

5122-14-11

Patient rights, participation and education.

~~(A)~~ The purpose of this rule is to:

- ~~(1) Require written policies and procedures for patient rights including a grievance procedure, and requirement of a patient rights advocate;~~
- ~~(2) Require policies and procedures about family and patient communication, patient abuse or denial of patient rights; and~~
- ~~(3) Require written policies and procedures regarding how patients are educated about and involved in their care or services and in care decisions.~~

~~(B)~~ The provisions of this rule are applicable to each inpatient psychiatric service provider licensed by the department.

~~(C)~~(A) In addition to the definitions appearing in rule 5122-14-01 of the Administrative Code, the following definitions apply to this rule:

- (1) "Client rights specialist" means the individual designated by the inpatient psychiatric service provider with responsibility for assuring compliance with the patient rights and grievance procedure rule.
- (2) "Grievance" means a written complaint initiated either verbally or in writing by a patient or by any other person or agency on behalf of a patient regarding denial or abuse of any patient's rights.
- (3) "Reasonable" means a standard for what is fair and appropriate under usual and ordinary circumstances.
- (4) "Services" means the complete array of professional interventions designed to help a person achieve improvements in mental health such as counseling, individual or group therapy, education, community psychiatric supportive treatment, assessment, diagnosis, treatment planning and goal setting, clinical review, psychopharmacology, discharge planning, professionally-led support, etc.

~~(D)~~(B) Each patient shall have the following ~~twenty-two~~ rights ~~which are the same as or similar to those that are described in rule 5122-26-18 of the Administrative Code for an individual receiving mental health services from a community mental health center~~, as well as the additional rights listed in paragraph ~~(E)~~(C) of this rule:

- (1) Each person who accesses mental health services is informed of these rights:

- (a) The right to be informed within twenty-four hours of admission of the rights described in this rule, and to request a written copy of these rights;
 - (b) The right to receive information in language and terms appropriate for the patient's understanding; and
 - (c) The right to request to speak to a financial counselor.
- (2) Services are appropriate and respectful of personal liberty:
- (a) The right to be treated in a safe treatment environment, with respect for personal dignity, autonomy and privacy, in accordance with existing federal, state and local laws and regulations;
 - (b) The right to receive humane services;
 - (c) The right to participate in any appropriate and available service that is consistent with an individual service/treatment plan, regardless of the refusal of any other service, unless that service is a necessity for clear treatment reasons and requires the person's participation;
 - (d) The right to reasonable assistance, in the least restrictive setting; and
 - (e) The right to reasonable protection from physical, sexual, or emotional abuse or harassment.
- (3) Development of service/treatment plans:
- (a) The right to a current individualized ~~service~~/treatment plan (~~ISP~~/ITP) that addresses the needs and responsibilities of an individual that specifies the provision of appropriate and adequate services, as available, either directly or by referral; and
 - (b) The right to actively participate in periodic ~~ISP~~/ITP reviews with the staff including services necessary upon discharge.
- (4) Declining or consenting to services:
- The right to give full informed consent to services prior to commencement

and the right to decline services absent an emergency.

(5) Restraint or seclusion.

The right to be free from restraint or seclusion unless there is imminent risk of physical harm to self or others.

(6) Privacy:

(a) The right to reasonable privacy and freedom from excessive intrusion by visitors, guests and non-hospital surveyors, contractors, construction crews or others; and

(b) The right to be advised of ~~an~~ and refuse observation by techniques such as one-way vision mirrors, tape recorders, televisions, movies, or photographs, or other audio and visual recording technology. This right does not prohibit a hospital from using closed-circuit monitoring to observe seclusion rooms or common areas, ~~which does not include~~ but closed circuit monitoring shall not be utilized in patient bedrooms and bathrooms.

(7) Confidentiality:

(a) The right to confidentiality unless a release or exchange of information is authorized and the right to request to restrict treatment information being shared; and

(b) The right to be informed of the circumstances under which the hospital is authorized or intends to release, or has released, confidential information without written consent for the purposes of continuity of care as permitted by division (A)(7) of section 5122.31 of the Revised Code.

(8) Grievances:

The right to have the grievance procedure explained orally and in writing; the right to file a grievance with assistance if requested; and the right to have a grievance reviewed through the grievance process, including the right to appeal a decision.

(9) Non-discrimination:

The right to receive services and participate in activities free of discrimination on the basis of race, ethnicity, age, color, religion, gender, national origin, sexual orientation, physical or mental handicap, developmental disability, genetic information, human immunodeficiency virus status, or in any manner prohibited by local, state or federal laws.

(10) No reprisal for exercising rights:

The right to exercise rights without reprisal in any form including the ability to continue services with uncompromised access. No right extends so far as to supersede health and safety considerations.

(11) Outside opinions:

The right to have the opportunity to consult with independent specialists or legal counsel, at one's own expense.

(12) No conflicts of interest:

No inpatient psychiatric service provider employee may be a person's guardian or representative if the person is currently receiving services from said provider.

(13) The right to have access to one's own psychiatric, medical or other treatment records, unless access to particular identified items of information is specifically restricted for that individual patient for clear treatment reasons in the patient's treatment plan. If access is restricted, the treatment plan shall also include a goal to remove the restriction.

(14) The right to be informed in advance of the reason (s) for discontinuance of service provision, and to be involved in planning for the consequences of that event.

(15) The right to receive an explanation of the reasons for denial of service.

~~(E)~~(C) In addition to the rights listed in paragraph (D) of this rule, each consumer residing in an inpatient psychiatric hospital shall have the following sixteen rights:

(1) Each consumer of mental health services are informed of these rights:

(a) The right to receive humane services in a comfortable, welcoming, stable and supportive environment; and

- (b) The right to retain personal property and possessions, including a reasonable sum of money, consistent with the person's health, safety, service/treatment plan and developmental age.

(2) Development of service/treatment plans:

The right to formulate advance directives, submit them to hospital staff, and rely on practitioners to follow them when within the parameters of the law.

(3) Labor of patients:

The right to not be compelled to perform labor which involves the operation, support, or maintenance of the hospital or for which the hospital is under contract with an outside organization. Privileges or release from the hospital shall not be conditional upon the performance of such labor.

(4) Declining or consenting to services:

- (a) The right to consent to or refuse the provision of any individual personal care activity and/or mental health services/treatment interventions; and
- (b) The right, when on voluntary admission status, to decline medication, unless there is imminent risk of physical harm to self or others; or
- (c) The right when hospitalized by order of a probate or criminal court to decline medication unless there is imminent risk of harm to self or others, or through an order by the committing court, except that involuntary medication is not permitted, unless there is imminent risk of harm to self or others, for persons admitted for a competency evaluation under division (G)(3) of section 2945.371 of the Revised Code or admitted for sanity evaluation under division (G)(4) of section 2945.371 of the Revised Code. The inpatient psychiatric service provider shall provide the opportunity for informed consent.

(5) Privacy, dignity, free exercise of worship and social interaction:

The right to enjoy freedom of thought, conscience, and religion; including religious worship within the hospital, and services or sacred texts that are within the reasonable capacity of the hospital to supply, provided that no patient shall be coerced into engaging in any religious activities.

(6) Private conversation, and access to phone, mail and visitors:

- (a) The right to communicate freely with and be visited at reasonable times by private counsel or personnel of the legal rights service and, unless prior court restriction has been obtained, to communicate freely with and be visited at reasonable times by a personal physician or psychologist;
- (b) The right to communicate freely with others, unless specifically restricted in the patient's service/treatment plan for reasons that advance the person's goals, including, without limitation, the following:
 - (i) The right of an adult to reasonable privacy and freedom to meet with visitors, guests, or surveyors, and make and/or receive phone calls; or the right of a minor to meet with inspectors, and the right to communicate with family, guardian, custodian, friends and significant others outside the hospital in accordance with the minor's individualized service/treatment plan;
 - (ii) The right to have reasonable access to telephones to make and receive confidential calls, including a reasonable number of free calls if unable to pay for them and assistance in calling if requested and needed. The right of a minor to make phone calls shall be in accordance with the minor's individualized service/treatment plan; and
- (c) The right to have ready access to letter-writing materials, including a reasonable number of stamps without cost if unable to pay for them, and to mail and receive unopened correspondence and assistance in writing if requested and needed subject to the hospital's rules regarding contraband. The right of a minor to send or receive mail shall also be subject to directives from the parent or legal custodian when such directives do not conflict with federal postal regulations.

(7) Notification to family or physician:

The right to have a physician, family member or representative of the person's choice notified promptly upon admission to a hospital.

~~(F)~~(D) Each inpatient psychiatric service provider shall provide a patient right advocate~~(s)~~ to safeguard patient rights. The client rights specialist or a designee~~(s)~~ shall:

- (1) Be appropriately trained and knowledgeable in the fundamental human, civil,

constitutional and statutory rights of psychiatric patients including the role of the Ohio protection and advocacy system (disability rights Ohio) legal rights service;

- (2) Ensure that the patient, and as appropriate, the patient's family members, significant others, and the patient's legal guardian, are informed about patient rights, in understandable terms, upon admission, and throughout the hospital stay. Treatment staff shall also work with patient to assist them in understanding and exercising patient rights. For any person who is involuntarily detained, the inpatient psychiatric service provider shall, immediately upon being taken into custody, inform the person orally and in writing of ~~his/her~~their rights described in division (C) of section 5122.05 of the Revised Code;
 - (3) Be accessible in person during normal business hours, and during evenings, weekends, and holidays as needed for advocacy issues. The name, title, location, hours of availability, and telephone number of the client rights specialist along with a copy of the client rights and grievance procedure as set forth in this rule shall be posted in an area available to the patient, and made available to the patient's legal guardian if any, and the patient's family and significant others, upon request at all times;
 - (4) Assist and support patients, their family members, and significant others in exercising their legal rights and representing themselves in resolving complaints. This shall include providing copies of the inpatient psychiatric service provider's policies and procedures relevant to patient rights and grievances upon request, and assistance with the grievance procedure. This shall also include assistance in obtaining services of the Ohio protection and advocacy system (disability rights Ohio) legal rights service in accordance with sections ~~5123.60 to 5123.604~~5123.60 to 5123.601 of the Revised Code, and assistance in obtaining access to or services of outside agencies or resources upon request;
 - (5) Not be a member of the patient's treatment team and not have clinical management or care responsibility for the patient for whom he or she is acting as the patient rights advocate; and
 - (6) Maintain a log available for department review of patient grievances, including all allegations of denial of patient rights as identified by patients, family members of patients, significant others or other persons.
- ~~(G)~~(E) Each inpatient psychiatric service provider shall ensure that its staff members are knowledgeable about patient rights and referral of patients to the patient rights

advocate.

~~(H)~~(F) Each inpatient psychiatric service provider shall ensure that patients and families of patients participate in an advisory capacity related to programming and relevant policies and procedures.

~~(H)~~(G) Each inpatient psychiatric service provider shall ensure that patient and family education is an interdisciplinary and coordinated process, as appropriate to the patient's treatment plan, consistent with patient confidentiality and documented in the medical record. Education shall incorporate appropriate members of the treatment team, types of materials, methods of teaching, community educational resources, and special devices, interpreters, or other aids to meet specialized needs.

~~(H)~~(H) Each inpatient psychiatric service provider shall obtain the informed consent of a patient ~~and~~/or when appropriate, a guardian, for all prescribed medications that have been ordered, except in an emergency, and for those medical interventions as referenced in and in accordance with division (A) of section 5122.271 of the Revised Code.

(1) Each inpatient psychiatric service provider shall ensure that the patient and legal guardian, when legally appropriate, receives written and/or oral information in a language and format that may be standardized and that is understandable to the person receiving it.

(a) Information shall include the anticipated benefits and side effects of the intervention, including the anticipated results of not receiving the intervention, and of alternatives to the intervention.

(b) Persons served shall be given the opportunity to ask questions, seek additional information and provide input before the intervention or medication is administered/dispensed.

(c) Documentation shall be kept in the patient's medical record regarding the patient's participation in this process, including the patient's response, objections, and decisions regarding the medication or medical intervention. Such documentation may be accomplished through a notation from an appropriate professional staff person, signature of the patient ~~and~~/or guardian, or other mechanism.

(2) For purposes of informed consent specific to medication, each psychiatric inpatient service provider shall ensure that the patient and parent or legal guardian when legally appropriate receives written and/or oral information

from a physician, registered nurse, ~~and~~ or registered pharmacist.

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