutes. The following services are there if you need them:

- ★ Face-to-face meeting with a mental-health professional
- ★ Helping you to become stable in a crisis situation
- ★ Referral to other service providers if you need them
- ★ Admission to an area hospital
- ★ Admission to Vermont State Hospital



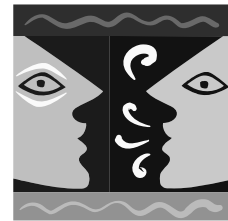
Confidentiality

All private information will be kept in a safe and secure location. Information is shared only when necessary. Anyone who sees information from your record has to keep it confidential.

Your case coordinator will discuss with you what type of information may be shared and with whom. Your case coordinator will also ask you to sign a release-of-information form to talk to your primary care physician. Signing this release form will help to coordinate your health and mental-health care. You and your case coordinator should review your release-of-information choices annually.

Sometimes information from your record must be shared with staff from the Department of Mental Health. For example, if you ask for a Medicaid Fair Hearing, the staff there must review your record in order to make a decision about your appeal (see pages 5-8 for more information on Fair Hearings and filing appeals). Information on the kinds of services that people use is also shared with DMH. All DMH staff must keep this information confidential as well.

Your CRT Health Care Rights & Responsibilities



Your rights include:

- ❖ Being treated with respect
- ❖ Being treated with dignity
- ❖ Having your questions answered
- ❖ Finding out about what services are covered and who can provide them
- ❖ Finding out how the DA decides which services might be helpful for your particular needs
- ❖ Getting complete, current facts about your mental health in terms you understand
- ❖ Being part of decision-making about your service or treatment plans
- ❖ Having a complete service plan that includes other agencies if needed
- ❖ Asking for a change in therapist, case coordinator, or other staff (within reason) if that is what you think will help
- ❖ Seeing your mental-health care records
- ❖ Voicing complaints about your mental-health care
- ❖ Appealing treatment decisions, refusing services, or stopping services (except those required by a court order)

You have the responsibility to take care of your health by:

- ❖ Telling your provider about your symptoms and mental-health history
- ❖ Asking questions when you need more facts or do not understand something
- ❖ Working to develop a service plan you agree with
- ❖ Keeping appointments or calling ahead to cancel if you cannot go to them
- ❖ Treating staff with respect
- ❖ Responding to consumer satisfaction surveys to improve all CRT services for everyone who needs them

What to Do to Try to Resolve Problems About Your Mental-Health Care

Under Vermont's Global Commitment to Health, the Office of Vermont Health Access (OVHA) has established a process for you to resolve problems about your mental-health care. For example, you might not like the quality of your services. Or you might tell your case coordinator that another staff member was rude to you. Or you might be dissatisfied because the DA changes the kind or amount of services you receive.

Your DA has a grievances and appeals (G&A) coordinator who will help you understand how the process works. If the DA has forms to complete, and you need help in filing your grievance or appeal, the DA will assist you in filling out the forms.

Grievances and Appeals

There may come a time when you are not satisfied with your services and want to take steps to address your concerns. You may do so in a formal or informal manner. To address your concerns informally, you could talk to your DA's grievances and appeals coordinator about a complaint you have. If you are not satisfied with the DA's response, you can then file a formal grievance or appeal. The definitions below will help you understand the difference between a grievance and an appeal.

Grievance: You may file a grievance when you are not satisfied with the quality of your services or the way your case manager listens to you. Examples of quality and other grievance issues include:

- ↵ Dissatisfaction with a staff/contractor
- ↵ Dissatisfaction with management
- ↵ Dissatisfaction with program decision
- ↵ Dissatisfaction with policy decision
- ↵ Dissatisfaction with quality of services
- ↵ Dissatisfaction with accessibility of services
- ↵ Dissatisfaction with timeliness of response
- ↵ Dissatisfaction with services not offered or not available

Appeal: You can file a formal appeal when you do not agree with proposed changes to the services offered as part of your treatment plan, for example. Another example would be if you request a new service but the DA denies your request. Other examples include:

- ↵ Denial, in whole or in part, of payment for a service
- ↵ Failure to provide services in a timely manner
- ↵ Failure to provide clinically indicated covered services
- ↵ Denial of request for covered services outside Medicaid network

How to File a Grievance

Grievances may be spoken or written. To file a grievance, you or your representative must:

- Contact the G&A coordinator by mail, phone, or in person and
- Request a written response from the DA.

You should file your grievance as soon as possible after the problem or issue arises, but you must file the grievance **within 60 days**.

The DA has five days to write you a letter acknowledging your grievance and ninety days to address your grievance. By the end of that ninety-day period, the DA must write you a letter explaining how your grievance was addressed.

If you do not like how the DA addressed your grievance, you may request a grievance review by contacting either the DA or the DMH Quality Management Director. You must make this request **within ten days** of receiving the notification of how the DA addressed your grievance. The DA/DMH, as appropriate, will acknowledge your request for a review within five days of receiving it. DMH will write you a letter about the findings of its grievance review. **This review is final.**

What to Do about a Reduction or Denial of Services You Have Been Getting

The following are examples of actions that your DA, as a part of the Medicaid managed care organization (MCO) in Vermont, might take in regard to your services:

- ❖ A denial or limited authorization of a requested covered service
- ❖ Reduction, suspension or termination of a previously authorized covered service or service plan
- ❖ Denial, in whole or in part, of payment for a covered service
- ❖ Failure to provide a clinically indicated, covered service
- ❖ Failure to act in a timely manner when required by state rules
- ❖ Denial of a request to obtain covered services outside the Medicaid network

If any of these actions should happen to you, the DA must send you a Notice of Decision or some other form of notification explaining the action taken. If you do not agree with the action, you may:

- ◆ **Ask for a reconsideration** of the action. You may do this yourself, or you may ask a representative or a provider to make the request for you. The request may be spoken or written. A reconsideration is an optional informal process for clients; it is not considered an appeal. Generally, the DA's reconsideration would be based on new information or a clarification of what is already known. As a general rule, DAs should be able to make decisions on reconsiderations within 15 days of the request for one.
- ◆ **Appeal the action.** As with a reconsideration, you may either request an appeal yourself or you may ask someone else to make the request for you. The request may be spoken or written.
- ◆ **Ask for a fair hearing.** Again, you may either request a fair hearing from the Human Services Board or you may ask someone else to make the request for you. The request may be spoken or written and may be made at any time throughout the appeal process.

The fair hearing and appeal requests may go on at the same time. You may request just an appeal or just a fair hearing.

If the appeal/fair hearing involves ending, suspending, or reducing a service you are currently getting, the DA may continue to provide that service to you until your appeal/fair hearing is resolved. You must file your appeal **within 10 days** of receiving notice of an action from the DA if you want your services to continue and you meet other criteria.

Appeals

You have **90 days** from the date of notification of the DA's action to ask for an appeal and/or a fair hearing. The DA will mail an acknowledgment to you within five days of receiving your appeal. The DA has **15 days** to conduct an internal review of its action and inform you of its decision. If the DA upholds its original action, your appeal continues at the Department of Mental Health.

The entire appeal process must be completed within **45 days**, with the possibility of an extension of **14 days** upon request. DMH will schedule a meeting for considering the final decision on your appeal and will mail a letter detailing the date, time, and location of that meeting to you (or your designated representative). After DMH makes a decision on your appeal, you have **30 days** to request a fair hearing if you have not already done so.

You and/or your designated representative have the right to participate in person, by telephone, or in writing in the meeting in which DMH is considering the final decision regarding your appeal. If the appeal involves a DA decision, a representative of the DA may also participate in the meeting. You and/or your designated representative may submit additional information that supplements or clarifies information that was previously submitted and is likely to make a material difference in the decision on your appeal. You may also examine your case file, including medical records and other documents or records, prior to the meeting.

Upon request, the DA and DMH must provide you or your designated representative with all of the information in their possession or control about the appeal process and the subject of the appeal, including applicable policies or procedures and (to the extent applicable) copies of all necessary and relevant records. You will not be charged for copies of any records or other documents necessary to resolve your appeal.

Expedited Appeals

You may ask for an appeal to be expedited if taking the time for a standard resolution could seriously jeopardize your life or health or your ability to attain, maintain, or regain maximum functioning. If a request for an expedited appeal meets clinical criteria, it must be resolved within three working days. The DA will send you a letter to tell you the decision made.

If you request an expedited appeal and it does not meet clinical criteria:

- ☛ The DA will promptly give you oral notification
- ☛ The DA will follow oral notification with a written notice **within 2 calendar days**
- ☛ The appeal will continue as a standard appeal

Withdrawing Appeals

You or your designated representative(s) may withdraw appeals orally or in writing at any time. If an appeal is withdrawn orally, the DA or DMH (depending upon which one is considering your appeal at the time you withdraw it) will acknowledge the withdrawal in writing **within 5 calendar days**.

Fair Hearing

You may request a Fair Hearing by the Human Services Board **within 90 days** of the date of the original DA Notice of Decision regarding action taken in regard to your services, or **within 30 days** of the appeal decision notice from DMH. To ask for a Fair Hearing call (802) 828-2536 or send a letter to:

The Human Services Board
118 State Street, Drawer 20
Montpelier, Vermont 05602

You can also call the Healthcare Ombudsman for help:
1-800-917-7787



Other Helpful Resources

If you are not happy with the response from your DA, or if you need help to resolve a grievance or appeal, contact:

Office of Health Care Ombudsman
1-800-917-7787
P.O. Box 1367
264 N. Winooski Avenue
Burlington, Vermont 05402
8:30 am - 4:00 pm M-F

Vermont Protection and Advocacy
1-802-229-1355
141 Main Street, Suite 7
Montpelier, VT 05602
8:30 am - 5:30 pm M-F

Vermont Psychiatric Survivors
1-800-564-2106
1 Scale Avenue, Suite 52
Rutland, VT 05701
8:30 am - 4:30 pm M-F

National Alliance on Mental Illness of Vermont
802-244-1396
132 South Main Street
Waterbury, VT 05676
8:00 am - 4:30 pm M-F

To file a request for a Fair Hearing regarding the denial of Medicaid, contact the Human Services Board at:

Vermont Health Access Member Services
1-800-250-8427; TDD 1-888-834-7898
5 Burlington Square, 3rd Floor
Burlington, Vermont 05401
8:00 am - 4:30 pm M-F

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Sample Grievance/Appeal Form

If you are dissatisfied with your agency, a member of its staff, or decisions about services that you receive, you may complete this form and give it to the agency's grievances & appeals coordinator so that issues can be resolved reasonably quickly. This form is made available for your convenience, but you may write your concerns down in any way you choose. Or, if you prefer, you may talk to the grievances & appeals coordinator about your concerns.

- **We encourage you to express your dissatisfaction openly.**
- **Your concerns are considered confidential.**
- **Your services will not be affected if you file a grievance or appeal an action.**
- **No staff member will treat you poorly if you express your concerns.**
- **You are entitled to an agency decision regarding your concerns and reasons for the agency's decision.**

Name: _____ (required in order to provide a response)

Address: _____ or e-mail _____

Telephone #: _____ (if preferred) Date: _____

(X) What best describes your concerns? If your concerns are about a denial, reduction, or stoppage of service, please give as much detail as possible. If your concerns are about the agency or staff, please describe the issues.

The following categories may help, but you are not limited to this list:

Examples of Grievance Issues:

1. Dissatisfaction with a staff/contractor
2. Dissatisfaction with management
3. Dissatisfaction with program decision
4. Dissatisfaction with policy decision
5. Dissatisfaction with quality of services
6. Dissatisfaction with accessibility of services
7. Dissatisfaction with timeliness of response
8. Dissatisfaction with services not offered or not available

Examples of Appeal Issues:

1. Denial or limited authorization of a requested covered service.
2. Reduction, suspension, or termination of an authorized service or service plan
3. Denial, in whole or in part, of payment for a service
4. Failure to provide services in a timely manner
5. Failure to provide clinically indicated covered services
6. Denial of request for covered services outside Medicaid network

Describe your concerns and what steps you have taken to resolve the problem so far: _____

How would you like to see the problem resolved? _____

Sample Request for Review of the Way a DA Addressed Your Grievance

Your Address (Street or PO Box #)
City, State ZIP Code
Date

Quality Management Director
Department of Mental Health
108 Cherry Street, P.O. Box 70
Burlington, Vermont 05402-0070

Dear G & A Coordinator:

I do not agree with how [NAME OF DA] addressed my grievance about [DESCRIBE YOUR GRIEVANCE] for the following reason(s): [TELL THE REASONS YOU DO NOT AGREE WITH THE WAY THE DA ADDRESSED YOUR GRIEVANCE]:

I received the DA's letter of notification on [DATE YOU WERE NOTIFIED].

- *You should make your request for a review within 10 days of that date.*

I would like the Department of Mental Health to review the way the DA addressed my grievance.

Sincerely,

[YOUR NAME]

Copy: *People you might want to have copies of your request:*
DA CRT Director
Vermont Protection and Advocacy
Vermont Psychiatric Survivors

Sample Written Appeal of a DA's Action

Your Address (Street or PO Box #)
City, State ZIP Code
Date

Grievance and Appeals Coordinator, CRT Program
Designated Agency
Address
City, State ZIP Code

Dear G & A Coordinator:

I do not agree with [NAME OF DA's] action in regard to [DESCRIBE THE NATURE OF YOUR APPEAL] for the following reason(s): [TELL THE REASONS YOU DO NOT AGREE WITH THE ACTION].

I received the DA's notice of action on [DATE YOU WERE NOTIFIED].

- *You should make your appeal within 90 days of that date.*

I am appealing the DA's action and requesting that the DA conduct an internal review. If the DA's internal review upholds the action, I understand that my appeal will continue with the Department of Mental Health.

Sincerely,

[YOUR NAME]

Copy: *People you might want to have copies of your request:*
DA CRT Director
Vermont Protection and Advocacy
Vermont Psychiatric Survivors

Sample Request for a Fair Hearing

Your Address (Street or PO Box #)
City, State ZIP Code
Date

Human Services Board
118 State Street
Drawer 20
Montpelier, VT 05602

Dear Human Services Board:

I do not agree with how [DA OR DMH, WHICHEVER ONE DECIDED YOUR APPEAL] resolved my appeal about [DESCRIBE WHAT SERVICE WILL BE OR HAS BEEN DENIED, REDUCED, OR SUSPENDED BY THE DA].

[TELL THE REASONS YOU DO NOT AGREE IT WAS THE RIGHT DECISION REGARDING YOUR TREATMENT].

Additional comments or clarifying information.

I received the decision on [DATE YOU WERE NOTIFIED BY DA AND/OR DMH, WHICHEVER IS THE MOST RECENT].

You should make your request within 90 days of the original DA action notice or within 30 days of the DA appeal decision.

I would like a FAIR HEARING with the Human Services Board.

- *DMH will automatically begin collaborating with the DA if you request a Fair Hearing. DMH will work with you and the DA to try to resolve the disagreement regarding your treatment before going to Fair Hearing.*

Sincerely,

[YOUR NAME]

Copy: *People to whom you should send copies of the fair hearing request:*
DA Grievance and Appeals Coordinator
DMH Grievance and Appeals Coordinator
DMH Legal Unit
Your attorney

Quality Improvement: Working Smarter for You

The Department of Mental Health and the DA want to improve the services you get. Many of our Quality Improvement (QI) activities involve asking for information from people who receive mental-health services. From time to time DMH or your local DA asks clients to complete surveys or give comments about the services provided to them.



These surveys are voluntary and will not affect your care, but we encourage you to complete and return the survey since information from you can help improve services for everyone.

We have Local and State Program Standing Committees that focus on improving mental-health services. Committee members review information and advise the DAs and DMH on the quality of services offered. Clients, family members, and providers serve on these committees. If you are interested in serving on one of these committees, call your local DA.

Advance Directives

State and federal laws protect your right to make decisions about health care if you become unable to decide on your own. An advance directive is a written document that states the kind of health or mental-health care you want (or do not want) if you become unable to speak for yourself. You may name someone you trust to make choices for you if you become unable to make decisions about your health or mental-health treatment.

You may get information about advance directives from the Vermont Ethics Network. Its booklet, *Taking Steps to Plan for Critical Health Care Decisions*, has explanations and forms and is available free from your designated agency. You may also obtain the booklet online from vtethicsnetwork.org.

If you want to speak to someone to get help to complete an advance directive in a way that makes your wishes clearly understood so that others can follow them, you may consider talking to:

- An attorney
- A hospital social worker
- Vermont Psychiatric Survivors (VPS)
- The National Alliance on Mental Illness of Vermont (NAMI—VT)
- A Recovery Educator
- Vermont Protection and Advocacy (P&A)



To request information about advance directives, ask your local designated agency. You may also write or call:

The Vermont Ethics Network at 1-802-828-2909
64 Main Street, Room 25
Montpelier, Vermont 05602

If You Have Questions:

Your DA will help you if you have questions about the CRT Program.

Information about the Department of Mental Health

If you have general questions about CRT programs, DMH can provide you with lots of facts about mental-health services. Contact us at:

Department of Mental Health
Adult Unit
108 Cherry Street
P.O. Box 70
Burlington, Vermont 05402-0070

7:45 am - 4:30 pm M-F (except holidays)

State of Vermont only, call our toll-free number:

1-888-212-4677,

or TTY Relay Service at **1-800-253-0195** (voice)

or **1-800-253-0191** or **711** (TTY)

Examples of information you might want to see include:

- A summary of available services
- A list of our providers
- Published reports and articles (go to DMH's Web site: <http://www.healthvermont.gov/mh>.)
- Phone numbers and addresses of support groups in the community



Vermont (2013): *Grievances and Appeals: Designated Agency Provider Manual Addendum.*

This document outlines the grievance and appeals process for covered agencies in Vermont and sample letters and responses.

**VERMONT AGENCY OF HUMAN SERVICES
DEPARTMENT OF MENTAL HEALTH**

**GRIEVANCES AND
APPEALS**

**Under Vermont's Global
Commitment to Health**

**Designated Agency Provider
Manual Addendum**

for

**Child, Adolescent, and Family Mental Health Programs
Community Rehabilitation and Treatment
Adult Outpatient Programs
Emergency Services**

Revised November 2013



Department of Mental Health
Procedures for Grievances and Appeals
Under Vermont’s Global
Commitment to Health

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3.5 Client Grievances and Appeals

Introduction

Grievances and Appeals

“Global Commitment” is an 1115(a) Demonstration waiver program under which the federal government waives certain Medicaid coverage and eligibility requirements found in Title 19 of the Social Security Act. The Department of Vermont Health Access (DVHA), as a managed care entity (MCE) under the Global Commitment to Health 1115(a) waiver, is required under 42 C.F.R. Part 438, Subpart F, to have an internal grievance and appeal process for resolving service disagreements between beneficiaries and MCE employees, representatives of the MCE, and state designated agencies, including designated agencies (DAs) and specialized services agencies (SSAs) for mental-health services.

The MCE and any part of the MCE receiving funds for the provision of services under Global Commitment shall be responsible for resolving all grievances and all appeals initiated under these rules.

The designated agency serves as the initial point of response for grievances and appeals. The overall goal of the grievance and appeal process is to resolve disputes fairly, to enhance client and public confidence in the equity and integrity of the service system, to ensure client access to clinically-justified, covered, benefits, and to allow for the independent review of MCE staff decisions concerning appealable actions. Policy on grievances and appeals should be flexible in adapting to client preferences and needs whenever possible. Policy should also state explicitly that any individuals initiating or pursuing a grievance or appeal will be free from any form of retaliation.

Each DA/SSA must appoint a grievances and appeals coordinator who will be responsible for ensuring timely processing and resolution of all grievances and appeals. These positions need not be full-time or dedicated only to one mental-health program.

Proceedings for addressing grievances and making decisions on appeals should be confidential unless the client elects to make grievance issues or appeals public. If the client wishes to make proceedings public, he or she and the DA/SSA must agree upon a method of maintaining the confidentiality of identifying information about any other client who may be identified in connection with grievance issues or appeal proceedings.

Finally, the result of the process shall be clearly communicated to the client and his/her designated representative.

Medicaid recipients are entitled under federal regulation to certain protections with respect to grievances and appeals. The procedures technically apply only to Medicaid and Vermont Health Access Plan (VHAP) recipients. DMH strongly recommends implementation of these procedures for all clients receiving mental-health services from designated agencies.

Definitions

NOTE: Unless otherwise stated, all time frames are stated in calendar days.

The following definitions shall apply:

- A. “Action” means an occurrence of one or more of the following by the MCE for which an internal MCE appeal may be requested:
- ◇ denial or limitation of authorization of a requested covered service or eligibility for service, including the type, scope or level of service;
 - ◇ reduction, suspension or termination of a previously authorized covered service or an MCE approved service plan;
 - ◇ denial, in whole or in part, of payment for a covered service;
 - ◇ failure to provide a clinically indicated, covered service, when the DA/SSA is acting as the MCE;
 - ◇ failure to act in a timely manner when required by state rule;
 - ◇ denial of a beneficiary's request to obtain covered services outside the network.

NOTE: A provider outside the network (i.e. not enrolled in Medicaid) cannot be reimbursed by Medicaid.

NOTE: Collaborative decisions of any type made by multi-disciplinary groups who include MCE and non-MCE membership such as Local Interagency Teams (LIT), the State Interagency Team (SIT), the State or Local Team for Functionally Impaired, and the Case Review Committee (CRC) are not actions of the MCE and therefore are not eligible for an internal MCE appeal or a fair hearing.

- B. “Appeal” means a request for an internal review of an action by the MCE.
- C. “Designated Agency/Specialized Service Agency” (DA/SSA) means an agency designated by the Department of Mental Health (DMH) or Department of Disabilities, Aging and Independent Living (DAIL) to provide services and/or service authorizations for eligible individuals with mental-health conditions or developmental disabilities.
- D. “Designated Representative” means an individual, either appointed by a beneficiary or authorized under state or other applicable law, to act on behalf of the beneficiary in obtaining a determination or in dealing with any of the levels of the appeal or grievance process. Unless otherwise stated in this rule, the designated representative has all of the rights and responsibilities of a beneficiary in obtaining a determination or in dealing with any of the levels of the appeals process.
- E. “Expedited Appeal” means an appeal in an emergent situation in which taking the time for a standard resolution could seriously jeopardize the beneficiary's life or health or ability to attain, maintain, or regain maximum function.
- F. “Fair Hearing” means an external appeal that is filed with the Human Services Board, and whose procedures are specified in rules separate from the MCE grievance and appeal process.
- G. “Grievance” means an expression of dissatisfaction about any matter that is not an action. Possible subjects for grievances include, but are not limited to, the quality of care or services provided, aspects of interpersonal relationships such as rudeness of a provider or employee, or failure to respect the beneficiary’s rights.

If a grievance is not acted upon within the timeframes specified in rule, the beneficiary may ask for an appeal under the definition above of an action as being “failure to act in a timely manner when required by state rule.”

If a grievance is composed of a clear report of alleged physical harm or potential harm, the MCE will immediately investigate or refer to the appropriate investigatory body (fraud, malpractice, professional regulation board, Adult Protective Services).

- H. “Managed Care Entity” (MCE) means:
1. The Department of Vermont Health Access (DVHA);
 2. Any state department with which DVHA has an intergovernmental agreement (IGA) under Global Commitment, excluding the Agency of Education, that results in that department’s administering or providing services under Global Commitment (i.e. Department for Children and Families; Department of Disabilities, Aging, and Independent Living; Department of Health; Department of Mental Health);
 3. A DA/SSA; and
 4. Any contractor performing service authorizations or prior authorizations on behalf of the MCE.
- I. “Network” means the providers who are enrolled in the Vermont Medicaid program and who provide services on an ongoing basis to beneficiaries.
- J. “Provider” means a person, facility, institution, partnership or corporation licensed, certified or authorized by law to provide health care service to an individual during that individual’s medical care, treatment or confinement. A provider cannot be reimbursed by Medicaid unless he/she is enrolled with Medicaid; however, a provider may enroll to serve only a specific beneficiary. A developmental home provider, employee of a provider, or an individual or family that self-manages services is not a provider for purposes of this rule.
- K. “Service” means a benefit that is 1) covered under the 1115(a) Global Commitment to Health waiver as set out in the Special Terms and Conditions approved by the Center for Medicare and Medicaid Services (CMS), 2) included in the State Medicaid Plan if required by CMS, 3) authorized by state rule or law, or 4) identified in the intergovernmental agreement between the Department of Vermont Health Access and departments of the Agency of Human Services for the administration and operation of the Global Commitment to Health waiver.
- L. 3 V.S.A. §3091 (a) - An applicant for or a recipient of assistance, benefits, or social services from the Department for Children and Families, the Department of Vermont Health Access, the Department of Disabilities, Aging, and Independent Living, or the Department of Mental Health, or an applicant for a license from one of those departments or offices, or a licensee, may file a request for a fair hearing with the Human Services Board. An opportunity for a fair hearing will be granted to any individual requesting a hearing because his or her claim for assistance, benefits, or services is denied, or is not acted upon with reasonable promptness; or because the individual is aggrieved by any other agency action affecting his or her receipt of assistance, benefits or services, or license application; or because the individual is aggrieved by agency policy as it affects his or her situation.

3.6 Grievance Procedures

The DA/SSA should use a variety of methods to familiarize clients and their representatives with the grievance process. In addition to handbook distribution and an annual review of client rights to promote client awareness of the process, DAs/SSAs should provide a variety of methods, including an initial rights information orientation, posted notices, periodic staff training, and periodic consumer education to assure that clients and interested persons know about the grievance and appeal processes. DA/SSA staff members should have support and training in identifying issues of concern with a client or his/her representative, various communication and listening skills, negotiation, and mediation.

Administrative Responsibilities

The DA or SSA grievances and appeals coordinator is responsible for all administrative functions related to grievances. The grievances and appeals coordinator will ensure that grievances filed with the DA or SSA are addressed by the appropriate DA or SSA staff person as set out in DA or SSA policies.

DA or SSA responsibilities include the following:

- Acknowledging grievances
- Gathering information
- Writing responses
- Mailing the responses
- Entering data into and managing the MCE Grievances and Appeals database as it applies to the DA or SSA

Entrance to the data base is located at: <http://mentalhealth.vermont.gov/about/grievance>

Alleged Harm

If a grievance concerns a clear report of alleged physical harm or potential harm, the DA/SSA will immediately investigate or refer to the appropriate investigatory body (fraud, malpractice, professional regulation board, Adult or Child Protective Services, for example).

All DAs and SSAs must have a clear grievance process consistent with these procedures:

A. Filing Grievances

A grievance may be expressed orally or in writing. A beneficiary or designated representative must file any grievance within 60 days of the pertinent issue in order for the grievance to be considered. Staff members will assist a beneficiary if the beneficiary or his or her representative requests such assistance.

NOTE: A DA/SSA may not require that grievances be put in writing before considering them formal grievances. A DA/SSA is free to make forms available for this purpose, but a beneficiary is not required to complete the form. DA or SSA staff members will assist a client if the client or his or her representative requests assistance in filing a grievance. The DA/SSA will train staff in the practices and procedures to promote prompt informal and formal

resolution of disagreements. Sample forms are included in this packet. (See Attachment 3.D, DA/ SSA Grievance or Appeal Form, page 16, and Attachment 3.E, Grievance Process Flow Chart, page 17.)

B. Written Acknowledgement

Written acknowledgment of the grievance must be mailed within 5 days of receipt by the MCE. The acknowledgment must be made by the part of the MCE responsible for the service area that is the subject of the grievance. If the MCE decides the issue within the five-day time frame, it need not send separate notices of acknowledgement and decision. The decision notice is sufficient in such cases. (See Attachment 3.F, Sample DA/SSA Grievance Acknowledgment Letter, page 18.) The DA/SSA is responsible for seeing that a copy of the letter of acknowledgment is uploaded to the database.

The DA or SSA grievances and appeals coordinator has responsibility for acknowledging all grievances. Copies will be sent to the client (and his or her designated representative, if applicable).

C. Withdrawal of Grievances

Beneficiaries or their designated representatives may withdraw grievances orally or in writing at any time. If a grievance is withdrawn orally, the withdrawal will be acknowledged by the MCE in writing within five calendar days. (See Attachment 3.G, Sample DA/SSA Letter Acknowledging Oral Withdrawal of Grievance/Appeal/Request for Fair Hearing, page 19).

D. Disposition

All grievances shall be addressed within 90 days of receipt. The decision-maker must provide the beneficiary with written notice of the disposition. The written notice shall include a brief summary of the grievance, information considered in making the decision, and the disposition. If the response is adverse to the beneficiary, the notice must also inform the beneficiary of his or her right to initiate a grievance review with the MCE as well as information on how to initiate such review. (See Attachment 3.H, Sample DA/SSA Grievance Response, page 20.)

E. Grievances Filed After 60 Days

DAs/SSAs are not required to proceed on grievances that are not filed within the specified time frame of 60 days. See Attachment 3.I, Sample DA/SSA Letter Responding to Grievance Filed Late, page 21.

3.7 DMH Involvement in the Client Grievance Process

Receipt of *Unresolved* Grievances by MCE

An unresolved grievance is one that has not gone through the DA/SSA grievance process at the DA/SSA level. DMH encourages clients to use the grievance and appeal process at the DA/SSA. The DA/SSA and the client and/or representative are expected to complete the grievance process, and the DA/SSA is expected to address the grievance within the grievance time lines specified. Unresolved grievances received by DMH will be acknowledged in writing to both the client and the DA/SSA within five calendar days of receipt. This notification shall cause the local DA/SSA grievance process to begin. DMH will see that the information is entered into the MCE Grievance and Appeal database and assign the case to the DA/SSA grievance and appeal coordinator.

Grievance Reviews

1. Filing a Grievance Review - If a grievance is decided in a manner adverse to the beneficiary, the beneficiary may request a review by the Department of Mental Health within 10 calendar days of the decision. (See Attachment 3.J, Sample DMH Grievance Review Request Form Letter for Use by Clients, page 22.)
2. Written Acknowledgment - The Department of Mental Health will acknowledge grievance review requests within 5 calendar days of receipt.
3. Disposition - DMH will review the merits of the grievance issue(s), the process employed by the DA/SSA in reviewing the issue(s), and the information the DA/SSA considered in making its determination. *The primary purpose of the DMH grievance review shall be to ensure that the grievance process is functional and resolution impartial, rather than reversing a DA/SSA grievance resolution.* The beneficiary will be notified in writing of the findings of the grievance review within 90 days. The DMH grievance review determination is considered final.

Fair Hearing

Although the disposition of a grievance is not subject to a fair hearing before the Human Services Board, the beneficiary may request a fair hearing for an issue raised that is appropriate for review by the Board, as provided by 3 V.S.A. §3091 (a) (See Definitions Section)

Copies of the disposition will be sent to the client and his or her designated representative if applicable.

Data Documentation

Data on all grievances and appeals will be documented in the Grievance and Appeals database, as will Fair Hearing requests and outcomes for those cases. The MCE Grievance and Appeals Coordinator at the Department of Vermont Health Access (DVHA) will maintain the database. All related correspondence and other pertinent documentation must be maintained in individual client files in the DA/SSA and be retrievable for audits and reviews by the MCE or other authorized entity.

3.8 Appeal Procedures

MCE or Provider Status

If Program “Actions” are in:

CRT Program	DA is an MCE
CRT Hospitalization	Hospitals are Providers (See Participating Provider Decisions)
Adult Outpatient Program	DA is Provider (See Participating Provider Decisions)
Emergency Services Program	DA is Provider (See Participating Provider Decisions)
Children’s Outpatient Program	DA/SSA is Provider (See Participating Provider Decisions)
Children’s Out-of-Home/ Enhanced Family Treatment (EFT) Services	DMH is MCE and performs Grievance and Appeal Reviews

DAs and SSAs must establish and maintain their own internal procedures for internal review of appeals consistent with the requirements outlined in this Provider Manual Addendum. The appeal procedures must be available to all interested persons. An “interested person” includes the client and/or the client’s authorized representative and any person the client appoints (verification of the appointment of an “interested person” is the responsibility of the MCE entity—DA, SSA, or DMH—receiving the appeal). This may include the client’s family members and referring service providers acting on the client’s behalf.

A. Right to Appeal

Beneficiaries may request an internal MCE appeal of an MCE action, and a fair hearing before the Human Services Board. A beneficiary may utilize the internal MCE appeal process while a fair hearing is pending or before a fair hearing is requested, except when a benefit is denied, reduced, or eliminated as mandated by federal or state law or rule. When denial, reduction, or elimination of a benefit is so mandated, the beneficiary cannot use the MCE appeal process and would challenge the decision only by requesting a fair hearing.

B. Request for Non-Covered Services

An MCE appeal under this rule may only be filed regarding the denial of a service that is covered under Medicaid. Any request for a non-covered service must be directed to DVHA under the provisions of the Medicaid rules at 7104. A subsequent DVHA denial under 7104 to cover such service cannot be appealed using the appeal process set forth in this rule, but may be appealed through the fair hearing process.

C. Medicaid Eligibility and Premium Determinations

If a beneficiary files an MCE appeal regarding only a Medicaid eligibility or premium determination, the entity that receives the appeal will forward it to the Department for Children and Families (DCF), Economic Services Division. The entity that received the appeal originally will then notify the beneficiary in writing that the issue has been forwarded to and will be resolved by DCF. These appeals will not be addressed through the MCE appeal process and will be considered a request for fair hearing as of the date the MCE received it. (See Attachment 3.K, Sample DA/SSA Letter Informing Client That Appeal Has Been Forwarded to Another Department for Resolution, page 23.)

D. Filing of Appeals

Beneficiaries may file appeals orally or in writing for any MCE action. Providers and representatives of the beneficiary may initiate appeals only after a clear determination that the third-party involvement is being initiated at the beneficiary's request. Appeals of actions must be filed with the MCE within 90 days of the date of the MCE notice of action. The date of the appeal, if mailed, is the postmark date. (See Attachment 3.D, DA/SSA Grievance or Appeal form, page 16.) If a client waits longer than 90 days to file an appeal, the DA/SSA does not have to proceed. (See Attachment 3.Q, Sample DA/SSA Letter in Response to an Appeal Filed After 90 Days, page 38.)

The MCE appeal process will include assistance by staff members of the MCE, as needed, for the beneficiary to initiate and participate in the appeal. If a beneficiary requests assistance of a DA/SSA for an appeal where DMH is the MCE, DA/SSA staff may provide this assistance or immediately notify DMH of the request for assistance and contact information for the individual requesting assistance. Beneficiaries may also call the Office of Health Care Ombudsman at 1-800-917-7787 for help with any part of this process or for help in deciding what to do.

E. Written Acknowledgment

Written acknowledgement of the appeal shall be mailed within 5 days of receipt by the part of the MCE that receives the appeal. (See Attachment 3.L, Sample DA/SSA Appeal Letter Acknowledging Appeal, page 24, and Attachment 3.M, Appeal Process Flow Chart, page 25.)

If a beneficiary files an appeal with the wrong entity, that entity will notify the beneficiary in writing in order to acknowledge the appeal. This written acknowledgement shall explain that the issue has been forwarded to the correct part of the MCE, identify the part to which it has been forwarded, and explain that the appeal will be addressed by that part. This does not extend the deadline by which appeals must be determined. (See Attachment 3.K, Sample DA/SSA Letter Informing Client That Appeal Has Been Forwarded to Another Department for Resolution, page 23.)

F. Withdrawal of Appeals

Beneficiaries or designated representatives may withdraw appeals orally or in writing at any time. If an appeal is withdrawn orally, the withdrawal will be acknowledged by the MCE in

writing within 5 days. (See Attachment 3.G, Acknowledgment of Oral Withdrawal of a Grievance/Appeal/Request for Fair Hearing, page 19.)

G. Beneficiary Participation in Appeals

The beneficiary, his or her designated representative, or the beneficiary's treating provider, if requested by the beneficiary, has the right to participate in person, by phone or in writing in the meeting in which the MCE is considering the final decision regarding an appeal. If the appeal involves a DA/SSA decision, a representative of the DA/SSA may also participate in the meeting. Beneficiaries, their designated representative, or treating provider may submit additional information that supplements or clarifies information that was previously submitted and is likely to have a material effect on the decision. They will also be provided the opportunity to examine the case file, including medical records and other documents or records, prior to the meeting.

Upon request, the MCE shall provide the beneficiary or his/her designated representative with all the information in its possession or control relevant to the appeal process and the subject of the appeal, including applicable policies or procedures and (to the extent applicable) copies of all necessary and relevant medical records. The MCE will not charge the beneficiary for copies of any records or other documents necessary to resolve the appeal.

H. MCE Appeals Reviewer

The individual who hears the appeal shall not have made the decision subject to appeal and shall not be a subordinate of the individual who made the original decision. Appeals shall be decided by individual(s) designated by the entity responsible for the services that are the subject of the appeal who, when deciding an appeal of a denial that is based on medical necessity or an appeal that involves clinical issues, possess(es) the requisite clinical expertise, as determined by the MCE, in treating the beneficiary's condition or illness.

I. Resolution

Appeals shall be decided and written notice sent to the beneficiary within 45 days of receipt of the appeal. The beneficiary shall be notified as soon as the appeal meeting is scheduled. Meetings will be held during normal business hours and, if necessary, the meeting will be rescheduled to accommodate individuals wishing to participate. If a meeting cannot be scheduled so that the decision can be made within the 45-day time limit, the time frame may be extended up to an additional 14 days, by request of the beneficiary or by the MCE if the extension is in the best interest of the beneficiary. If the extension is at the request of the MCE, it must give the beneficiary written notice of the reason for the delay. The maximum total time period for the resolution of an appeal, including any extension requested either by the beneficiary or the MCE, is 59 days. If a meeting cannot be scheduled within these time frames, a decision will be rendered by the MCE without a meeting with the beneficiary, the designated representative, or treating provider. (See Attachment 3.N, Sample DA/SSA Letter Informing Client of Favorable Internal Review of Appeal, page 26, and Attachment 3.O, Sample DA/SSA Letter Informing Client of Adverse Internal Review of Appeal, page 27.)

NOTE: Appeals on CRT Program Actions. A DA will notify DMH of any appeal of a CRT Program action and provide all correspondence, either electronically or via fax transmittal, and

any information considered in the initial action and internal review related to an adverse appeal resolution. This information will be necessary if there is a request for a Fair Hearing. At any point in the appeal process, a DA may consult with DMH regarding a program action or request DMH involvement in determining a resolution decision.

NOTE: Appeals on Out-of-Home and Enhanced Family Treatment Services Actions. The Child, Adolescent, and Family Unit (CAFU) within DMH retains MCE authorization for child out-of-home placement and Enhanced Family Treatment (EFT) services. Following a request for these services and adverse decision by CAFU, a request for appeal to the MCE is the responsibility of DMH. CAFU as the MCE will follow beneficiary notice and appeals procedures outlined in this Provider Manual Addendum for these service appeals. Further elaboration of the procedures can be found in the Enhanced Family Treatment Services Manual.

J. Expedited Appeal Requests

Expedited appeals may be requested in emergent situations in which the beneficiary or the treating provider (in making the request on the beneficiary's behalf or supporting the beneficiary's request) indicates that taking the time for a standard resolution could seriously jeopardize the beneficiary's life or health or ability to attain, maintain, or regain maximum function. Requests for expedited appeals may be made orally or in writing with the MCE for any MCE actions subject to appeal. The MCE will not take any punitive action against a provider who requests an expedited resolution or supports a beneficiary's appeal.

If the request for an expedited appeal is denied because it does not meet the criteria, the MCE will inform the beneficiary that the request does not meet the criteria for expedited resolution and that the appeal will be processed within the standard 45-day time frame. An oral notice of the denial of the request for an expedited appeal must be promptly communicated (within 2 days) to the beneficiary and followed up within 2 days of the oral notification with a written notice. (See Attachments 3.R and 3.S for DA/SSA Sample Letters Approving/Denying a Request for an Expedited Appeal, pages 31 and 32.)

If the expedited appeal request meets the criteria for such appeals, it must be resolved within 3 working days. If an expedited appeal cannot be resolved within 3 working days, the time frame may be extended up to an additional 14 days by request of the beneficiary, or by the MCE if the extension is in the best interest of the beneficiary. If the extension is at the request of the MCE, it must give the beneficiary written notice of the reason for the delay. An oral notice of the expedited appeal decision must be promptly communicated (within 2 days) to the beneficiary and followed up within 2 days of the oral notification with a written notice. The written notice for any expedited appeal determination shall include a brief summary of the appeal, the resolution, the basis for the resolution, and the beneficiary's right to request a fair hearing if not already requested.

Participating Provider Decisions

Provider decisions shall not be considered MCE actions and are not subject to appeal using this process.

A state agency shall be considered a provider if it provides a service that:

1. is claimed at the Medicaid service matching rate;
2. is based on medical or clinical necessity; and
3. does not have prior authorization.

Designated Agencies (DA)/Specialized Service Agencies(SSA)/Hospitals are providers when their decisions do not affect beneficiary eligibility or services. In the case of Adult and Children's Outpatient services and Emergency Services, a DA/SSA/Hospital action does not affect a beneficiary's eligibility to receive these services by another Medicaid provider. The only actions that may be appealed are those that effectively deny or limit eligibility or access to a service and must be authorized by the MCE.

Notices, Continued Services, and Beneficiary Liability

A. Beneficiary Notice

The part of the MCE issuing a services decision that meets the definition of an action must provide the beneficiary with written notice of its decision. In cases involving a termination or reduction of service(s), such notice of decision must be mailed at least 11 days before the change will take effect. When the decision is adverse to the beneficiary, the notice must inform the beneficiary when and how to file an appeal or fair hearing. In addition, the notice must inform the beneficiary that he or she may request that covered services be continued without change as well as describe the circumstances under which the beneficiary may be required to pay the costs of those services pending the outcome of any MCE appeal or fair hearing. DAs/SSAs must have and use a notice that meets legal requirements for Medicaid notices. (See Attachment 3.P, Sample Service Change Notification Form, pages 28-29.)

B. Continuation of Services

1. If requested by the beneficiary, services must be continued during an appeal regarding a Medicaid-covered service termination, suspension, or reduction under the following circumstances:
 - a. the MCE appeal was filed in a timely manner, meaning before the effective date of the proposed action;
 - b. the beneficiary has paid any required premiums in full;
 - c. the appeal involves the termination, suspension or reduction of a previously authorized course of treatment or service plan; and
 - d. the services were ordered by an authorized provider and the original period covered by the authorization has not expired.
2. If properly requested, a service must be continued until any one of the following occurs:
 - a. the beneficiary withdraws the appeal;
 - b. any limits on the cost, scope or level of service, as stated in law or rule, have been reached;
 - c. the MCE issues an appeal decision adverse to the beneficiary, and the beneficiary does not request a fair hearing within the applicable time frame;

- d. a fair hearing is conducted and the Human Services Board issues a decision adverse to the beneficiary; or
- e. the time period or service limits of a previously authorized service have been met.

Beneficiaries may waive their right to receive continued benefits pending appeal.

C. Change in Law

Continuation of benefits without change does not apply when the appeal is based solely on a reduction or elimination of a benefit required by federal or state law or rule affecting some or all beneficiaries, or when the decision does not require the minimum advance notice.

D. Beneficiary Liability for Cost of Services

A beneficiary may be liable for the cost of any services provided after the effective date of the reduction or termination of service or the date of the timely appeal, whichever is later.

The MCE may recover from the beneficiary the value of any continued benefits paid during the appeal period when the beneficiary withdraws the appeal before the relevant MCE or fair hearing decision is made, or following a final disposition of the matter in favor of the MCE. Beneficiary liability will occur only if an MCE appeal, fair hearing decision, Secretary's reversal and/or judicial opinion upholds the adverse determination, and the MCE also determines that the beneficiary should be held liable for service costs.

If the provider notifies the beneficiary that a service may not be covered by Medicaid, the beneficiary can agree to assume financial responsibility for the service. If the provider fails to inform the beneficiary that a service may not be covered by Medicaid, the beneficiary is not liable for payment. Benefits will be paid retroactively for beneficiaries who assume financial responsibility for a service and who are successful on such service coverage appeal.

E. Appeals Regarding Proposed Services

If an appeal is filed regarding a denial of service eligibility, the MCE is not required to initiate service delivery.

The MCE is not required to provide a new service or any service that is not a Medicaid-covered service while a fair hearing determination is pending.

3.9 Fair Hearing

Clients receiving mental-health services from DAs and SSAs also have the right to file requests for Fair Hearings related to program eligibility determinations and reductions or denials of mental-health services if:

- ◆ they are enrolled in Medicaid and the Vermont Health Access Plan (VHAP) and
- ◆ actions pertain to the CRT Program OR
- ◆ actions pertain to children's out-of-home placement and Enhanced Family Treatment services

A client may make a request for a Fair Hearing within 30 days of receipt of the adverse appeal decision. (See Attachment 3.T, Sample Client Request for a Fair Hearing, page 33.) As referenced in Notices, Continued Services, and Beneficiary Liability, provisions for the continuation of services and potential beneficiary liability pending the outcome of a Fair Hearing continue to apply.

The DA/SSA must cooperate with DMH and the DMH Legal Unit in preparation of necessary documentation for Fair Hearing. The DA/SSA will prepare and submit any medical/clinical records and other documentation pertinent to the proceedings of a Fair Hearing before the Human Services Board. The DMH Legal staff shall represent the State in any Fair Hearings pertaining to determinations of eligibility for CRT program or services and Children's Services for youth experiencing a severe emotional disturbance and their families. The DA/SSA should arrange for its own legal representation.

A status conference will be held initially with a Hearing Officer prior to Fair Hearing. The DMH Legal Division will review the merits of the request for Fair Hearing considering the client's Medicaid eligibility status and Medicaid coverage for the services under appeal. Depending on the information provided at the status conference, the Fair Hearing may move forward and an advisory opinion may be offered to the Human Services Board. The Human Services Board will issue a Final Order to the Secretary of the Agency of Human Services (AHS). The AHS Secretary then has 10 days to accept the Human Services Board's order or request a reversal of the order. DMH and the DA/SSA must comply with the final determination.

ATTACHMENT 3.D

DA/SSA GRIEVANCE OR APPEAL FORM

If you are dissatisfied with your agency, a member of its staff, or decisions about services that you receive, you may complete this form and give it to the agency's grievances & appeals coordinator so that issues can be resolved reasonably quickly. This form is made available for your convenience, but you may write your concerns down in any way you choose. Or, if you prefer, you may talk to the grievances & appeals coordinator about your concerns.

- **We encourage you to express your dissatisfaction openly.**
- **Your concerns are considered confidential.**
- **Your services will not be affected if you file a grievance or appeal an action.**
- **No staff member will treat you poorly if you express your concerns.**
- **You are entitled to an agency decision regarding your concerns and reasons for the agency's decision.**

Name: _____ (required in order to provide a response)

Address: _____ or e-mail _____

Telephone #: _____ (if preferred) Date: _____

(X) What best describes your concerns? If your concerns are about a denial, reduction, or stoppage of service, please give as much detail as possible. If your concerns are about the agency or staff, please describe the issues.

The following categories may help, but you are not limited to this list:

Examples of Grievance Issues:

1. Dissatisfaction with a staff/contractor
2. Dissatisfaction with management
3. Dissatisfaction with program decision
4. Dissatisfaction with policy decision
5. Dissatisfaction with quality of services
6. Dissatisfaction with accessibility of services
7. Dissatisfaction with timeliness of response
8. Dissatisfaction with services not offered or not available

Examples of Appeal Issues:

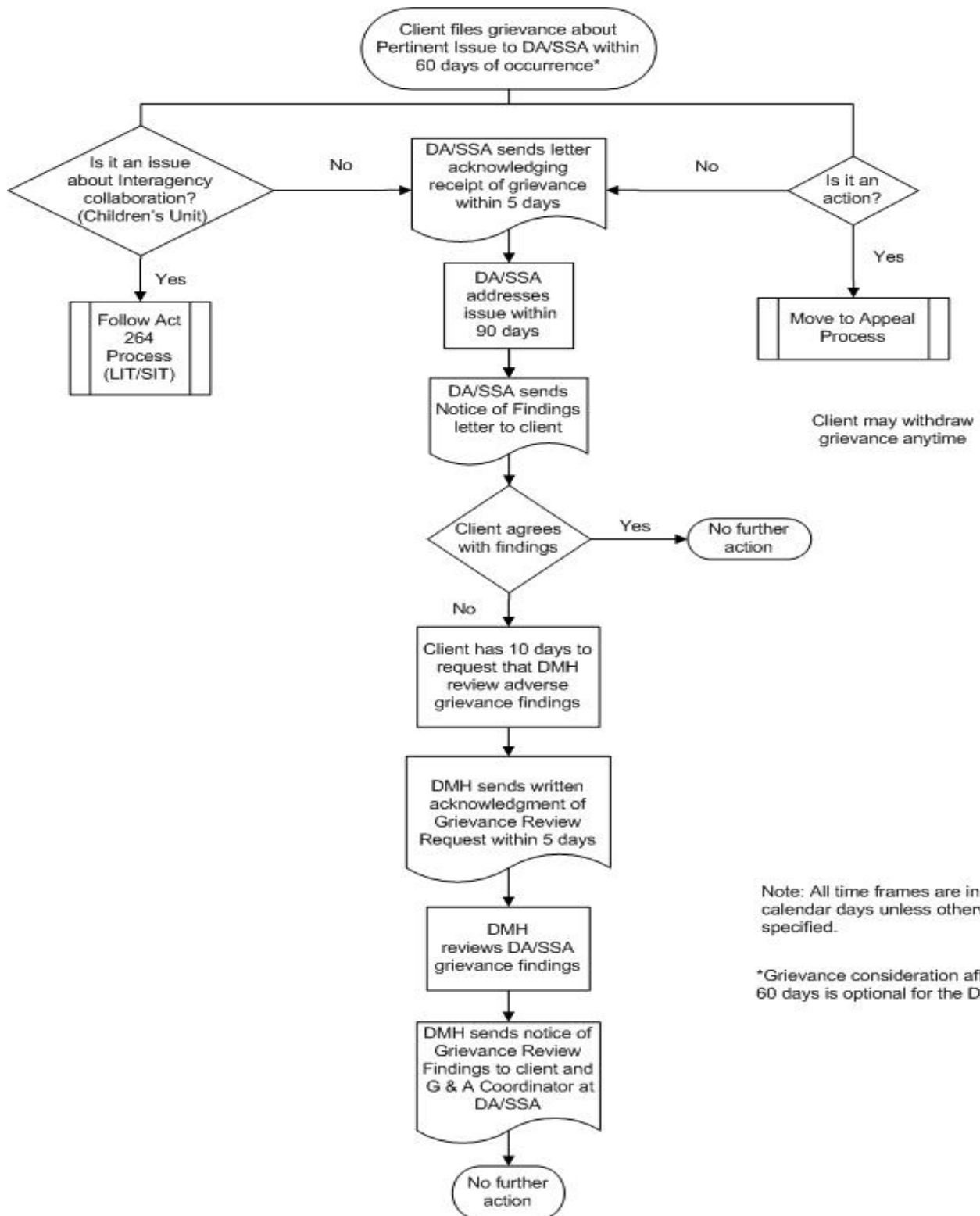
1. Denial or limited authorization of a requested covered service.
2. Reduction, suspension, or termination of an authorized service or service plan
3. Denial, in whole or in part, of payment for a service
4. Failure to provide services in a timely manner
5. Failure to provide clinically indicated covered services
6. Denial of request for covered services outside Medicaid network

Describe your concerns and what steps you have taken to resolve the problem so far. _____

How would you like to see the problem resolved? _____

ATTACHMENT 3.E

GRIEVANCE PROCESS FLOW CHART



ATTACHMENT 3.F

SAMPLE DA/SSA GRIEVANCE ACKNOWLEDGMENT LETTER

DA/SSA LETTERHEAD

This letter is important. If you do not understand it, take it to your local office for help.

Cette lettre est importante. Si vous ne la comprenez pas, apportez-la à votre bureau local pour recevoir de l'aide.

Esta carta es importante. Si no la entiende, llévela a su oficina local para solicitar ayuda.

Это важное письмо. Если вам оно непонятно, возьмите его и обратитесь за помощью в местное отделение.

Ovaj dopis je važan. Ukoliko je nerazumljiv za vas onda ga ponesite i obratite se lokalnoj kancelariji za pomoć.

Laù thõ naøy raát quan troíng. Neáu quyù vò khoâng hieáu naõi dung trong ñiòu, haøy ñiem thõ naøy ñeán vaên phòøng taõi

ñòà phòøng cuõa quyù vò ñeá ñòðic giuùp ñòð.

[DATE]

[CLIENT NAME]

[CLIENT ADDRESS 1]

[CLIENT ADDRESS 2]

[CITY] [STATE] [ZIP]

Dear [CLIENT NAME]:

We have received your grievance about:

[GRIEVANCE ISSUE]

We will look into your grievance and mail you a letter by [GRIEVANCE DUE DATE: 90 calendar days from receipt of client's grievance].

If you have any questions, please feel free to call me at [local phone number] or [toll-free number] Monday through Friday, 7:45 a.m. to 4:30 p.m., except holidays.

Sincerely,

[NAME OF STAFF]

[DA] Grievance and Appeal Coordinator

copy to: DVHA Electronic Data File
DA File

ATTACHMENT 3.G

SAMPLE DA/SSA LETTER ACKNOWLEDGING ORAL WITHDRAWAL OF GRIEVANCE/APPEAL/REQUEST FOR FAIR HEARING

DA/SSA LETTERHEAD

This letter is important. If you do not understand it, take it to your local office for help.

Cette lettre est importante. Si vous ne la comprenez pas, apportez-la à votre bureau local pour recevoir de l'aide.

Esta carta es importante. Si no la entiende, llévela a su oficina local para solicitar ayuda.

Это важное письмо. Если вам оно непонятно, возьмите его и обратитесь за помощью в местное отделение.

Ovaj dopis je važan. Ukoliko je nerazumljiv za vas onda ga ponesite i obratite se lokalnoj kancelariji za pomoć.

Laù thö naøy raát quan troïng. Neáu quyù vò khoâng hieáu noãi dung trong ñoù, haøy ñem thö naøy ñeán vaên phoøng taïi ñà phoøng cuõa quyù vò ñeá ñoõic giuùp ñõõ.

[DATE]

[CLIENT NAME]

[CLIENT ADDRESS 1]

[CLIENT ADDRESS 2]

[CITY] [STATE] [ZIP]

Dear [CLIENT NAME]:

We have received your oral verbal request to withdraw your request for a [GRIEVANCE/APPEAL/FAIR HEARING]. We will stop looking into your grievance/appeal about [GRIEVANCE/APPEAL ISSUE].

Thank you for contacting us. If you have any further questions, please feel free to call me, at [local phone number] or [toll-free number] Monday through Friday, 7:45 a.m. to 4:30 p.m., except holidays.

Sincerely,

[Staff Name]

[DA] Grievance and Appeal Coordinator

copy to: DVHA Electronic Database DA File

ATTACHMENT 3.H
SAMPLE DA/SSA GRIEVANCE RESPONSE

DA/SSA LETTERHEAD

This letter is important. If you do not understand it, take it to your local office for help.

Cette lettre est importante. Si vous ne la comprenez pas, apportez-la à votre bureau local pour recevoir de l'aide.

Esta carta es importante. Si no la entiende, llévela a su oficina local para solicitar ayuda.

Это важное письмо. Если вам оно непонятно, возьмите его и обратитесь за помощью в местное отделение.

Ovaj dopis je važan. Ukoliko je nerazumljiv za vas onda ga ponesite i obratite se lokalnoj kancelariji za pomoć.

Laù thö naøy raát quan troing. Neáu quyù vò khoâng hieáu noãi dung trong ñoù, haøy ñem thö naøy ñeán vaên phoøng taïi ñòa phöông cuûa quyù vò ñeá ñöôc giuùp ñöõ.

[DATE]

[CLIENT NAME]

[CLIENT ADDRESS 1]

[CLIENT ADDRESS 2]

[CITY] [STATE] [ZIP]

Dear [CLIENT NAME]:

We have reviewed the grievance you filed on [DATE] about [GRIEVANCE ISSUE]. Here is what we found.
[INSERT RESULTS]

If you are not satisfied with this response you may ask for a **grievance review** by the Department of Mental Health (DMH) within the next 10 calendar days. In a grievance review DMH will take another look at your grievance, how we addressed it and the information we considered in making our decision.

If you want to ask for a grievance review, you should take one of the following actions within ten calendar days from the date of this letter.

- ◆ Tell me either verbally or in writing that you want DMH to review our response to your grievance,
- OR
- ◆ Tell the DMH either verbally or in writing that you want DMH to review the agency's response to your grievance. You may telephone the DMH at (802) 828-3824 or (888) 212-4677. You may mail a letter to the DMH at 575 Stonecutters Way, Suite 1, Montpelier, Vermont 05609-1101. If you have additional information to offer at this time, please send the information to the DMH as well.

If you have questions, please call me at [local phone number] or [toll-free number] Monday through Friday, 7:45 a.m. to 4:30 p.m., except holidays.

Sincerely,

[Staff Name]

[DA] Grievance and Appeal Coordinator

copy to: DVHA Electronic Data Base
 DA File (follow DA policy/procedure for handling of hard copy)

ATTACHMENT 3.I
SAMPLE DA/SSA LETTER RESPONDING TO GRIEVANCE FILED LATE

DA/SSA LETTERHEAD

This letter is important. If you do not understand it, take it to your local office for help.

Cette lettre est importante. Si vous ne la comprenez pas, apportez-la à votre bureau local pour recevoir de l'aide.

Esta carta es importante. Si no la entiende, llévela a su oficina local para solicitar ayuda.

Это важное письмо. Если вам оно непонятно, возьмите его и обратитесь за помощью в местное отделение.

Ovaj dopis je važan. Ukoliko je nerazumljiv za vas onda ga ponesite i obratite se lokalnoj kancelariji za pomoć.

Laù thõ naøy raát quan troing. Neáu quyù vò khoâng hieáu noài dung trong ñoù, haøy ñem thõ naøy ñeán vaên phoøng taïi ñòa phöông cuûa quyù vò ñeá ñöôïc giuùp ñöõ.

[DATE]

[CLIENT NAME]

[CLIENT ADDRESS 1]

[CLIENT ADDRESS 2]

[CITY] [STATE] [ZIP]

Dear [CLIENT NAME]:

We received your request to file a grievance on [DATE] for [GRIEVANCE ISSUE].

Requests for grievance investigations regarding issues that occurred more than 60 days ago are not considered for further action. Since your grievance issue is beyond this time frame, we are unable to proceed with addressing this grievance.

Sincerely,

[Staff Name]

[DA] Grievance and Appeal Coordinator

copy to: DVHA Electronic Data File
 DA File

ATTACHMENT 3.J
SAMPLE DMH GRIEVANCE REVIEW REQUEST
FORM LETTER FOR USE BY CLIENTS

[DATE]
[CLIENT ADDRESS]
[CITY, VT ZIP]

Vermont Department of Mental Health
DMH Quality Management Coordinator
575 Stonecutters WayMontpelier, Vermont 05609-1101

Dear DMH [Adult or Child] Quality Management Coordinator:I do not agree with how [NAME OF DA] addressed my grievance about [DESCRIBE THE GRIEVANCE] for the following reason/s [TELL THE REASONS YOU DO NOT AGREE IT WAS THE RIGHT DECISION].

- I received the decision on [DATE YOU WERE NOTIFIED].*Client should make request within 10 calendar days for grievance review by the Department of Mental Health.*

I would like a GRIEVANCE REVIEW by DMH.

- *DMH will see if the grievance process was followed and the decision made with adequate information. The DMH grievance review is considered final. Clients may also request a Fair Hearing of a grievance issue before the Human Services Board, but generally Fair Hearings are reserved for appeals of actions related to reduction, suspension, or denial of service.*

Sincerely,
CLIENT NAME]

Copy:

- *People you might want to send copies of your grievance review request:
DA Grievance and Appeal Coordinator
DA CRT Director
DA Executive Director
Disability Rights Vermont (DRVT)
Vermont Psychiatric Survivors*

ATTACHMENT 3.K

SAMPLE DA/SSA LETTER INFORMING CLIENT THAT APPEAL HAS BEEN FORWARDED TO ANOTHER DEPARTMENT FOR RESOLUTION

DA/SSA LETTERHEAD

This letter is important. If you do not understand it, take it to your local office for help.

Cette lettre est importante. Si vous ne la comprenez pas, apportez-la à votre bureau local pour recevoir de l'aide.

Esta carta es importante. Si no la entiende, llévela a su oficina local para solicitar ayuda.

Это важное письмо. Если вам оно непонятно, возьмите его и обратитесь за помощью в местное отделение.

Ovaj dopis je važan. Ukoliko je nerazumljiv za vas onda ga ponesite i obratite se lokalnoj kancelariji za pomoć.

Laù thö naøy raát quan troïng. Neáu quyù vò khoâng hieáu noãi dung trong ñoù, haøy ñiem thö naøy ñeán vaên phoøng taïi ñòa phöông cuõa quyù vò ñeá ñöðic giuùp ñöð.

[DATE]

[CLIENT NAME]

[CLIENT ADDRESS 1]

[CLIENT ADDRESS 2]

[CITY] [STATE] [ZIP]

Dear [CLIENT NAME]:

We received your appeal request about [APPEAL ACTION]. We are not the agency to decide this appeal. We are not able to decide appeals [about ELIGIBILITY FOR HEALTH CARE PROGRAMS and/or PREMIUMS YOU SHOULD PAY **OR** NOT THE PROPER AGENCY TO DECIDE THIS APPEAL].

We have forwarded your appeal to [Economic Services Division of the Department for Children and Families **OR** Proper Agency] because they decide these appeals. You will hear from them soon.

If you have any questions, please feel free to call [DCF-ESD Coordinator **OR** OTHER AGENCY COORDINATOR] at [phone number] Monday through Friday, 7:45 a.m. to 4:30 p.m., except holidays.

Sincerely,

[Staff Name]

[DA] Grievance and Appeal Coordinator

copy to: DA File

[name],[DCF-ESD or Other Agency] Grievance & Appeal Coordinator

ATTACHMENT 3.L
SAMPLE DA/SSA LETTER ACKNOWLEDGING APPEAL

DA/SSA LETTERHEAD

This letter is important. If you do not understand it, take it to your local office for help.

Cette lettre est importante. Si vous ne la comprenez pas, apportez-la à votre bureau local pour recevoir de l'aide.

Esta carta es importante. Si no la entiende, llévela a su oficina local para solicitar ayuda.

Это важное письмо. Если вам оно непонятно, возьмите его и обратитесь за помощью в местное отделение.

Ovaj dopis je važan. Ukoliko je nerazumljiv za vas onda ga ponesite i obratite se lokalnoj kancelariji za pomoć.

Laù thö nøy raát quan troing. Neáu quyù vò khoâng hieáu noãi dung trong ñoù, haøy ñem thö nøy ñeán vaên phoøng taïi ñà phoøng cuûa quyù vò ñeá ñoïc giuùp ñõ.

[DATE]

[CLIENT NAME]

[CLIENT ADDRESS1]

[CLIENT ADDRESS2]

[CITY], [STATE] [ZIP]

Dear [CLIENT NAME]:

We received your appeal filed on [DATE] about [ACTION]. We will begin an internal review of our action. You will be contacted by a supervisor in our agency who was not involved in the original action and who is qualified to consider your appeal. An appeal meeting will be scheduled to hear any new information related to your appeal.

The entire process for an appeal should not take longer than 45 days from the date you filed your appeal at this agency, but it could take another 14 days if more time will help you.

You also have the right to ask for a Fair Hearing with the Human Services Board at any time throughout the appeal process up until 30 days after the appeal resolution decision. To ask for a Fair Hearing, telephone the Human Services Board at (802) 828-2536 or mail a letter to 118 State Street, Drawer 20, Montpelier, VT 05620-4301.

If you request continuation of services under appeal, the [DA/SSA] is required to inform you that you may be liable for the cost of services that are continued during the appeal process. You will be liable only if our decision on your appeal and/or a Fair Hearing upholds [DA/SSA's] action and also determines that you should be held liable for service costs.

If you have any questions about your appeal, you may contact me at [local phone number] or [toll-free number] Monday through Friday, 7:45 a.m. to 4:30 p.m., except holidays. You may send any additional or new information you have about your appeal to my attention.

The Office of the Health Care Ombudsman can also help you with appeals. The telephone number there is 1-800-917-7787.

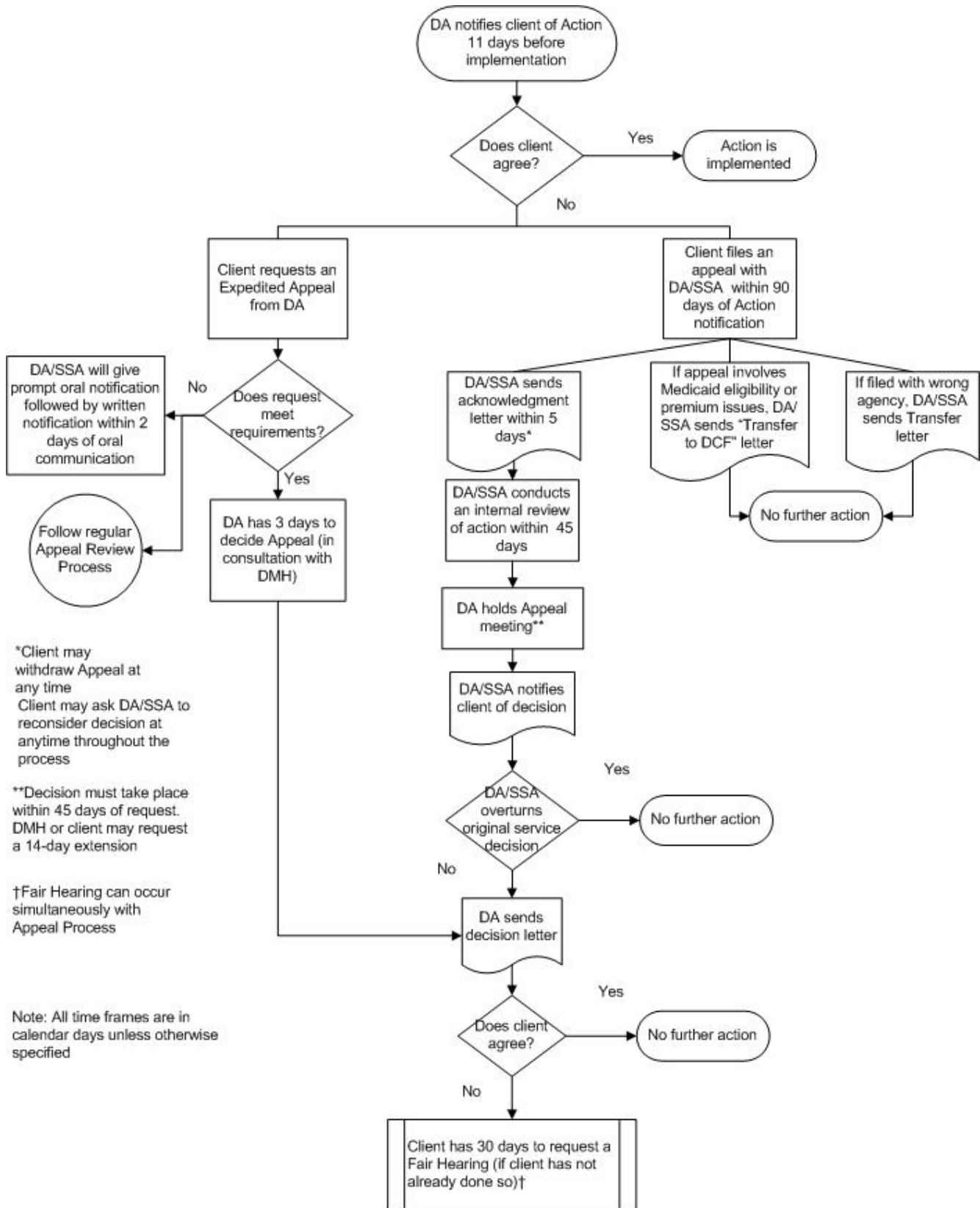
Sincerely,

[Staff Name]

[DA] Grievance and Appeal Coordinator

copy to: DVHA Electronic Data File
 DA File DMH [Adult (if CRT Program) or Child (if Child Program)] Mental Health Director

ATTACHMENT 3.M APPEAL PROCESS FLOW CHART



ATTACHMENT 3.N

SAMPLE DA/SSA NOTICE OF FAVORABLE INTERNAL REVIEW OF APPEAL

DA/SSA LETTERHEAD

This letter is important. If you do not understand it, take it to your local office for help.

Cette lettre est importante. Si vous ne la comprenez pas, apportez-la à votre bureau local pour recevoir de l'aide.

Esta carta es importante. Si no la entiende, llévela a su oficina local para solicitar ayuda.

Это важное письмо. Если вам оно непонятно, возьмите его и обратитесь за помощью в местное отделение.

Ovaj dopis je važan. Ukoliko je nerazumljiv za vas onda ga ponesite i obratite se lokalnoj kancelariji za pomoć.

Laù thõ naøy raát quan troíng. Neáu quyù vò khoâng hieáu noãi dung trong ño, haøy ñiem thõ naøy ñeán vaên phoøng taïi ñòa phõng cuõa quyù vò ñeã ñođic giuùp ñođ.

[DATE]

[CLIENT NAME]

[CLIENT ADDRESS 1]

[CLIENT ADDRESS 2]

[CITY] [STATE] [ZIP]

Dear [CLIENT NAME]:

Your appeal request filed on [DATE] for [APPEAL ACTION] has been *approved*.

Your appeal was approved for the following reasons:

If you have any questions, please feel free to call me at [local phone number] or [toll-free number] Monday through Friday, 7:45 a.m. to 4:30 p.m., except holidays.

Sincerely,

[Staff Name]

[DA] Grievance and Appeal Coordinator

copy to: DVHA Electronic Data File
 DA File
 DMH [Adult (if CRT Program) or Child (if Child Program)] Mental Health Director

ATTACHMENT 3.0
SAMPLE DA/SSA NOTICE OF ADVERSE INTERNAL REVIEW OF APPEAL

DA/SSA LETTERHEAD

This letter is important. If you do not understand it, take it to your local office for help.

Cette lettre est importante. Si vous ne la comprenez pas, apportez-la à votre bureau local pour recevoir de l'aide.

Esta carta es importante. Si no la entiende, llévela a su oficina local para solicitar ayuda.

Это важное письмо. Если вам оно непонятно, возьмите его и обратитесь за помощью в местное отделение.

Ovaj dopis je važan. Ukoliko je nerazumljiv za vas onda ga ponesite i obratite se lokalnoj kancelariji za pomoć.

Laù thò naøy raát quan troing. Neáu quyù vò khoâng hieáu noãi dung trong ñoù, haøy ñem thò naøy ñeán vaên phoøng taïi ñà phoøng cuûa quyù vò ñeá ñoïc giuùp ñõ.

[DATE]

[CLIENT NAME]

[CLIENT ADDRESS 1]

[CLIENT ADDRESS 2]

[CITY] [STATE] [ZIP]

Dear [CLIENT NAME]:

We have completed the internal review of your appeal filed on [DATE] about [ACTION APPEALED]. We reviewed your appeal in the following manner [DESCRIBE THE PROCESS, including who heard the appeal, the meeting date, and who was present at meeting]. Based on [DESCRIBE THE INFORMATION PRESENTED AND CONSIDERED IN MAKING THE DECISION], we have decided that our action was appropriate because [TELL REASONS].

You have the right to ask for a Fair Hearing with the Human Services Board up until 30 days after this notification of decision on your appeal. To ask for a Fair Hearing, telephone the Human Services Board at (802) 828-2536 or mail a letter to 118 State Street, Drawer 20, Montpelier, VT 05620-4301.

If you request continuation of services under appeal, the [DA/SSA] is required to inform you that you may be liable for the cost of services that are continued during the Fair Hearing process. You will be liable only if the Fair Hearing upholds [DA/SSA's] action and also determines that you should be held liable for service costs.

If you have any additional questions, please feel free to call me at [local phone number] or [toll-free number] Monday through Friday, 7:45 a.m. to 4:30 p.m., except holidays.

The Office of the Health Care Ombudsman can help you with Fair Hearings, too. The telephone number there is (800) 917-7787.

Sincerely,

Staff Name

[DA] Grievance and Appeal Coordinator

copy to: DVHA Electronic Data File
 DA File
 DMH [Adult (if CRT Program) or Child (if Child Program)] Mental Health Director

ATTACHMENT 3.P

SAMPLE SERVICE CHANGE NOTIFICATION FORM

Your treatment team plans the following change in your [Program] Services given your current treatment needs:

Date of Notice: _____

Staff Name: _____ **Staff Signature:** _____

Client Name: _____ **Client Signature:** _____

_____ *Check if he/she refused to sign*

You have the following rights available to you if you disagree with this planned treatment change.

- If you do not agree with the plan, you may appeal the DA action.
- You have up to 90 days from the date of this notice to request an appeal. If you request an appeal after 90 days, the agency may or may not choose to consider your appeal.
- If you file an appeal before these changes take effect, and you request a continuation of services, your services will not be changed until your appeal is resolved. If you file an appeal after these changes take effect, services will continue as changed while your appeal is being resolved.
- Your appeal must be resolved within 45 days from the date of your appeal, unless an extension of no more than 14 additional days to resolve the appeal is needed. The [AGENCY] will notify you of the results of its internal review of your appeal.
- You may make a request for a Fair Hearing at any time throughout the appeal process until 30 days after the decision notification on your appeal. If you request a Fair Hearing after 30 days from decision notification, your rights to a Fair Hearing may be affected.

- If your appeal goes to a Fair Hearing and your appeal is upheld, the [AGENCY] must provide the mental-health services outlined in the current treatment plan.

If you need more information about appeals or assistance in asking for an appeal or fair hearing, you can contact the following people or agencies for help:

- ❖ The grievance and appeals coordinator at the DA/SSA

(Insert local name and contact information)

- ❖ The Department of Mental Health at 1-802-828-3824; or, for the State of Vermont only, call our toll-free number: 1-888-212-4677; TTY Relay Service at 1-800-253-0191; **or by mail to** DMH, Redstone Building, 26 Terrace Street, Montpelier, Vermont 05609-1101
- ❖ Office of Health Care Ombudsman at 1-800-917-7787 **or by mail at** P.O. Box 1367, 264 N. Winooski Avenue, Burlington, Vermont 05402 DMH ombudsmen is now DRVT's Ed Paquin do we change this??
- ❖ Disability Rights Vermont at 1-802-229-1355 **or by mail at** 141 Main Street, Suite 7, Montpelier, VT 05602
- ❖ Vermont Psychiatric Survivors at 1-800-564-2106 **or by mail at** 1 Scale Avenue, Suite 52, Rutland, VT 05701

To Request a Fair Hearing at any time, write to:

Human Services Board
118 State Street
Drawer 20
Montpelier, VT 05602

or call: 802-828-2536.

copy to: DA File

ATTACHMENT 3.Q

SAMPLE DA/SSA LETTER IN RESPONSE TO APPEAL FILED AFTER 90 DAYS

DA/SSA LETTERHEAD

This letter is important. If you do not understand it, take it to your local office for help.

Cette lettre est importante. Si vous ne la comprenez pas, apportez-la à votre bureau local pour recevoir de l'aide.

Esta carta es importante. Si no la entiende, llévela a su oficina local para solicitar ayuda.

Это важное письмо. Если вам оно непонятно, возьмите его и обратитесь за помощью в местное отделение.

Ovaj dopis je važan. Ukoliko je nerazumljiv za vas onda ga ponesite i obratite se lokalnoj kancelariji za pomoć.

Laù thö nøy raát quan troing. Neáu quyù vò khoâng hieáu noãi dung trong ñoù, haøy ñiem thö nøy ñeán vaên phoøng taï ñòa phöông cuûa quyù vò ñeá ñöôïc giuùp ñöô.

[DATE]

[CLIENT NAME]

[CLIENT ADDRESS 1]

[CLIENT ADDRESS 2]

[CITY] [STATE] [ZIP]

Dear [CLIENT NAME]:

We received your request to file an appeal on [APPEAL DATE]. Unfortunately, you did not request this appeal within 90-days of [AGENCY] appeal decision notification. Since your request for an appeal has exceeded this time frame, we will not consider this appeal. You have also exceeded the time frame to file a request for a Fair Hearing.

Sincerely,

[Staff Name]

[DA] Grievance and Appeal Coordinator

copy to: DA File
DVHA Electronic Data File

ATTACHMENT 3.R

SAMPLE DA/SSA LETTER APPROVING REQUEST FOR EXPEDITED APPEAL

DA/SSA LETTERHEAD

This letter is important. If you do not understand it, take it to your local office for help.

Cette lettre est importante. Si vous ne la comprenez pas, apportez-la à votre bureau local pour recevoir de l'aide.

Esta carta es importante. Si no la entiende, llévela a su oficina local para solicitar ayuda.

Это важное письмо. Если вам оно непонятно, возьмите его и обратитесь за помощью в местное отделение.

Ovaj dopis je važan. Ukoliko je nerazumljiv za vas onda ga ponesite i obratite se lokalnoj kancelariji za pomoć.

Laù thö naøy raát quan troïng. Neáu quyù vò khoâng hieáu noãi dung trong ñoù, haøy ñem thö naøy ñeán vaên phoøng taïi ñòa phöông cuûa quyù vò ñeá ñöôïc giuùp ñöõ.

[DATE]

[CLIENT NAME]

[CLIENT ADDRESS 1]

[CLIENT ADDRESS 2]

[CITY] [STATE] [ZIP]

Dear [CLIENT NAME]:

We received your emergency (expedited) appeal request for [APPEAL ACTION].

We agree that this request meets expedited criteria and will proceed to resolve your appeal within 3 working days. The time frame may be extended up to an additional 14 days by request of the beneficiary or by the Managed Care Entity (MCE) if the extension is in the best interest of the beneficiary. You will also receive a new [Service Change Notification Form].

If you have any questions, please feel free to call me at [local phone number] or [toll-free number] Monday through Friday, 7:45 a.m. to 4:30 p.m., except holidays.

Sincerely,

[Staff Name]

[DA] Grievance and Appeal Coordinator

copy to: DA File
DVHA Electronic Data File

ATTACHMENT 3.S

SAMPLE DA/SSA LETTER DENYING REQUEST FOR EXPEDITED APPEAL

DA/SSA LETTERHEAD

This letter is important. If you do not understand it, take it to your local office for help.

Cette lettre est importante. Si vous ne la comprenez pas, apportez-la à votre bureau local pour recevoir de l'aide.

Esta carta es importante. Si no la entiende, llévela a su oficina local para solicitar ayuda.

Это важное письмо. Если вам оно непонятно, возьмите его и обратитесь за помощью в местное отделение.

Ovaj dopis je važan. Ukoliko je nerazumljiv za vas onda ga ponesite i obratite se lokalnoj kancelariji za pomoć.

Laù thö nøy raát quan troing. Neáu quyù vò khoâng hieáu noãi dung trong ñoù, haøy ñem thö nøy ñeán vaên phoøng taï ñòa phöông cuûa quyù vò ñeá ñöôïc giuùp ñöõ.

[DATE]

[CLIENT NAME]

[CLIENT ADDRESS 1]

[CLIENT ADDRESS 2]

[CITY] [STATE] [ZIP]

Dear [CLIENT NAME]:

We received your emergency (expedited) appeal request for [APPEAL ACTION].

Based on the information we have, we **do not agree** that taking 45 days to decide your appeal could seriously risk your life, health or ability to attain, maintain, or regain maximum function.

Your appeal will now be decided in the standard 45-day time frame. Your appeal should be decided by [DUE DATE]. This time frame may be extended by 14 days if needed. We will notify you of the appeal meeting date.

If you have any questions, please feel free to call me at [local phone number] or [toll-free number] Monday through Friday, 7:45 a.m. to 4:30 p.m., except holidays.

Sincerely,

[Staff Name]

[DA] Grievance and Appeal Coordinator

copy to: DVHA Electronic Data File
 DA File
 DMH [Adult (if CRT Program) or Child (if Child Program)] Mental Health Director

ATTACHMENT 3.T

SAMPLE CLIENT REQUEST FOR A FAIR HEARING

Client's Address (Street or PO Box #)
City, State ZIP Code
Date

Human Services Board
118 State Street
Drawer 20
Montpelier, VT 05602

Dear Human Services Board:

I do not agree with how [DA/SSA] resolved my appeal about [DESCRIBE WHAT SERVICE WILL BE OR HAS BEEN DENIED, REDUCED, OR SUSPENDED BY THE DA].

[TELL THE REASONS YOU DO NOT AGREE IT WAS THE RIGHT DECISION REGARDING YOUR TREATMENT].

Additional comments or clarifying information.

I received the decision on [DATE YOU WERE NOTIFIED BY DA/SSA].

You should make your request within 90 days of the original DA action notice or within 30 days of the DA appeal decision.

I would like a FAIR HEARING with the Human Services Board.

Sincerely,

[YOUR NAME]

Copy: *People to whom you should send copies of the Fair Hearing request:*
DA grievance and appeals coordinator
DMH
Your attorney

Virginia (unknown date): *Provider/Facility Complaint and Abuse Forms*. These forms are for providers to report complaints or abuse/neglect to the state. The forms are in the process of being replaced by an online reporting system.

COMMUNITY ABUSE ALLEGATION/NEGLECT REPORT

Program Name _____ Date Reported _____

Program Disability MH MR SA Core Service _____

Site Name _____

Street Address _____

City _____ State _____ Zip _____ Phone Number _____

Person calling in report: _____ Phone Number _____

CLIENT

First Name _____ MI _____ Last Name _____

SSN _____ Birth Date _____ Gender: M F U

Race: Black/African American American Indian Alaskan Native Other

White/Caucasian Asian/Pacific Islander Unknown

Status: Active Discharged Status Date _____

Surrogate Decision Maker _____

Relationship: Adult Son/Daughter Parent Spouse

Legal Guardian/Attorney Relative Other

Client Street Address: _____

City _____ State _____ Zip _____ Phone Number _____

ABUSE ALLEGATION

Abuse Date _____ Time _____ Location _____

Alleged Abuse (Circle all that apply)

Physical Verbal Sexual Peer To Peer Neglect Seclusion/Restraint Exploitation Other

Description of Alleged Abuse: _____

Client Injury (Circle all that apply)

Patient Injured: Bruises Fractures Lacerations Other Injury Death

Description of Physical/Medical Findings: _____

Abuse Reported By: First Name _____ MI _____ Last Name _____

Abuse Reported To: First Name _____ MI _____ Last Name _____

Reported Date _____ Reported time _____

COMMUNITY ABUSE ALLEGATION/NEGLECT REPORT

NOTIFICATION

Date Director Notified _____ Time _____ () Notify Licensing

Date Licensing Notified _____ Time _____ Date Advocate Notified _____ Time _____

Date Surrogate Dec. Notified _____ Time _____ Date Case Mgr. Notified _____ Time _____

Department of Social Services Notification

First name _____ MI _____ Last Name _____ Date Notified _____ Time _____

Method of Notification ___ Phone ___ Mail

DSS Findings ___ Chose Not to Participate ___ Founded ___ In Need of Protective Services
___ Letter re: Abuse Findings ___ Phone Call ___ No Longer Need Protective Services
___ Reason to Suspect ___ Other ___ Not Founded/Doesn't Need Protective Ser.

Police Notification

() Suspected Criminal Activity

Local Police Name _____ Local Police Dept. Name _____ Date Notified _____

State Police Name _____ State Police Dept. Name _____ Date Notified _____

ADMINISTRATIVE INVESTIGATION

Date of Investigation _____ Time _____

Administrative Investigator(s) First Name: _____ MI _____ Last Name: _____
First Name: _____ MI _____ Last Name: _____
First Name: _____ MI _____ Last Name: _____

Findings: ___ No Abuse ___ Abuse Substantiated ___ Insufficient Evidence ___ Inappropriate Behavior

Date of Initial Findings _____ Time _____

Director's Disposition: ___ No Abuse ___ Abuse Substantiated ___ Insufficient Evidence ___ Inappropriate Behavior

Date of Director's Disposition _____ Time _____

Director's Remarks: _____

Notification of Findings and Right to Appeal Dates:

Advocate _____ Client _____ Surrogate Decision Maker _____ Case Manager _____

Responsible Advocate/CSB Contact Name _____

COMMUNITY ABUSE ALLEGATION/NEGLECT REPORT

ALLEGED ABUSER

(Enter as many alleged abusers as necessary. Attach additional paper if necessary.)

FIRST NAME _____ **MI** _____ **LAST NAME** _____

Position/Relation (check the one that applies):

- | | | | |
|---------------------------------------|---------------------------------------|---|---|
| <input type="checkbox"/> Physician | <input type="checkbox"/> Nurse | <input type="checkbox"/> Other Resident | <input type="checkbox"/> Human Services Care Staff Member |
| <input type="checkbox"/> Psychologist | <input type="checkbox"/> Teacher | <input type="checkbox"/> Social Worker | <input type="checkbox"/> Transportation Staff Member |
| <input type="checkbox"/> Psychiatrist | <input type="checkbox"/> Dentist | <input type="checkbox"/> Therapist | <input type="checkbox"/> Kitchen Staff Member |
| <input type="checkbox"/> Security | <input type="checkbox"/> Family | <input type="checkbox"/> Friend/Visitor | <input type="checkbox"/> Maintenance Staff Member |
| <input type="checkbox"/> Clerk | <input type="checkbox"/> Volunteer | <input type="checkbox"/> Aide/Technician | <input type="checkbox"/> Admin/Support Staff Member |
| <input type="checkbox"/> Team Leader | <input type="checkbox"/> Case Manager | <input type="checkbox"/> Authorized Rep. | <input type="checkbox"/> Housekeeping Staff Member |
| <input type="checkbox"/> Unknown | <input type="checkbox"/> Other | <input type="checkbox"/> Resident Counselor | |

Action Taken (check all that apply):

- | | | |
|--------------------------------------|---|--|
| <input type="checkbox"/> Terminated | <input type="checkbox"/> Remedial Training | <input type="checkbox"/> No Action |
| <input type="checkbox"/> Transferred | <input type="checkbox"/> Verbal Counseling | <input type="checkbox"/> Referral to Judicial System |
| <input type="checkbox"/> Suspended | <input type="checkbox"/> Written Counseling | <input type="checkbox"/> Other |
| <input type="checkbox"/> Resigned | <input type="checkbox"/> Monitoring | |

Action Taken Remarks _____

FIRST NAME _____ **MI** _____ **LAST NAME** _____

Position/Relation (check the one that applies):

- | | | | |
|---------------------------------------|---------------------------------------|---|---|
| <input type="checkbox"/> Physician | <input type="checkbox"/> Nurse | <input type="checkbox"/> Other Resident | <input type="checkbox"/> Human Services Care Staff Member |
| <input type="checkbox"/> Psychologist | <input type="checkbox"/> Teacher | <input type="checkbox"/> Social Worker | <input type="checkbox"/> Transportation Staff Member |
| <input type="checkbox"/> Psychiatrist | <input type="checkbox"/> Dentist | <input type="checkbox"/> Therapist | <input type="checkbox"/> Kitchen Staff Member |
| <input type="checkbox"/> Security | <input type="checkbox"/> Family | <input type="checkbox"/> Friend/Visitor | <input type="checkbox"/> Maintenance Staff Member |
| <input type="checkbox"/> Clerk | <input type="checkbox"/> Volunteer | <input type="checkbox"/> Aide/Technician | <input type="checkbox"/> Admin/Support Staff Member |
| <input type="checkbox"/> Team Leader | <input type="checkbox"/> Case Manager | <input type="checkbox"/> Authorized Rep. | <input type="checkbox"/> Housekeeping Staff Member |
| <input type="checkbox"/> Unknown | <input type="checkbox"/> Other | <input type="checkbox"/> Resident Counselor | |

Action Taken (check all that apply):

- | | | |
|--------------------------------------|---|--|
| <input type="checkbox"/> Terminated | <input type="checkbox"/> Remedial Training | <input type="checkbox"/> No Action |
| <input type="checkbox"/> Transferred | <input type="checkbox"/> Verbal Counseling | <input type="checkbox"/> Referral to Judicial System |
| <input type="checkbox"/> Suspended | <input type="checkbox"/> Written Counseling | <input type="checkbox"/> Other |
| <input type="checkbox"/> Resigned | <input type="checkbox"/> Monitoring | |

Action Taken Remarks _____

WITNESS

(Enter as many witnesses as necessary. Attach additional paper if necessary.)

First Name _____ MI _____ Last Name _____

First Name _____ MI _____ Last Name _____

First Name _____ MI _____ Last Name _____

First Name _____ MI _____ Last Name _____

INTERNAL INVESTIGATION REPORT FORMAT Page 1
Abuse and Complaints

1. Description of the incident to include:

- Date and time alleged incident took place—state whether actual or estimated
- Location of alleged incident
- List all those persons involved (include name, position, title)
- List those persons who were witnesses to the incident (include name, position, title)
- What happened – describe the incident in detail

2. Notification of incident made to (include date and time):

- Authorized Representative/Surrogate Decision Maker
- Department of Social Services
- Police (also include name of department and person to whom report was made)

3. Investigation Summary and Statements:

- Describe investigative process (who was interviewed)
- Attach copies of written statements from all staff involved
- Attach copy of written statement of client(s) involved (client written or dictated)

4. Staffing Issues – include statements and assess and make recommendations regarding the following:

- Evaluation of staff to client ratios (e.g. were a sufficient number of staff on duty?)
- Placement/assignment of staff (e.g. were staff assignments made appropriately?)
- Location (e.g. was staff where they were supposed to be?)
- Training (e.g. did staff have the appropriate training to do what they were doing? How recently was training completed? Was staff competency assessed?)
- Were policies and procedures followed by those involved?

INTERNAL INVESTIGATION REPORT FORMAT
Abuse and Complaints

page 2

5. Conclusion – make a determination of:

- Abuse
- No abuse
- Founded (complaint)
- Unfounded (complaint)
- Inappropriate Behavior
- Insufficient Evidence

6. Action to be taken:

- What action will be taken?
- When will the action be taken (date/time frame?)
- Will there be an assessment of action taken if appropriate?

7. Notification of conclusion and right to appeal decision:

- Name and title of the person responsible for making this notification.
- Names of persons notified and date of notification of Representative/Surrogate Decision Maker and consumer)

8. Signatures, title and date signed:

- Of the person who prepared the report
- The executive director or administrator

COMMUNITY COMPLAINT REPORT

PROGRAM NAME _____ DATE REPORTED _____

PROGRAM DISABILITY MH___ MR___ SA___ CORE SERVICE _____

SITE NAME _____

STREET ADDRESS _____

CITY _____ STATE _____ ZIP _____ PHONE NUMBER _____

PERSON CALLING IN COMPLAINT _____

CLIENT

FIRST NAME _____ MI _____ LAST NAME _____

SSN _____ BIRTH DATE _____ GENDER ___M ___F ___U

RACE ___Black/African American ___American Indian ___Alaskan Native ___Other
___White/Caucasian ___Asian/Pacific Islander ___Unknown

STATUS ___Active ___Discharged Status Date _____

SURROGATE DECISION MAKER _____

Relationship ___Adult Son/Daughter ___Parent ___Spouse
___Legal Guardian/Attorney ___Relative ___Other

CLIENT STREET ADDRESS _____

CITY _____ STATE _____ ZIP _____ PHONE _____

COMPLAINT

DATE _____	TIME _____	LOCATION _____	_____ # of Persons Involved
Complaint Category (circle only one category)			
Policy VAC 35-115-20	Assurance of Rights VAC 35-115-40	Restriction of Freedoms of Everyday Life VAC 35-115-100	Work VAC 35-115-120
Acquire & Dispose Property	Notice of Rights	Movement Within Service Setting, Grounds, Community	Labor As A Condition of Receiving Sevices
Sign Legal Documents	Access to Advocate	Private Communication	Equal Opportunity
Contractual Relationship Register & Vote	Dignity VAC 35-115-50	Have and Spend Money	Information, Training, Policies Upon Request
Marry, Separate, Divorce & Annul	Staff Actions Attitudes	Access to TV, Radio, Written Materials	Wages
Hold a License	Legal Name	Keep/Use Personal Clothing/Items	Selling To/ Purchase of Goods or Services
Commitment	Public Service/Benefit	To Use Recreation Facilities	Access To/ Correction of Records VAC 35-115-90
Guardianship	Private Communication	Enjoy Outdoors	Request to Inspect
Access To Lawyers & Courts	General Information RE: Services/Policies	Purchases From Canteen, Vending Machine, Stores	Assistance Reading
Buy & Sell	Clothing	Excessive/Unauthorized Restriction	Dispute Of Contents
Make A Will	Diet	Rules of Conduct	Confidentiality VAC 35-115-80
Other	Safe, Sanitary, Humane Physical Environment	Use of Seclusion, Restraint, Timeout VAC 35-115-110	Unauthorized Disclosure
Services VAC 35-115 -60	Religion	Punishment, Reprisal, Staff Convenience	Explanation of Confidentiality Rights
Discrimination	Mail; Writing Materials	Exceeds Time Limit	
Clinical; Medical Services & Treatment	Telephone & Assistance With Visitation	Monitoring	
Emergency Treatment	Research VAC 35-115-130	Staff Competency	Complaint & Fair Hearing 12 VAC 35-115-140/160/170/180
Service Plan Review/Update	Consent	Justification, Documentation, Assessment	Informal Complaint Process
Mental Evaluation Treatment Plans	Compliance With State/Federal Standards	Range of Motion, Exercise, Bathroom, Meals, Fluids	Formal Complaint Process
Appropriate Discharge Plan	Consultation/Review of Research Committee	Explanation to Client	Appeal Process
Request for Discharge	Notification To LHRC	LHRC Approval Of Behavioral Treatment Plans	
Refusal of Discharge		Participation in Decision Making VAC 35-115-70	
		Meaningful Participation	
		Preferences of Resident	
		Informed Consent Or	
		Objection To Consent	
		Substitute Consent	
		Emergency Treatment	
		ECT	
		Disclosure of Information	

COMMUNITY COMPLAINT REPORT

Description of Complaint/Relief Requested _____

Complaint Reported By

Relationship Advocate Staff Family Client Advocacy Group
 VOPA Anonymous Representative Friend/Peer Inspector General Other

First Name _____ MI _____ Last Name _____ Organization/Title _____

Street Address _____

City _____ State _____ Zip _____ Phone _____

VIOLATOR

(Enter as many witnesses as necessary. Attach additional paper if necessary.)

First Name _____ MI _____ Last Name _____ Position _____

First Name _____ MI _____ Last Name _____ Position _____

First Name _____ MI _____ Last Name _____ Position _____

First Name _____ MI _____ Last Name _____ Position _____

WITNESS

(Enter as many witnesses as necessary. Attach additional paper if necessary.)

First Name _____ MI _____ Last Name _____

First Name _____ MI _____ Last Name _____

First Name _____ MI _____ Last Name _____

First Name _____ MI _____ Last Name _____

FINDINGS

Findings Violation No Violation

Date Client Notified _____ Date Surrogate Decision Make Notified _____

Resolution Complaint Withdrawn Consumer Discharged Consumer Satisfied
 Referral to LHRC Declined Appeal to LHRC No Action Required
 Other Appeal to Executive Director

Point of Resolution Below Director Director LHRC SHRC Commissioner

Date of Resolution _____ Unable to Notify

Notification Remarks _____

Responsible Advocate/CSB Contact _____

Case Status: Pending Closed Date Case Closed _____ Closed by Regional Advocate

Closed by: First Name _____ MI _____ Last Name _____

Provider Quarterly Report of Human Rights Activities

Name of Provider: _____

Local Human Rights Committee: _____

Name of Provider LHRC Liaison: _____

Name of Licensing Specialist: _____

Number of individuals served by provider in this quarter: _____

Quarter : _____

Status of Allegations of Abuse and Neglect

Number of Abuse Allegation cases: _____

Cases Pending: _____

Cases Closed: _____

Total Counts Alleged by Type:

Physical: _____ Sexual: _____

Verbal: _____ Neglect: _____

Neglect (Peer to Peer): _____

Exploitation: _____

Other: _____ Restraint: _____

Total Counts Occurred by Type:

Physical: _____ Sexual: _____

Verbal: _____ Neglect: _____

Neglect (Peer to Peer): _____

Exploitation: _____

Other: _____ Restraint: _____

Provide details, by date of occurrence, of all cases. Include any required Corrective Action.

Status of Complaint Cases

Total of Complaint Cases: : _____
Number of cases resulting in a violation: _____
Cases Pending: _____
Cases Closed: _____

Complaint Category Totals:

Assurance of Rights: _____
Dignity: _____
Services: _____
Participation in Decision Making; _____
Confidentiality: _____
Access to and Amendment of Services record: _____
Restrictions on Freedoms of Everyday Life: _____
Use of Seclusion Restraint and Time Out: _____
Work: _____
Research: _____
Complaint and Fair Hearing; _____
Determination of Capacity to give consent: _____
Authorized Representatives: _____
Complaint Resolution: _____
Reporting Requirements: _____

Complaint Resolution Level:

Number of complaints resolved in the Informal Process: _____
Number of complaints resolved in the Formal Process: _____

Below Director: _____
Director: _____
Commissioner: _____
LHRC: _____
SHRC: _____

Provide details, by date of occurrence, of all cases that resulted in the following:

- a violation,
- a request for fact-finding (LHRC hearing)
- a Corrective Action Plan

Additional reporting and review requirements as applicable:

Please provide information about your efforts to ensure that allegations of abuse and neglect and human rights complaints are captured and reported as required by the regulations.

Provide information about any changes to your DBHDS licensing status including citations, service additions and closures.

Provide information about any new or amended policies, procedures or program rules that could potentially impact the human rights of individuals receiving services through your organization including but not limited to, restrictions, restraints, seclusions and time-outs.

Please list the actions you have taken to meet the provider's requirements under section 12 VAC 35-115-250 (A) related to support of the LHRC and recruitment of members as needed.

Quarterly Review of any Behavioral Plans involving the use of restraint or time out:

Virginia (unknown date): *"It Is Your Right" one-page handout for consumers.*

IT IS YOUR

RIGHT

- ◆ TO BE TREATED WITH DIGNITY AND RESPECT
- ◆ TO BE TOLD ABOUT YOUR TREATMENT
- ◆ TO HAVE A SAY IN YOUR TREATMENT
- ◆ TO SPEAK TO OTHERS IN PRIVATE
- ◆ TO HAVE YOUR COMPLAINTS RESOLVED
- ◆ TO SAY WHAT YOU PREFER
- ◆ TO ASK QUESTIONS AND BE TOLD ABOUT YOUR RIGHTS
- ◆ TO GET HELP WITH YOUR RIGHTS

If you have questions or need help, see the program contact person or the human rights advocate:

Program contact person: _____

Human rights advocate: _____

Wisconsin (2010): *Client Rights and Grievance Procedure*. This document outlines consumer rights and the formal state grievance procedure.

CLIENT RIGHTS and the GRIEVANCE PROCEDURE For INPATIENT and RESIDENTIAL SERVICES

FOR CLIENTS RECEIVING SERVICES IN WISCONSIN FOR MENTAL ILLNESS, ALCOHOL OR OTHER DRUG ABUSE OR DEVELOPMENTAL DISABILITIES

When you receive inpatient or residential services for mental illness, alcoholism, drug abuse or a developmental disability, you have the following rights under Wisconsin Statute 51.61(1), 51.30, Wisconsin Administrative Code DHS 92, DHS 94, and DHS 124 and 42 CFR 482.13. If you require additional information regarding these rights please see a staff member of the facility or program providing your services and it will be provided to you.

PERSONAL RIGHTS

- You must be treated with dignity and respect, free from any verbal, physical, emotional, sexual abuse or harassment.
- You have the right to have staff make fair and reasonable decisions about your treatment and care.
- You have the right to participate in religious services and social, recreational and community activities away from the living unit to the extent possible.
- You may not be made to work except for personal housekeeping chores. If you agree to do other work, you must be paid, with certain minor exceptions.
- You may make your own decisions about things like getting married, voting and writing a will, if you are over the age of 18, and have not been found legally incompetent.
- You may not be treated unfairly because of your race, national origin, sex, age, religion, disability, sexual orientation, source of funding or marital status.
- Your surroundings must be kept safe and clean.
- You must be given the chance to exercise and go outside for fresh air regularly and frequently, except for health and security concerns.
- You have the right to receive treatment in a safe, psychologically and physically humane environment.
- You may contact a family member or representative and your personal physician to notify them of your admission to the hospital, or have a staff member do so on your behalf. You may refuse to have others contacted.

TREATMENT AND RELATED RIGHTS

- You must be provided prompt and adequate treatment, rehabilitation and educational services appropriate for your condition, within the limits of available funding.
- You must be allowed to participate in your treatment and care, including treatment planning.
- You must be informed of your treatment and care, including alternatives to and possible side effects of treatment, including medications, including who is responsible and the possible consequences of refusing treatment.
- No treatment or medication may be given to you without your written, informed consent, unless it is needed in an emergency to prevent serious physical harm to you or others, or a court orders it. (If you have a guardian, however, your guardian may consent to treatment and medications on your behalf.)
- You have the right to have the consequences of refusing treatment explained to you.
- You may not be subject to electro-convulsive therapy or any drastic treatment measures such as psychosurgery or experimental research without your written informed consent.
- You must be informed in writing of any costs of your care and treatment for which you or your relatives may have to pay. You have a right to examine your hospital bill and receive an explanation of the bill, regardless of source of payment. Every patient shall receive, upon request, information relating to financial assistance available through the hospital.
- You must be treated in the least restrictive manner and setting necessary to achieve the purposes of admission to the facility, within the limits of available funding.

- You may not be restrained or placed in a locked room (seclusion) unless in an emergency when it is necessary to prevent physical harm to you or to others.
- You have a right to be informed about your illness, course of treatment and prognosis for recovery and to have your legally authorized representative or any other person you have authorized in writing obtain this information as well.
- You have a right to formulate Advance Directives

COMMUNICATION AND PRIVACY RIGHTS

- You may call or write to public officials or your lawyer.
- Except in some situations, you may not be filmed, taped or photographed unless you agree to it.
- You may use your own money as you choose, within some limits.
- You may send and receive private mail. (Staff may not read your mail unless you or your guardian asks them to do so). Staff may check your mail for contraband. They may only do so if you are watching.
- You may use a telephone daily.*
- You may see visitors daily.*
- You may designate who may visit.*
- You must have privacy when you are in the bathroom and while receiving care for personal needs.*
- You may wear your own clothing.*
- You must be given the opportunity to wash your clothes.*
- You may use and wear your own personal articles.*
- You must have access to a reasonable amount of secure storage space.*

*Some of your rights may be limited or denied for treatment, safety or other reasons. (See the rights with an * after them). Your wishes and the wishes of your guardian should be considered. If any of your rights are limited or denied, you must be informed of the reasons for doing so. You may ask to talk with staff about it. You may also file a grievance about any limits on your rights.

RECORD PRIVACY AND ACCESS

Under Wisconsin Statute sec. 51.30 and DHS 92, Wisconsin Administrative Code:

- Your treatment information must be kept private (confidential), unless the law permits disclosure.
- Your records may not be released without your consent, unless the law specifically allows for it.
- You may ask to see your records. You must be shown any records about your physical health or medications. Staff may limit how much you may see of the rest of your records while you are receiving services. You must be informed of the reasons for any such limits. You may challenge those reasons through the grievance process.
- After discharge, you may see your entire record, if you ask to do so. You may be charged for written copies.
- If you believe something in your records is wrong, you may challenge its accuracy. If staff will not change the part of your record you have challenged, you may put your own version in the record.

RIGHT OF ACCESS TO COURTS

- You may, instead of filing a grievance or at the end of the grievance process, or any time during it, choose to take the matter to court to sue for damages or other court relief if you believe your rights have been violated.
- If you have been placed against your will, you may ask a court to review your commitment or placement order.

GRIEVANCE RESOLUTION STAGES

Informal Resolution Process (Optional)

- An informal resolution may be possible, and you are encouraged to first talk with staff about your concerns. If it is possible, the client rights specialist or another staff member may utilize dispute mediation or conflict resolution processes to address your concerns. However, you do not have to do this before filing a formal grievance with your service provider.

Level I –Grievance Investigation

- If you want to file a grievance, you should do so within 45 days of the time you become aware of the problem. An extension of time beyond the 45-day time limit may be granted for good cause. **This time limit does not apply to your rights under DHS 124 or 42CFR 482.13. You may file your grievance verbally or in writing. If you file verbally, you must specify that you would like it to be treated as a formal grievance.**
- You may file as many grievances as you want. However, they will usually only be investigated one at a time. You may be asked to rank them in order of importance.
- A Client Rights Specialist will investigate your grievance and attempt to resolve it.
- Unless the grievance is resolved informally, the Specialist will write a report within 30 days from the date you filed the formal grievance. You will get a copy of the report.

Level II - Program Manager's Review

- The manager of the facility or the program providing your services will review the Specialist's report. If you and that manager are in agreement with the results of the report, any recommendations in it shall be put into effect. If there are disagreements, the manager shall issue a written decision within 10 days.
- You will be informed of how to appeal the program manager's decision if you disagree with it. You will have 14 days to appeal.

County Level Review

- If a county agency is paying for your services, there is an extra step available in the grievance process. You may appeal the Level II decision to the County Agency Director. The County Agency Director must issue a written decision within 30 days, with a possible extension of another 30 days.

Level III - State Grievance Examiner

- If your grievance went through the County Level Review and you are dissatisfied with the decision, then you may appeal it to the State Grievance Examiner. You have 14 days to appeal.
- If you are paying for your services yourself, or through insurance, then you may appeal the Level II decision directly to the State Grievance Examiner, skipping the County Level Review. You have 14 days to appeal.
- The address is: State Grievance Examiner, Division of Mental Health and Substance Abuse Services, PO Box 7851, Madison, WI 53707-7851.

Level IV - Final State Review

- Anyone directly affected by the Level III decision may request a final state review by the Administrator of the Division of Mental Health and Substance Abuse Services (DMHSAS) or designee. Any appeal to Level IV must be sent to the DMHSAS Administrator, PO Box 7851 Madison, WI 53707-7851, within 14 days.

You may talk with staff or contact your **CLIENT RIGHTS SPECIALIST**, whose name is shown below, if you would like to file a grievance or learn more about the grievance procedure used by the program from which you are receiving services.

Your Client Rights Specialist is:

You may also communicate your concerns directly to the Wisconsin Division of Quality Assurance, PO Box 2969, Madison, WI 53701-2969. Telephone number: 608-266-8481

If Medicare is paying for your services, you may also request review of your medical treatment by the peer review organization called MetaStar at 2909 Landmark Place, Madison, WI 53713

WISCONSIN DEPARTMENT OF HEALTH SERVICES

Division of Mental Health & Substance Abuse Services

www.dhs.wisconsin.gov

P-20195A (08/2010)

Wisconsin (2012): *Best Practices for the Informal Resolution of Grievances*. This document provides guidance for Client Rights Specialists on how to informally address client and staff grievances and concerns prior to using the formal provider or state administrative grievance processes.

Client

Department of Health Services
Division of Mental Health & Substance Abuse Services

Rights

<http://dhs.wisconsin.gov/clientrights/index.htm>

Office

Community Programs Training 2012

BEST PRACTICES FOR THE INFORMAL RESOLUTION OF GRIEVANCES

The informal resolution of patient grievances is an optional method of addressing grievances or concerns. Although it is not an appropriate option in all situations, when the informal process is selected it can offer a number of benefits to the client and the program agency, and it can be the most therapeutic method for addressing concerns that are raised in the grievance procedure.

The Client Rights Specialist should assess an initial grievance or concern for consideration, and invite the complainant to participate if appropriate. Things to consider for informal resolution include:

- Ability of client to communicate and comprehend the issues
- Ability of program or agency staff to communicate with the client
- The therapeutic opportunities to address the issue and find a resolution

Benefits:

- Improves relationships between client and other involved parties.
- Helps each party to appreciate the others' perspective on the issue.
- Models good communication skills for resolving issues and can be therapeutic for both the client and the other involved party.
- Reduces conflicts as well as paperwork.

Process:

1. Assess the complaint or concern for appropriateness to informally resolve it.
2. Invite the client to consider and participate in informal resolution.
3. If the client is interested, inform them of their rights in the process.
 - A. Timeframes are suspended during the informal resolution process.
 - B. The informal process is voluntary: all parties must agree to the informal resolution process.
 - C. Any party can stop the informal process if not satisfied, and may request the formal Grievance Resolution Procedure resume at any time. This request will not be contested, and will cause the timeframes for a Level I Program or Agency decision to resume at that time.

4. Engaging in the informal resolution of issues should be as therapeutic as possible, but clients should be made aware that the issues raised might have some interplay with their treatment. To foster trust and integrity, ask for the client's verbal consent before talking to any member of their treatment team about the issues raised in this process. Advise the client that they will need to be able to talk about the issues.
5. Give the client a copy of the document titled: **Informal Resolution Rights and Rules**, published by the Client Rights Office.

Facilitating a Meeting:

1. When facilitating a meeting between the client and the other involved party, be sure to create a non-threatening environment by balancing the number of parties on each side of the table and giving each party equal time to talk about their perspective.
2. At the beginning of a meeting, establish ground rules that all participants must follow to create a safe and respectful meeting, such as:
 - A. Only one person may speak at a time.
 - B. Participants must listen to others, even if they disagree.
 - C. Participants must wait until their turn to speak.
 - D. It is not okay to shout, pound on the table, or make threatening gestures.
 - E. Any person can leave the meeting at any time if they feel they cannot continue.
3. After each party has a turn to voice their own perspective on the conflict, then ask each party to rephrase the other party's stated perspective on the issue.
4. Direct the meeting participants to generate creative solutions to the issue, and to make individualized action statements about what they can do to resolve the issue, or possibly to prevent it from happening again.
5. At the closing of the meeting, ask each participant to write down and sign one or more thing they commit to do that will help resolve the issue, or to prevent it from happening again.
6. Conclude the meeting by thanking all the parties earnestly for their participation.

One-Text Procedure:

A one-text procedure can be used if the client or other parties are not able or willing to sit down together and calmly exchange perspectives or suggest solutions. The one text procedure is basically what occurs when a mediator or client rights specialist meets independently with each party and relays their concerns back and forth. This is a less confrontational approach that is well suited when emotions run high, when communication skills are limited, or when one or more of the parties are not able to follow the ground rules of a facilitated meeting.

This is also an effective way to begin a facilitation when one or more of the parties is not readily available to meet with the other. A one-text procedure can be used independently of facilitated meetings, or as a primer to a facilitated meeting. It is also a valuable method for assessing whether a client or their issue is appropriate for informal resolution.

Final Report:

If the informal proceedings result in a satisfactory resolution, write up a brief report describing the resolution and submit it to the program manager with copies to the client, and the other parties detailed in Wis. Admin. Rules DHS 94.40(3)(e).

Wisconsin (2012): *Conducting an Investigation*. This document outlines guidance for Client Rights Specialists to conduct an investigation and report on a complaint or grievance.

Client Rights Office

Department of Health Services
Division of Mental Health and Substance Abuse Services

<http://dhs.wisconsin.gov/clientrights/index.htm>

Community Programs Training 2012

CONDUCTING AN INVESTIGATION

INTRODUCTION

The Client Rights Specialist's (CRS's) main objective should be to resolve the underlying problem. If that can be accomplished, there may be no need to decide whether or not a rights violation occurred. If not, a formal investigation and decision will be necessary. This training document is designed to help new CRSs investigate complaints and write decisions.

Grievances need to be investigated as completely and objectively as possible. Fair and logical resolution of complaints is the goal. The CRS must establish if there has been a violation of patient rights or if there will be a violation if some remedial action is not taken.

It is essential that CRSs keep patient rights as the focus of the investigation. This is the most important way the CRS maintains his/her objectivity and safeguards the process from manipulation or abuse. Thus, regardless of who raises the issue, the CRS needs to focus on the rights involved.

The CRS has a complex job. The CRS identifies problems, analyzes facts, and evaluates evidence. The CRS talks with, questions and listens to staff and clients -- making good communication skills an obvious essential. The investigator educates, arbitrates, and conciliates, trying to ensure communication between all relevant individuals whose participation is needed to resolve a grievance. The CRS makes decisions and documents those decisions. In the grievance procedure, the CRS is the central figure.

A good investigator relies heavily on initiative, imagination, flexibility, and the principle of trial and error. It is impossible to substitute "rules of investigation" for these qualities. Often, an investigator does not know what s/he is looking for until s/he finds it. For very important issues, it is vital to pursue every possible logical avenue.

The investigator must be accessible to clients. S/he must know the provider agency s/he must know the pertinent law. The investigator must work to develop trust with the staff and clients.

STEPS IN FORMALLY INVESTIGATING A COMPLAINT

A. IDENTIFYING THE PROBLEM - INTERVIEWING THE COMPLAINANT

1. Introduce yourself and your role in the situation.
2. Describe the grievance process (stages, right of appeal, etc).

3. Ask the complainant for all the information you need from him/her:
 - a. **What** happened (chronologically, clearly and completely)
 - b. **Who** is involved (include witnesses' names)
 - c. **Where** it happened
 - d. **When** it happened and/or how often
 - e. **What**, if any, prior solutions have been tried.
 - f. Any available **evidence**? (treatment plan, incident report, request form, etc.)
4. Restate the problem and ask for feedback.
5. Clarify anything that is unclear and fill in any gaps in information.

B. ANALYZE THE PROBLEM AND PREPARE FOR INVESTIGATION

1. Categorize the complaint:
 - a. Which right is involved?
 - b. What is needed to satisfy or protect the right for this individual or situation?
 - c. Can that right be restricted by law?
 - d. Is the restriction appropriate in this situation?
2. Identify relevant components:
 - a. Cause of the complaint
 - b. Chronology of events
 - c. People involved
 - d. Relevant sources of information
 - e. Information gaps that may require research
 - f. Areas of potential change
 - g. Any obstacles to resolution of the problem
3. Develop an investigative plan:
 - a. Who do you want to interview?
 - b. What personal observation should be done? (visit scene?)
 - c. What information is needed to fill any gaps?
 - d. How can obstacles be overcome?
 - e. Know what facts you will be relying on – decide how to verify them.

C. INTERVIEWING WITNESSES

1. Interview all witnesses and involved parties:
 - a. Introduce yourself and your role
 - b. Explain what you want to know and why
 - c. Consider motives and attitudes of the interviewee
 - d. Be attuned to nonverbal cues
 - e. Solicit possible solutions to the underlying problem (when relevant)
 - f. End the interview when goal is reached or when it becomes clear that it will not be possible to reach the goal
 - g. Take notes - **do not rely on memory**

2. Interviewing skills:
 - a. Don't make up your mind before reviewing the facts
 - b. Be tolerant and conciliatory, when possible, with witnesses who may be hostile, skeptical, or disinterested
 - c. Use your communication skills to encourage witnesses to discuss the situation openly.
3. After the interview:
 - a. Record your personal feelings and reactions – but label them as such
 - b. Record your perceptions of non-verbal cues
 - c. Distinguish between facts/ hearsay/ opinions
 - d. Note whether information substantiates or refutes previous testimony.

D. CONDUCTING THE REST OF THE INVESTIGATION

1. Personally observe the situation yourself (when relevant)
2. Look at records, such as the client treatment record, when necessary
3. Assess impact on other similarly situated patients
4. Assess the application of any relevant division or institute policies
5. Use available research tools such as:
 - a. Consult with CRO staff
 - b. Review precedents in the Community Decision Digest
 - c. Review other legal documents
 - d. Consult resources such as the library or Internet

E. ANALYZING THE EVIDENCE

1. Evidence is whatever tends to **prove or disprove** a fact.
2. Evaluate the testimony (verbal evidence)
 - a. Different people always have different versions of events. Inconsistent versions of the same event do not necessarily indicate bad faith or lying.
 - b. Any person's version is usually only **one piece** of the puzzle.
 - c. Separate each person's **opinions** from the **facts**.
 - d. Weigh each witness's **credibility** with regard to the issue at hand:
 - (1) Were they in a position to actually witness the events?
 - (2) Is the person generally reliable?
 - (3) Do they have any reason not be truthful about this matter?
 - (4) Was their testimony consistent?
 - (5) Was there any corroborating evidence?
3. Evaluate the **physical evidence**

- a. Are there any physical traces of the events?
 - b. Is the evidence relevant?
 - c. Does the evidence tend to prove or disprove any facts involved?
4. Do you have all the evidence? Or do you need to do more investigating?

F. REACHING CONCLUSIONS

1. Determine the **burden of proof** (Is the burden on the facility or the patient?)
2. Decide which **facts** you can "find"
3. Use the formula: **FACTS + LAW = CONCLUSIONS** (outcome)

The CRS's report should reflect the above process. It should present the complaint in brief and make clear the issues that determine the outcome of the grievance. The facts established by the investigation may be presented in narrative style. However, the sources of facts which are material to the outcome must be included.

Also, when the CRS has made an assessment of credibility in order to resolve conflicts between evidence, the reasons that a particular account was considered credible or not must be given (using factors such as those listed above under "analyzing the evidence"). It is not essential to have a separate "findings" section, however, findings of fact and the bases for those findings should be clear.

The report should set out the law, policies and grievance precedents that are relevant to the issue(s) raised. These laws, policies and precedents should then be applied to the findings of fact so that a conclusion can be reached.

The report must conclude either that a violation of patient rights did occur (i.e., that it is more likely than not that a violation occurred) or will occur without remedial action, that no violation of patient rights was found, or that the CRS was unable to substantiate the complaint. Finally, the report should include any and all appropriate recommendations to remedy any present violation(s), prevent future violations, or make the provider agency's policy and practice more consistent with patient rights.

For follow-up, unless a Level I decision has been appealed and overturned at a higher stage of the grievance procedure, the CRS is responsible for following up on the implementation of any recommendations made at Level I.

Finally, the grievance report at every level in the procedure **must include information about how to appeal the decision to the next level**. This may be done by briefly explaining the client's right to appeal, including the timeframes required to do so, and instructions about how to appeal. Many agencies and counties instruct the client to write or call the CRS who issued the report to inform them of their wish to appeal the decision. It is also appropriate to inform the client of who to contact at the next level of appeal, and how to do so. Appeals are best handled in writing, but if doing so via telephone or other means is necessary for accessibility then that is also acceptable to continue in the grievance procedure.

Summaries of Grievance Approaches in Arizona, Virginia and Wisconsin

ARIZONA

The **Bureau of Consumer Rights** (<http://www.azdhs.gov/bhs/bcr.htm>) within the Arizona Division of Behavioral Health Services (ADHS) is responsible for protecting the rights of all consumers receiving behavioral health services in the state. There are four components to the consumer rights system.

- The Office of Customer Service receives complaints or concerns about providers or care generally, and helps to resolve them informally. A consumer or concerned person may opt to use the Regional Behavioral Health Authority's (RBHA) complaint process or contact the state's Office of Customer Service.
- The Office of Grievance and Appeals oversees the administrative appeals and grievances processes. There is a 1 page, state-based form that consumers can use to file their appeals or grievances. All processes begin by filing an appeal or grievance with the RBHA (or to ADHS for abuse and death cases) to make an initial decision. The consumer has additional recourse to appeal the RBHA decision, including the right to access a state fair hearing.
- The Office of Human Rights provides free advocacy assistance to individuals with a Serious Mental Illness, ranging from the dissemination of advocacy materials to direct representation of individuals. This Office's highest priority is to provide direct representation to "individuals in need of special assistance," SMI individuals who have been clinically assessed as being unable to understand or exercise their rights due to a cognitive impairment or behavioral health condition. This population is the system's most vulnerable. There are 16 staff members, with sites in Phoenix, Flagstaff and Tucson, to serve the entire state.
- Human Rights Committees. By design, there are seven human rights committees across the state, one in each behavioral health region. They are statutorily created, and composed of qualified volunteers (consumers, parents/family, professionals) that serve as an independent oversight body for the behavioral health system. They are routinely provided access to records in a redacted format for all reportable incidents/accidents, seclusions/restraints, and grievances. Additionally, the Committees are charged with conducting site visits of the residential facilities in which SMI clients are residing.

Arizona maintains a centralized repository for grievances and appeals in which RBHAs report all grievances and appeals into a state-maintained portal within 3 days of filing. The state mandates reporting and process requirements via its contracts with the RBHAs. This provides very timely data surrounding statewide trends, and permits the state to monitor the timeliness and resolution of the cases managed by their contractors.

VIRGINIA

The Virginia **Office of Human Rights** (<http://www.dbhds.virginia.gov/OHR-default.htm>), Department of Behavioral Health and Developmental Services, oversees protection of rights for those in services or facilities operated, licensed or funded by the Department under Virginia Statute (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+37.2-400>) and detailed in its Administrative Code (<https://www.dbhds.virginia.gov/documents/HumanRights/OHR-RevisedRegulations.pdf>).

Under Virginia's rights rules, all providers must have an identifiable person on staff to assist consumers with exercising their rights and resolving complaints. Additionally, there is a mandated competency-based training on rights/grievances regulations that must be conducted annually and maintained in a person's employment file. The Office of Human Rights also employs Human Rights Advocates to assist consumers and providers with complaints and advocate for the consumer's rights if they are not comfortable with the service or facility grievance process.

Virginia also maintains an oversight system that is independent of both providers and the state. It has a Statewide Human Rights Committee, consisting of volunteers who serve an oversight role to review training programs, monitor enforcement of regulations, review appeals to complaints, and other issues. There are also Local Human Rights Committees, who play a similar role in reviewing consumer complaints that are not resolved at the provider level, make recommendations for changes, and review program policies. ALL providers in Virginia are affiliated with a Local Human Rights Committee.

The Office has the following forms:

- A statewide abuse/neglect allegation form (<https://www.dbhds.virginia.gov/documents/HumanRights/ohr-form-AbuseReport.pdf>) and a complaint form (<https://www.dbhds.virginia.gov/documents/HumanRights/ohr-form-CommunityComplaint.pdf>). It should be noted that these forms reflect information now gathered through an online portal that all providers must use. Allegations of abuse/neglect must be reported within 24 hours of their occurrence.
- A provider verification form, showing adherence to a "compliance checklist" with various rights-related requirements (<https://www.dbhds.virginia.gov/documents/HumanRights/ohr-form-Provider-Verification.pdf>)
- Quarterly and annual provider report forms documenting numbers and types of allegations of abuse/neglect and complaints, and whether or not there were violations, and if cases were closed. The report forms are provided to the human rights committees who may review and act on those reports. (<https://www.dbhds.virginia.gov/documents/HumanRights/ohr-form-ProviderAnnual-Reporting.pdf>)

WISCONSIN

The Wisconsin **Client Rights Office**, Department of Health Services, protects rights of all clients receiving services for mental illness, developmental disability, or substance abuse (it does not apply to emergency room treatment, nursing home residents or sole private practitioners). Details are provided in Wisconsin Administrative Rule DHS 94 (http://docs.legis.wisconsin.gov/code/admin_code/dhs/030/94).

There is a four stage review process in Wisconsin for client rights grievances:

Level I-A (program level): Client rights specialist assigned within 30 days (1 in emergency), and completed report in 30 days (5 in emergency). Client has 14 days to appeal.

Level I-B (program level): Program Manager responds to an appeal within 10 days. Client has 14 days to appeal.

Level II (county level review): If the county is paying for the client's care, the county reviews the program level decision and issues its decision within 30 days (10 in emergency). Any party may appeal within 14 days. (If no county involvement, this level is skipped.)

Level III (State level review): State Grievance Examiner reviews prior decisions and issues new review. Any party may appeal within 14 days.

Level IV (Final state review): Administrator at Division of Mental Health and Substance Abuse Services conducts review of all materials and issues final decision.

To facilitate grievance and rights processes, every covered service or provider/facility must have a Client Rights Specialist as required by administrative rule. The office also offers a model grievance process for covered service providers (<http://www.dhs.wisconsin.gov/clientrights/docs/main/dhs94GPmodel.pdf>). The Client Rights Office offers online training modules for Client Rights Specialists and patients/consumers (<http://www.dhs.wisconsin.gov/clientrights/Training.htm>), as well as guidance documentation for informal resolution of rights (<http://www.dhs.wisconsin.gov/clientrights/docs/training/InformalResolRightsRules.pdf>), guidance for Client Rights Specialists (<http://www.dhs.wisconsin.gov/clientrights/docs/training/ConductInvestgtns.pdf>), conducting investigations, and other guidance for providers to comply with grievance processes generally (<http://www.dhs.wisconsin.gov/clientrights/Training.htm>).

The state, by statute, has jurisdiction to immediately conduct investigations for grievances related to grievance processes and, in so doing, bypass provider level grievance processes.