

**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



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