

# **Client rights in Regional Psychiatric Hospitals operated by the Ohio Department of Mental Health**

Revised October 2008

The client advocates' mission is to clearly inform clients of their basic and legal rights, promote client choice and participation in decisions affecting their lives, and ensure the availability of quality advocacy to all persons receiving services provided by the Ohio Department of Mental Health.

Ohio Department of Mental Health, Client Rights  
30 East Broad Street, 8th Floor, Columbus, Ohio 43215

An Equal Opportunity Employer and Provider

Your name \_\_\_\_\_

Name of hospital \_\_\_\_\_

Telephone number \_\_\_\_\_

TDD/TTY number \_\_\_\_\_

Recovery & Rights Advocate \_\_\_\_\_

The following sections apply to me: (circle those that apply)

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## **Intro: You Are Guaranteed Certain Basic Rights By Law**

We want you to know and understand your rights as guaranteed by law in the Ohio Revised Code. Your spouse, guardian, parent, adult children, next-of-kin and/or significant other may also be informed of your rights. In some instances, one or the other may act on your behalf.

You have the right to be fully informed of all of your rights. This pamphlet lists many of these rights to which you are entitled. Unless the court has limited your rights, you don't lose them just because you are hospitalized. You retain all your civil rights not specifically denied in the Ohio Revised Code (Section 5122.301). You have the right to have the hospital address ethical issues in providing your care. For more information on these or other rights, contact your Recovery & Rights Advocate (RRA).

First and foremost - you have the right to be treated with respect and dignity!

If you, your spouse, guardian, parent, adult children, next-of-kin and/or significant other, think your rights have been violated, you should report this to the RRA, your own lawyer and/or:

Ohio Legal Rights Service

50 West Broad Street, Suite 1400

Columbus, Ohio 43215-5923

[www.olrs.ohio.gov](http://www.olrs.ohio.gov)

Phone: 614-466-7264

or 1-800-282-9181 (toll-free in Ohio only)

TTY: 614-728-2553 or 1-800-858-3542 (toll-free in Ohio only)

This booklet is a summary of your rights. It was developed for informational, educational and advocacy purposes only. It is not a legal document and does not serve as legal advice. If you need legal advice, you should contact an attorney.

Citations that follow each right refer to the specific sections of the Ohio Revised Code (ORC) or Ohio Administrative Code (OAC) that address these rights in detail.

## **A The Right To Treatment**

This includes, but is not limited to, the right to:

1. A humane psychological and physical environment.
2. The least restrictive environment appropriate to **your** needs;
3. A current, written, individualized treatment plan;
4. Participate in developing your treatment plan;
5. Freedom from restraint or isolation, unless required by psychiatric or medical needs;
6. Freedom from unnecessary or excessive medication;
7. Participate in discussions and decision-making about medication and treatment;
8. Current information concerning your condition, treatment and progress;
9. If surgery or other major medical treatment is recommended, you have additional rights that will be explained to you at that time;
10. No compulsory medical, psychological or psychiatric treatment applied to you without specific court authorization 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;
11. Give or deny written consent to the use and disposition of visual techniques, such as one-way vision mirrors, tape recorders, television, movies or photographs;
12. Refuse to participate in any research project without being denied access to services;
13. Be informed of the reasons for your admission to a hospital and to be involved in planning for your discharge, unless limited by court involvement;
14. Have your need for hospitalization or commitment be reviewed at least every 30 days by your hospital treatment team;
15. Be free from physical and verbal abuse and neglect;
16. Not to be discriminated against because of race, handicap, sex, age, ancestry, lifestyle or national origin;

17. Receive adequate medical treatment for physical disease or injury;
18. Have reasonable accommodation made for you if you are deaf or hard of hearing so that you have an equal opportunity to participate in and benefit from services. You should also feel free to talk with the Client Advocate about what additional services may be available that you may choose to participate in. If you are unable to read or if you speak a language other than standard English as a primary means of communication, or have a limitation on your ability to communicate effectively, such as deafness or hearing impairment, the list of rights shall be explained to you by providing interpreters, readers, and/or appropriate communication devices or other assistance;
19. Have information regarding services and your rights presented to you in a way that you are able to understand.

Ohio Revised Code Chapter 5122, including sections 5122.27, 5122.271, 5122.01(V), 5122.05

## **B The Right To Communicate**

This right includes, but is not limited to the right to:

1. Communicate freely and be visited at reasonable times by your lawyer and by the staff of the Ohio Legal Rights Service (1-800-282-9181);
2. Have the opportunity to consult with independent specialists;
3. A clear and effective means of communication between you and the treatment staff. If you are unable to read, or speak a language other than English as a primary means of communication, or if you have a limitation on your ability to communicate effectively, such as deafness or hearing impairment, the staff shall communicate with you by providing interpreters, readers and/or appropriate communication devices or other assistance;
4. Receive visitors at reasonable times;
5. 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 you request it;
6. Social interaction;
7. Have letter-writing materials and stamps, including a reasonable number without cost if you are unable to pay for them, and to mail and receive

unopened correspondence and receive assistance with writing, if you request it.

Your rights in paragraphs 4, 5 and 6 above can be restricted or withheld by your treatment team for “clear treatment reasons.” The term “clear treatment reasons” means your treatment team believes that allowing you to freely communicate with others will result in a “substantial risk of physical harm” to you or to others, or will “substantially preclude” your effective treatment. The restriction must be in writing in your treatment plan, including the treatment that is being provided to you to eliminate the restriction or the withholding of the right at the earliest possible time.

Ohio Revised Code Section 5122.29

## **C Other Important Patient Rights**

You have the right to:

1. Be treated with respect at all times;
2. Reasonable protection from assault or battery by any other person;
3. Reasonable privacy, including periods and places of privacy;
4. Refuse medical testing, unless there is an emergency or a court order. The Recovery & Rights Advocate will explain your rights.
5. Refuse blood or urine drug testing unless there is a medical emergency or a court order.
6. Confidentiality in accordance with state and federal law;
7. Free exercise of religious worship;
8. Refuse to perform labor which involves the operation, support or maintenance of the hospital. (You are, however, expected to perform therapeutic tasks if they are part of your treatment plan. You are also expected to perform tasks of a personal housekeeping nature.)
9. File a grievance and have it resolved promptly.
10. Register to vote and vote;
11. Request your discharge in writing, if you are a voluntary patient. If you do this, within three court days, the hospital must either discharge you or file an affidavit with the probate court to request a court hearing to determine

whether you meet the definition of “mentally ill subject to hospitalization by court order.” If the court finds that you meet this definition, you can be hospitalized by probate court order for up to ninety (90) days, or until your treating psychiatrist believes you no longer meet this definition and orders your discharge, whichever comes first.

ORC Sections 5122.01(B), 5122.03, 5122.15, 5122.28, 5122.29, 5122.301, 5122.31

## **D The Right To Personal Privileges**

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

1. Wear your own clothing and maintain your own personal effects.
2. Be provided neat, clean and seasonable clothing if unable to provide your own;
3. Maintain your personal appearance according to individual taste;
4. Keep and use personal possessions, including toilet articles;
5. Have individual locked storage space for your private use;
6. Keep and spend a reasonable sum of money for expenses and small purchases;
7. Read and possess reading materials without censorship, limited only by the clear and present danger to the safety of others.

Ohio Revised Code Section 5122.29 (F)

## **E Complaint, Mediation and Grievance Procedure**

1. If you have a complaint about anything at this hospital, you should talk with the nursing supervisor on your unit or another staff person with whom you feel comfortable, who will then inform the nursing supervisor. The nursing supervisor should tell you within two working days what he or she is doing to solve the problem. If you feel uncertain about this, you might prefer to talk with the Client Rights Advocate, who will look into it and let you know the result. The Recovery & Rights Advocate (RRA) has four working days to attempt to resolve your complaint.

2. If your complaint isn't resolved the way you want it to be, you may request mediation or file a grievance by telling the nursing supervisor or the RAA that you want the problem looked into further. You will be provided information regarding your options of requesting mediation or filing a grievance.
3. Mediation is a voluntary process in which a neutral third party meets with you and the other person(s) involved in your concern or disagreement. At the end of the mediation you and the other person(s) will develop a mutually satisfactory resolution.
4. If you decide to file a grievance, you will be asked to write down your complaint, including exactly what happened, when it happened, the name of the staff member or other persons involved, and what you would like to see done. The nursing supervisor or the RAA may assist you in writing this down if you ask for help. After your complaint is written, it will be investigated by the RAA as a grievance.
5. You may then meet with the Chief Executive Officer (or other person chosen by the CEO) and the RAA to tell them of your grievance. You may also have another person with you. That person may be anyone you choose who is willing to help you. The Chief Executive Officer (or other person chosen by the CEO) will review your concern and tell you of his/her decision about your complaint within five working days of the meeting.
6. If you are dissatisfied with the resolution of the Chief Executive Officer (or other person chosen by the CEO), you may appeal the decision by contacting the Department's Office of Consumer Advocacy and Protection at the following address:

Office of Consumer Advocacy and Protection  
Ohio Department of Mental Health, Central Office  
30 East Broad Street, 8th Floor  
Columbus, Ohio 43215

Or call ODMH:

Toll Free Bridge 877-275-6364 (877-ASK-ODMH)  
(614) 466-7228  
TTY 1-888-636-4889 (888-ODMH TTY)

If you wish, the RAA will help you contact this office.

At any time during the complaint, grievance or appeal process, you may call or write to Ohio Legal Rights Service at:

Ohio Legal Rights Service

50 West Broad Street, Suite 1400

Columbus, Ohio 43215-5923

Phone: 614-466-7264

or 1-800-282-9181 (toll-free in Ohio only)

TTY: 614-728-2553 or 1-800-858-3542 (toll-free in Ohio only)

Ohio Administrative Code Section 5122-2-04

## **F Involuntary Detention and “Pink Slips”**

If you represent a substantial risk of physical harm to yourself or others, you can be involuntarily detained for the purpose of mental health evaluation. This can be done with a form called a “pink slip.” If this happens, you have the right to:

1. Be taken into custody in the least conspicuous way possible;
2. Know the name and agency of the person taking you into custody;
3. Be told the name of the mental health facility where you will be taken for evaluation;
4. Be taken to a mental health organization or a psychiatric hospital within 24 hours of being involuntarily detained; and
5. Receive a copy of your “pink slip” if you ask for it.

Even if the police or sheriff are involved, this is not an arrest. It is not criminal, and it does not mean anyone has done anything wrong.

If you are involuntarily detained or otherwise in custody for mental health evaluation, you have the right to immediately be informed and receive a written statement of the following rights:

1. To immediately make a reasonable number of telephone calls or use other ways to contact an attorney, physician or psychologist;

2. To contact other people for help to get an attorney or medical or psychological assistance; and
3. To receive assistance to make phone calls if needed and requested.

Ohio Revised Code Sections 5122.05(C) and 5122.10

## **G Emergency Hospitalization**

If you have been brought to a psychiatric hospital or community mental health agency for a mental health evaluation, the evaluation must be completed within 24 hours of your arrival. If at the end of the evaluation the chief clinical officer of the hospital or agency believes that you do NOT meet the definition of “mentally ill subject to hospitalization by court order” in ORC 5122.01(B), you have the right to be immediately released or discharged.

If the chief clinical officer of the hospital or agency believes you DO meet this definition, the hospital or agency may involuntarily detain you for up to three court days (i.e., days the court is open for business) following the day of the evaluation. By the end of the third court day following the day of the evaluation, the hospital or agency must do one of the following: discharge you, allow you to sign an application for voluntary admission, or file an affidavit with the probate court to request a civil commitment hearing (also called a “probate court” hearing). This type of court hearing is limited to the question of whether you meet the criteria to be hospitalized by probate court order, as defined in ORC 5122.01(B). It is not a criminal court hearing and it does not mean that anyone has done anything wrong.

1. You have the right to know the circumstances and the reasons under which you were taken into custody and transported to the hospital.
2. You have the right to be taken into custody in the least conspicuous manner possible and to be informed of the name, professional designation and agency affiliation of the person taking you into custody; that this is not a criminal arrest; and where you are being taken and why.

Ohio Revised Code Sections 5122.01(B), 5122.10

## **H If an Affidavit Has Been Filed in Probate Court**

If an affidavit has been filed in the Probate Court, you have the right to:

1. Be informed of the hearing process by the Recovery & Rights Advocate;
2. Have a hearing to review your commitment, at the latest 10 days after the filing of the affidavit unless waived by you or your attorney;
3. Attend the hearing;
4. Hire an attorney or, if indigent, to have a court-appointed attorney;
5. Have an independent expert evaluation of your mental condition, and if indigent, the right to such evaluation at public expense.

Ohio Revised Code Sections 5122.15, 5122.05(C)

## **I If You Are Committed for a Competency or Sanity Evaluation**

If you are referred to the hospital for a competency or sanity evaluation, you have the right to:

1. Have an evaluation completed within 20 days;
2. Be informed that you are not allowed any movement or un-supervised privileges while hospitalized;
3. Be transferred back to jail at completion of the evaluation, unless otherwise instructed by the court.

Ohio Revised Code Section 2945.371

## **J If You Are Hospitalized by Probate Court Order**

You have the right to:

1. A mandatory hearing after the expiration of the first 90-day period that you were involuntarily committed; and every two years thereafter;
2. Request a full hearing every 180 days, after the expiration of the first 90-day period that you were involuntarily committed;
3. Attend all hearings;
4. Hire an attorney or, if indigent, to have a court-appointed attorney;

5. Request from the Court an independent expert evaluation of your mental condition and, if indigent, the right to such evaluation at public expense\*;
6. Apply for voluntary admission to the hospital and, if your application is accepted, the right to request discharge from the hospital by writing a letter or completing the request for discharge form. At that time, the hospital would have three court days in which to decide whether to seek involuntary commitment for you or to discharge you.

Ohio Revised Code Sections 5122.05, 5122.15

### **If You Are Hospitalized by Probate Court Order After Being Found Unrestorable to Competence**

You have all six rights listed in section J on the previous page.

This category includes individuals who have been found Incompetent to Stand Trial, Unrestorable (IST-U) and not retained under criminal court jurisdiction. After the court finds an individual unrestorable, the individual may be committed to the hospital by the Probate Court when the criteria are met for hospitalization.

**If you are found IST-U**, Level 1 through 5 movement is permitted. Forensic Review Team review is required if you have been charged with a Felony or Misdemeanor 1.

**If you are found IST-U**, the prosecutor will be notified in the following situations:

- prior to discharge;
- if you are absent without leave (AWOL);
- when you are granted unsupervised off-grounds movement or trial visit;
- and when your status changes to voluntary.

Upon receiving notice that you will be granted unsupervised, off-grounds movement, the prosecutor shall either re-indict you or promptly notify the court that there is no intent to prosecute the charges against you.

Ohio Revised Code Section 2945.38(H)(4)

## **K If You Have Been Found Not Guilty by Reason of Insanity and Involuntarily Committed**

If you have been found NGRI and involuntarily committed by the Criminal Court, you have the right to:

1. Be informed of the hearing process by the Recovery & Rights Advocate;
2. A mandatory hearing after the expiration of the first six month period that you were involuntarily committed, and every two years thereafter;
3. Request a full hearing every 180 days after the expiration of the first six month period that you were involuntarily committed;
4. Attend all hearings and have these additional rights in these proceedings.
  - a. Subpoena witnesses and documents, to present evidence on your own behalf, and to cross-examine witnesses against you;
  - b. Testify in your own behalf and not to be compelled to testify;
  - c. Have copies of any relevant medical or mental health documents in the custody of the state, or of any place of commitment, (other than a document for which the Court finds that the release to you of information contained in the document would create a substantial risk of harm to any person.)
5. Hire an attorney or, if indigent, to have a court-appointed attorney;
6. Have an independent expert evaluation of your mental condition and, if indigent, the right to such evaluation at public expense.
7. Receive the final termination of the court commitment, which occurs when:
  - a. You are no longer a mentally ill person subject to hospitalization by court order, as determined by the trial court, or
  - b. The expiration of the maximum prison term or term of imprisonment that you could have received if you had been convicted of the most serious offense of which you were found not guilty by reason of insanity.

The granting of movement levels 3, 4 and 5 requires review by a Forensic Review Team and approval from the Criminal Court of jurisdiction. This includes on-grounds unsupervised, off-grounds supervised, off-grounds unsupervised, trial visit, and conditional release (non-secured status).

Ohio Revised Code Section 2945.40

## **L If You Have Been Found Incompetent to Stand Trial, Unrestorable to Competency and are Under Criminal Court Jurisdiction**

If you have been found IST-U **and remain under the jurisdiction of the Criminal Court**, you have many of the same rights after commitment to the hospital as a person found Not Guilty by Reason of Insanity.

You have the right to:

1. Be informed of the hearing process by the Client Advocate;
2. A mandatory hearing after the expiration of the first six month period that you were involuntarily committed, and every two years thereafter;
3. Request a full hearing every 180 days after the expiration of the first six month period that you were involuntarily committed;
4. Attend all hearings;
5. Hire an attorney or, if indigent, to have a court-appointed attorney;
6. Receive the final termination of the court commitment, which occurs when:
  - a. You are no longer a mentally ill person subject to hospitalization by court order, as determined by the trial court; or
  - b. The expiration of the maximum prison term or term of imprisonment that you could have received if you had been convicted of the most serious offense with which you were charged; or
  - c. The trial court enters an order terminating the commitment when the court determines that you are competent to stand trial and you shall be proceeded against as provided by law. If the court determines that you remain a mentally ill person subject to hospitalization, the court shall order that your commitment to the hospital continue during the pendency of the trial. If you are not subject to hospitalization, the court shall not continue the commitment to a hospital during the pendency of the trial.

The granting of movement levels 3, 4, and 5 requires review by a Forensic Review Team and approval from the Criminal Court of jurisdiction. This includes on-grounds unsupervised, off-grounds supervised, off-grounds unsupervised, trial visit, and conditional release (non-secured status).

Ohio Revised Code Section 2945.39

## **M If You Have Been Found Incompetent to Stand Trial by the Criminal Court and Involuntarily Committed for Restoration**

If you have been involuntarily committed for competency restoration (or for a continuing evaluation and treatment period of up to four months to determine if you can be restored to competency), you will be offered treatment unless the hospital determines that you probably cannot become competent to stand trial and the judge agrees.

You have the right to:

1. Not be required to undergo competency restoration treatment longer than:
  - One year for a serious felony charge,
  - Six months for a less serious felony charge,
  - Sixty days for a higher level misdemeanor charge;
  - Thirty days for a lower level misdemeanor charge;
2. Attend all hearings;
3. Hire an attorney, or if indigent, to have a court-appointed attorney.

No supervised, off-grounds movement (unless granted for a special medical condition) or unsupervised privileges (movement) will be granted.

Ohio Revised Code Section 2945.38

## **N If You Are a Police Hold**

If you are a Police Hold, you have been taken into custody by a law enforcement officer, and subsequently transported to an ODMH hospital for inpatient services. Formal charges have not yet been filed, but you are identified as being under the custody of the law enforcement agent who brought you to the hospital.

1. You have the right to know that you are not allowed any movement or unsupervised privileges while hospitalized.
2. You have the right to know that when you are not in need of hospitalization, the law enforcement agency whose custody you are under will be notified of your pending release. This law enforcement agency is responsible to pick you up, unless the hospital receives written notification from the police agency indicating that you are no longer under their custody.

Ohio Revised Code Sections 5122.01(B) and 5122.10

## **O If You Are a Jail Transfer**

If you are a Jail Transfer, you have been incarcerated in a jail and require psychiatric hospitalization. Based on these special circumstances, you probably have been admitted as an emergency admission. You can also sign a voluntary admission form. Charges have been filed against you, thus when you are ready for release from the hospital, the jail will be notified so that they can transport you back to jail. You are under the custody of the jail.

1. You have the right to know that you are not allowed any movement or unsupervised privileges while hospitalized.
2. You have the right to know that when you are not in need of hospitalization, the staff at the jail are responsible to pick you up unless the hospital receives written information from the jail that indicates you are no longer under their custody.

Ohio Revised Code Sections 5122.01(B) and 5122.10

## **P If You Are a Parolee or Probationer**

If you are a Parolee or Probationer under supervision and subject to hospitalization at an Ohio Department of Mental Health facility:

1. You can be admitted voluntarily, or probated by your Parolee/Probation Officer (PO) to an ODMH hospital.
2. If probated by your PO, the hospital staff can share information with the PO without a signed release of information.
3. You are allowed Level 1-5 movement. This requires a review by the Forensic Review Team (Forensic Team Review) if the crime committed was a Misdemeanor 1 or a Felony.
4. If you are a voluntary admission, the hospital staff are required to have a signed release of information to share information with your PO Prior to your being granted a Level 5 movement or discharge the staff will notify the PO, if you agree.
5. The hospital staff must notify the PO if you are absent without leave (AWOL).
6. You are given credit toward your overall time while in the hospital.

Ohio Revised Code Section 2967.22 and Chapter 5122

## **Q Voluntary Status**

1. If you have been involuntarily committed by the Probate Court, you have the right to request voluntary admission.
2. If you are a Parolee or Probationer, you can be initially admitted as a voluntary patient or you have the right to request voluntary admission. Your parole or probation officer can also admit you. Either way, you remain under the jurisdiction of the Parole/Probation Department. The Ohio Department of Mental Health is ordered by the court to monitor you, so this is closely related to being under court jurisdiction.
3. If you are a Jail Transfer or Police Hold, you may seek voluntary admission.
4. If you are found Incompetent to Stand Trial/Unrestorable, you have the right to apply for voluntary admission provided you comprehend the implications of voluntary admission.

ORC Section 5122.03

## **R Definitions**

**Clear treatment reasons** – a justification for restricting or withholding a patient’s right because allowing that right will present a substantial risk of physical harm to the patient or others, or will substantially preclude effective treatment of the patient.

**Court day** – each day the county probate court is open for business.

**Emergency hospitalization** – involuntary detention of a person for up to three court days following an evaluation at a psychiatric hospital or community mental health agency that determines that the person meets the definition of “mentally ill subject to hospitalization by court order” in ORC 5122.01(B).

**Independent evaluation** – conducted by a licensed clinical psychologist, or a psychiatrist who has been selected by the patient or his or her attorney, and who consents to conducting the evaluation.

**Indigent** – unable to provide for the payment of an attorney and other necessary expenses of legal representation, including expert testimony, without loss of basic needs.

**Involuntarily detained** – held for mental health evaluation at a mental health agency or a psychiatric hospital. It is not an arrest. It is not criminal and it does not mean that anyone did anything wrong. See ORC 5122.10.

**Mentally ill subject to hospitalization by court order** – a person who because of mental illness, represents a substantial risk of physical harm to self or others, and would benefit from treatment in a hospital to prevent such imminent risk. See ORC 5122.01(B).

**Probated or civilly committed** – hospitalized in a psychiatric hospital or committed to another organization by order of the county probate court. This is a civil court case, and is not criminal in nature. It does not mean that anyone did anything wrong. See ORC 5122.15.

## **Ohio Department of Mental Health**

Ted Strickland, Governor

Sandra Stephenson, Director

Our mission is the promotion and establishment of mental health as a cornerstone of health and wellness for individuals, families and communities throughout Ohio.

The Ohio Department of Mental Health's Office of Consumer Recovery and Supports operates the Toll-Free-Bridge, a 1-800 information line providing access to client rights information and resolution services. The Toll-Free Bridge provides referral to mental health services and organizations statewide and serves as a contact point for consumer and family complaints, grievances and appeals.

The Toll-free Bridge line is for Consumers & Families Only:

1-877-ASK-ODMH (275-6364) • 1-888-ODMH-TTY (636-4889)

For all other callers: 614-466-2596

Visit our Web site at [www.mh.state.oh.us](http://www.mh.state.oh.us)

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