

Patient Rights and the Grievance Procedure

for People Receiving Mental Health Services

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INTRODUCTION

As a recipient of mental health services at ProMedica Flower Hospital, under the direction of The Ohio Department of Mental Health, you are guaranteed certain basic rights. The psychiatry department wants you to know and understand your rights. Your spouse, family member, significant other, guardian, or parent will also be informed of your rights. In some instances, one of the other may act on your behalf.

Purpose of This Booklet

This booklet describes your rights under Ohio law and the ProMedica Flower Hospital grievance process.

The grievance process is a way to try to correct problems you see in the mental health system or to find resolution when you feel your rights have been violated.

This booklet lists those rights to which you are entitled, limited only by statute, rule or court decision. Limitations must be documented in your treatment plan. For more information, please contact the Patient Advocate or Care Line at 419-824-5558 at ProMedica Flower Hospital.

If you are a victim of a crime (including physical or sexual abuse), there are additional legal protections and things you can do. We can assist you with finding the appropriate resources.

The numbers referred to in this booklet are the section(s) of the Ohio Revised Code (ORC), which talk about your rights under Ohio law. They are included so that you can advocate for yourself by knowing your legal rights.

Patient Advocacy

ProMedica Flower Hospital provides a patient advocate to help you with complaints, problem resolution and to promote and protect your rights.

Patients, family members, significant others, guardians, or parents will be assisted and supported in exercising their legal rights.

While this type of advocacy is important, problems may arise when you feel the advocate is having difficulty in seeing what you want done or understanding the problem.

Disability Rights Ohio (DRO), an independent state agency, provides external advocates, meaning they are not tied into the mental health system or hospital in any other way than to work to protect your rights. DRO represents only your point of view and wishes. As the expert in what you need, you are your own best advocate.

If you, your spouse, family members, guardian, or parent need assistance in advocating your rights, or you think your rights have been violated, please contact:

1. Care Line
ProMedica Flower Hospital
5200 Harroun Rd.
Sylvania, OH 43560
419-824-5558
2. Ohio Department of Mental Health
State Office Tower, 11th floor
30 East Broad Street
Columbus, OH 43215
3. Disability Rights Ohio
8 East Long Street, 5th floor
Columbus, OH 43266-0523
1-800-282-9181

The above-named reporting areas do not preclude your right to seek legal counsel.

Involvement in Policy/Procedure and Planning of Mental Health Services

By State law, and Ohio Department of Mental Health Licensure rules (ODMH), we are required to consider the ideas of and involve people who are receiving or have received mental health services at ProMedica Flower Hospital in the planning, evacuation, delivery, and operation of our services. ORC § 5119.06 (A) (10)

When ProMedica Flower Hospital writes or changes any rules, regulations, standards, or guidelines which have an impact on the delivery of our mental health services, we consult with those people who are receiving or have received mental health services, or who may be affected. We do this in order to get your ideas and opinions. ORC § 5119.06 (A) (11)

This is done through the Patient Advisory Board, who meets with hospital Administration on a quarterly basis. If you would like to be involved with the Advisory Board, please contact 419-824-1545.

PSYCHIATRIC SERVICES

Private Psychiatric Hospitalization

There are two ways people get into psychiatric hospitals. First, anyone 18 years or older, who believes that she/he would benefit by a stay in a psychiatric hospital, can request voluntary admission. Second, people can be admitted into a hospital against their will.

You cannot be denied any service based solely on race, ethnicity, creed, national origin, age, handicap, lifestyle, source of payment for care, any medical condition that can be taken care of on the psychiatric unit, or legal status as a voluntary or involuntary patient. No individual shall be excluded from participation in, denied the benefits of or be subjected to discrimination from any program or activity on the basis of a physical or mental handicap.

If You Are Held Against Your Will (Involuntary Admission)

If you are taken to a hospital against your will, you have the right to notice immediately upon involuntary detention and the right to hearings. These include the following:

- A. The right to immediately make a reasonable number of telephone calls or use other reasonable means to contact an attorney, a physician, a licensed clinical psychologist or to contact some other person or persons to secure representation by counsel or to obtain medical or psychological assistance, and be provided assistance in making calls, if such assistance is needed and requested;
- B. You have a right to hire your own lawyer. If you can't afford a lawyer, the court will appoint one to work with you or you have the right to request a Legal Aide attorney and/or representative by the Disability Rights Ohio;
- C. You have the right to an independent expert evaluation of your mental condition. If you can't afford this evaluation, it must be provided, with no charge to you;
- D. You have a right to a hearing where a judge or referee will decide whether or not you will be labeled mentally ill and found to be in need of hospitalization by court order;
- E. The right to have a probable cause hearing conducted within three court days from the day on which you requested such hearing after involuntary detention;
- F. The right to have probable cause hearing delayed by the court upon request by you, your counsel or the physician
- G. The right to have a full hearing within 10 days from the probable cause hearing, if you request such a hearing;
- H. The right to request a full hearing every 180 days after the expiration of the first 90-day period, while you are involuntarily committed;
- I. The right to a mandatory hearing at least every two years after the expiration of the first 90-day period and on the initial application for continued commitment;
- J. The right to attend all hearings.

Civil Commitment

In order to commit you, the court must find clear and convincing evidence, that you meet the legal definition of mental illness and are believed to be in need of hospitalization by court order (you must be an immediate danger to yourself or others). If the court makes this determination, it will commit you to the county board of mental health. The board may place you in:

- a state-operated psychiatric hospital;
- a private hospital;
- the veteran's administration or other federal agency;
- a community mental health board or agency the board assigns;
- private psychiatric or psychological care and treatment; or
- any other suitable facility or person consistent with the diagnosis, possible outcomes (prognosis) and treatment needs.
ORC § 5122.15 (C) (1-6)

In determining placement, the board must consider the least restrictive environment, meaning you should be provided services in a place that offers the greatest possible freedom in light of the alleged treatment needs. ORC § 5122.5 (E)

(The court may order you directly to a state hospital, not the MH board, only if you are involved with the criminal justice system and are found incompetent to stand trial, found not guilty by reason of insanity [NGRI], in prison, or a child referred by the Department of Youth Services.)

Your Rights

If you are civilly committed to the hospital, you have a right to:

- A. receive, within 24 hours of admission, both medical and psychiatric evaluations, a current treatment plan and to be told the expected outcome when these services are provided. You will also receive a psychiatric diagnosis;
- B. receive copies of the written treatment plan, if requested;
- C. receive treatment according to the treatment plan (the plan must meet the standards set by the Ohio Department of Mental health, as well as other national standards);
- D. have the treatment plan evaluated at least every 90 days;
- E. be provided with adequate medical treatment for physical disease or injury;
- F. receive humane care and treatment, including without the limitation:
 - treatment in the least restrictive environment;
 - the necessary facilities and personnel in order to meet the needs and goals described in the treatment plan;
 - a humane psychological and physical environment;
 - the right to current information concerning the treatment program in easily understandable language;
 - the right to participate in programs that give you a real opportunity to learn skills so that you will be able to return to the community or end the involuntary commitment;
 - the right to be free from unnecessary or too much medication;
 - the right to be told your legal rights within 24 hours of admission.

The Least Restrictive Environment

If, at any time during the court-ordered commitment period, it is determined by the hospital, agency or board that your treatment needs could be met in a less restrictive environment (place that gives you more freedom) equally well, you must be released from the place that no longer meets your needs. The courts will be notified. The courts must either dismiss the case or order placement in less restrictive environment. ORC § 5122.15 (F)

You should be hospitalized only if you are an immediate and significant danger to yourself or to others. If you are not, you should be released.

Signing a Voluntary

If you are involuntary committed (except if you have been found not guilty by reason of insanity or incompetent to stand trial), you may, at any time, apply for voluntary admission to the hospital to which you are committed.

The policy of the Ohio Department of Mental Health is to favor voluntary requests. When you are in a private psychiatric hospital, want to leave and your voluntary request has been accepted, you can try to leave by writing a “three-day” letter and giving it to a staff person. This means that the hospital medical director has three court days, from the time you hand in your letter, to either release you or file an affidavit with the probate court to request a court hearing to determine if you meet the definition of “mentally ill by court order.” If the hospital files papers, a hearing must be held within five court days.

Your Rights

First and foremost – you have the right to be treated with respect and dignity. You have the right to treatment, regardless if you are voluntarily admitted or court ordered. These rights include, but are not limited to:

1. The right to a humane psychological and physical environment;
2. The right to be treated with consideration and respect for privacy and dignity, including the right to be safe and protected from abuse and neglect;
3. The right to adequate treatment in the least restrictive environment appropriate to your needs;
4. The right to a current, written, individualized treatment plan, the right to accept or reject any service, treatment or therapy after you have been given a full explanation of the risks and benefits;
5. The right to informed participation in establishing your treatment plan, the right to participate in any service that meets your needs, even if you refuse other services addressing mental and physical health, social and financial needs and describing who will provide these services and how they will be provided in a way that meets your needs;
6. The right to freedom from restraint or seclusion, unless required by psychiatric or medical needs;
7. The right to freedom from unnecessary or excessive medication;
8. The right to periodic information concerning your condition and progress;
9. The right to be informed of any treatment or therapy, including expected physical and medical consequences;
10. The right to have the opportunity to consult with independent specialists and counsel;
11. The right to be informed that surgery or convulsive therapy may only be performed with your fully informed consent or that of your guardian and approval of the probate court, unless a life threatening medical emergency exists; you have the right to be informed of and to refuse any unusual or dangerous treatment procedures;

12. The right to be informed that without specific court authorization, no compulsory medical, psychological or psychiatric treatment may be applied to you if you are being treated by spiritual means through prayer alone in accordance with a recognized method of healing, unless there is substantial risk of physical harm to yourself or others or unless a life threatening medical emergency exists;
13. The right to be informed that the use and disposition of products of observation and audiovisual techniques, such as one-way vision mirrors, tape recorders, television, movies, or photographs may not be used unless written consent has been given to you or obtained from parent or guardian.

You have the right to communicate freely with and be visited at reasonable times by the following:

1. Your legal counsel;
2. Personnel of the Disability Rights Ohio; and
3. Your personal physician or psychologist, unless prior court restriction has been obtained.

You have the right to communicate freely with others, unless specifically restricted in your treatment plan for clear treatment reasons **, including without limitation the following:

1. The right to receive visitors at reasonable times; and
2. The right to have reasonable access to telephones to make and receive private calls. This includes a reasonable number of free calls if you can't pay for them, and help making calls if you need and want it.

** Clear treatment reason means: that staff believes exercising this right will create a great risk of physical harm to you or others, or it will make effective treatment impossible. If a right is withheld for clear treatment reasons, the treatment plan must clearly identify the plan to eliminate the restriction or withholding of the right at the earliest possible time.

You have the right to have ready access to letter writing materials and stamps, including a reasonable number of stamps without charge if you can't pay for them. No one should open mail you send or receive. Someone should help you if you ask for help with reading or writing your mail.

You have the right to personal privileges, consistent with health and safety factors. These rights include, but are not limited to:

1. The right to wear your own clothing and maintain your own personal effects;
2. The right to maintain your personal appearance according to individual taste, including head and body hair;
3. The right to keep and use personal possessions, including toilet articles – harmful items may be restricted;
4. The right to have access to individual storage space for your private use;
5. The right to keep and spend a reasonable sum of money for expenses and small purchases;
6. The right to read and possess reading materials without censorship, limited only by the clear and present danger to the safety of others.

You have the right to absolute confidentiality, unless court ordered or if you sign a Release of Information form permitting disclosure of all or part of your record;

1. The right to see all parts of your records, including psychiatric and medical records. Access can be restricted only for clear treatment reasons, meaning that reading the records will cause you severe emotional damage resulting in the immediate risk of dangerous behavior toward yourself or someone else. Only specific parts of the chart can be restricted, with the reasons clearly documented in your service plan. However, you may give permission to any person you choose (friend, family member, advocate) to look at all parts of your record;
2. The right to have a clear explanation when any services are denied;
3. The right not to be discriminated against in the provision of service on the basis of religion, race, color, creed, sex, national origin, age, lifestyle, physical or mental handicap, developmental disability, or inability to pay;
4. The right to know the costs of services;

5. The right to be fully informed of all rights;
6. The right to exercise and any all rights without being threatened or punished in any way, including being denied services.

Your other rights include, but are not limited to:

1. The right to social interaction with members of either sex, subject to adequate supervision, unless such social interaction is specifically withheld for clear treatment reasons;
2. The right to reasonable privacy, including periods and places of privacy;
3. The right to confidentiality in accordance with state law;
4. The right to have your personal possessions preserved and safeguarded;
5. The right to use your personal funds for your own personal benefit;
6. The right to be informed of the reasons for your admission to an institution, discharge procedures and to be involved in your own post-discharge plans;
7. The right to free exercise of religious worship;
8. The right to refuse to perform labor which involves the operation, support or maintenance of the institution. (You are expected to perform tasks of a personal housekeeping nature.);
9. The right to have your presence brought to the attention of your spouse, guardian, next-of-kin, or other responsible person(s) designated by you, with your consent, after admission to an institution if you are a voluntary patient;
10. The right to receive assistance in making and presenting a request for release if you are a voluntary patient;
11. The right to apply for voluntary admission at any time;
12. The right to pursue a writ of habeas corpus; and
13. The right to receive assistance from your patient advocate when, in your opinion, you rights have been violated.

Your Civil Rights

Your civil rights are guaranteed by law. You are considered legally competent to retain those rights, benefits and privileges unless there has been a court decision of incompetence. These rights include, but are not limited to:

1. The right not to be deprived of public or private employment, solely by reason of your having received services, voluntary or involuntary, for a "mental" illness or other mental disability; and
2. The right to retain all rights not specifically denied you under the Ohio Revised Code, including the rights to contact; hold a professional, occupational or other motor vehicle operator's or chauffeur's license; marry or obtain a divorce, annulment or dissolution of marriage; make a will; vote; and sue and be sued.

Treatment Plan

Your treatment plan will consist of; ORC § 5122.01 (V)

- reasonable objectives and goals set by the treatment team,
- specific ways to measure how well these goals and objectives are being met,
- documentation that you have been an active participant in creating these goals and objectives.

The plan must be based on your needs. It must include services to be provided while in treatment and after discharge, including housing, financial and vocational services.

You have the right to be an active member of the treatment team, and should be treated as the expert in what you need. You should not just be called in after the treatment team meeting, told what the plan is and asked to sign it.

Emergency, Dangerous or Unusual Treatment

Emergency, dangerous or unusual treatment may be given if hospital staff believes you should have: ORC § 5122.271

- surgery
- convulsive therapy (electroshock or ECT)
- major aversive interventions (for example, depriving you of caffeine or cigarettes, forced time-out, applying unpleasant or restrictive limits on your behavior or your rights)
- any unusually hazardous treatment procedure.

You must be given all information, including expected physical and medical consequences, so that you can give fully-informed, intelligent and knowing consent. You have a right to refuse, talk with an independent specialist and/or with a lawyer.

If you have been found incompetent or the medical staff believes you can't physically or mentally understand information, a guardian can give consent to have the surgery done. If you do not have a guardian, and medical staff believes you can't physically or mentally understand information, a court can decide whether or not to order a surgery. In a medical emergency, if medical staff has not obtained a court order to perform surgery, they must immediately file an affidavit explaining why the surgery was performed.

Major aversive therapies cannot be used without your consent, unless you continue to be a danger to yourself or others, and other forms of therapy have been tried unsuccessfully.

Medication Issues

Private hospitals are required by the Ohio Department of Mental Health to have a policy on informed consent for medication.

If a doctor suggests you take medication you should:

- be given all the information about the medication, including the probable benefits, risks and “side effects,” and other treatments available;
- be able to make a decision about whether or not you want to take the suggested medication, based on having all the information, and your past experiences. You should not be threatened, bullied or punished if you choose not to take medication; and
- be considered mentally able to make a decision about whether or not you will take medication. Just because you are in a psychiatric hospital, does not mean you are incompetent or can not make decisions affecting your life.

This is the process of “Informed Consent,” where you make a decision:

1. Knowing all the information and possible choices,
2. Of your own free will, and
3. Because you have the ability to make a decision in this important area of your life.

Staff must get your written consent for medication.

If you are a voluntary patient, you have the absolute right to decide if you want to take medication. If you are an involuntary patient, you still have the right to accept or reject medication. If you are an involuntary patient, you still have the right to accept or reject medication (unless you are an immediate and substantial danger to yourself or others).

Releasing Information About You

All information (except court entries) must be kept confidential. It can only be disclosed under these conditions: ORC § 5122.31

- A. Hospital may release necessary medical information to insurers in order to receive payment;
- B. When there is a court order signed by a judge;

- C. You can see your psychiatric and medical records, unless access is specifically restricted in your treatment plan for clear treatment reasons;
- D. Records may be released between hospitals and community agencies providing mental health services to a person. Records are limited to: medication history, physical health status and history, financial status, summary of course of treatment, summary of treatment needs, and a discharge summary, if any;
- E. If the treating doctor believes disclosure of information to an involved family member would be helpful to you, a summary of the diagnosis and possible outcome and a list of the services and personnel available to assist may be given to that family member. However, no disclosure should be made if you object and until you are first notified, receive the information and agree.

The Grievance (Complaint) Process

The purpose of this grievance process is to provide a means for people who are hospitalized, to make complaints regarding care, treatment, living conditions, or the exercise of rights and to have those complaints heard and acted on in a timely manner. This also enforces the obligation of all staff to listen to and respond to your complaints.

You can tell any staff person your complaint. That staff person should act within 24 hours, telling you what was done and the conclusion. If the staff person is unable to resolve the grievance, she or he will notify the psychiatric director, clinical manager, and/or patient advocate. Or, you can talk directly to these people. They must act, either by talking to staff who can do something about your complaint or by investigating the situation and taking action. Within two working days, you should be notified of what was done or what will be done.

If you are not satisfied with this resolution, you can put your request in writing. You can write your complaint on your own, or you can ask the patient advocate or staff to help you. The patient advocate should find out if you are afraid of being threatened or hurt because you are filing the complaint. No one should be punished or threatened for filing a grievance. If you are afraid, the patient advocate must work to protect you.

This written grievance will be taken to the psychiatric department director/clinical manager. The director/clinical manager and patient advocate must each review your grievance within one working day. They should act promptly and do these things:

- A. If another person filed a grievance on your behalf, they will find out if you want the grievance worked on. If you don't, nothing further will be done.
- B. The director/clinical manager and the patient advocate will find out if you are safe. If you need protection, the director/clinical manager will act immediately. This may include: assigning a staff member to another unit, adjusting a staff member's duties or transferring you to another unit.
- C. The director/clinical manager will meet with you within five working days from the day you filed the grievance. If you desire, you can have someone as this meeting.

Within five working days, the director/clinical manager will do one of the following:

- investigate your complaint;
- correct the problem;
- take steps that will lead to a correction of the problem;
- determine the grievance has no merit;
- determine the complaint is true, but nothing can be done to fix the problem; or
- identify another person or persons who may be better qualified to review the complaint.

The patient advocate or director/clinical manager will tell you the outcome of the grievance and about your right to appeal if you think the outcome is unfair. This appeal process consists of filing a complaint to:

1. The head of the hospital;
2. The Ohio Department of Mental Health;
3. The Disability Rights Ohio;

4. The U.S. Department of Health and Human Services; and
 5. Appropriate professional licensing and regulatory associations.
- You should not be punished or retaliated against because you file a grievance.

Advance Directives

If you are interested in obtaining general information on Behavioral Health Care Advance Directives, please ask your staff member or notify your attorney. You may request additional information by contacting the:

Disability Rights Ohio
8 East Long Street, 5th floor
Columbus, OH 43266-0523
1-800-282-9181

Disability Rights Ohio

Disability Rights Ohio (DRO) is an independent state agency and Ohio's federally designated protection and advocacy (P&A) system. The agency's mission is to protect and advocate the right of people who are, or are alleged to be, mentally or developmentally disabled.

DRO was established by the Ohio General Assembly in 1975 and since that time has received additional mandates through both state and federal actions. These legislative mandates enable DRO to conduct advocacy services through several avenues. The office provides a statewide toll free telephone number, a client intake services a newsletter available to all interested individuals, legal and investigative staff, Ombudsman staff, as well as a variety of training services to consumers and staff who work with people who have disabilities throughout Ohio. The DRO office is located in downtown Columbus. A booklet describing DRO's services in more detail is available by contacting: Disability Rights Ohio, 8 East Long Street, 5th floor, Columbus, OH 43266-0523, 800-282-9181.



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