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The Department, in compliance with the Americans With Disabilities Act, ensures that qualified individuals with disabilities are given an opportunity to participate in and benefit from DHMH services, programs, benefits, and employment opportunities.

Rights of Persons In Maryland's Psychiatric Facilities

Maryland Department of Health and Mental Hygiene

Lawrence J. Hogan, Jr.,
Governor

Boyd K. Rutherford,
Lt. Governor

Van T. Mitchell,
Secretary, DHMH

2007

Department of Health and Mental Hygiene
Herbert R. O'Conor State Office Building
201 West Preston Street
Baltimore, Maryland 21201

This book is available in other formats and languages.
For information or to obtain copies, contact
the Residence Grievance System at 1-800-RGS-7454.

INTRODUCTION

You may not be deprived of any of your rights simply because you are being treated for a mental illness. When you enter a psychiatric facility, you should know that the staff is there to help you and wants to make your stay as short and as pleasant as possible.

Your rights are guaranteed by federal and state laws, which are designed to protect you from abuse, harm, and neglect. Your rights should be posted in area of the facility where you and your visitors can easily read them.

This booklet explains your rights while you are receiving psychiatric treatment in a Maryland mental health clinic, hospital, or rehabilitation program.

The rights of minors vary from the information provided in this booklet. Therefore you are advised to contact your Rights Advisor for clarification.

If you have any questions regarding your rights or wish to report a violation of your rights, you may contact any of the resources listed on the inside back cover of this booklet.

YOU HAVE THE RIGHT
TO KNOW YOUR RIGHTS

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Your rights include the special rights and privileges of individuals treated in a Mental Health Clinic, Hospital or Rehabilitation Program as defined by Maryland Law.

I. ADMISSION AND RETENTION RIGHT

Upon admission to a facility, you must be told your rights in language and words that you can understand. Within 12 hours of being admitted to an inpatient psychiatric facility, a form must be read and given to you which describes your admission status, the availability of legal services and your right to talk to a lawyer of your choice. If you do not understand the information, the information will be given to your parent, guardian, next of kin or to any other person who has a significant interest in your welfare.

The form shall be read in English or in the language or manner best suited to you. A copy of this form will be kept in your record and you will receive a copy. You will be given the opportunity to ask questions and to receive additional information regarding your rights.

Your rights shall be posted in areas of the facility where you and your visitors can read them easily. You may request that a copy of this booklet be given to your next of kin.

PETITION FOR EMERGENCY EVALUATION

A petition for emergency evaluation is a document, which allows an individual to be taken to a designated emergency room of a general hospital in order to be evaluated. If you appear to be suffering from a mental illness and present a danger to the life or safety of yourself or others, an individual may go to court and file a petition for emergency evaluation. If the court agrees, you will be picked up by the police and taken to the closest designated emergency facility for evaluation.

INVOLUNTARY ADMISSION

If two physicians or one physician and one psychologist complete certificates for involuntary admission, you will be taken into observation status. In order for you to be involuntarily admitted,

ALL OF THE FOLLOWING MUST BE TRUE:

- You have a mental illness
- You need inpatient care or treatment;
- You present a danger to yourself or to others;
- You are unable or unwilling to be admitted voluntarily;
- There is no available, less restrictive form of care or treatment to meet your needs.

If you are 65 years of age or older and involuntarily admitted to a State hospital, a geriatric evaluation team must have determined that there is no less restrictive environment than the State hospital where you can receive needed care or treatment.

If you are certified and taken into observation status at a hospital:

(1) You have the right to be evaluated by a psychiatrist within 24 hours after you enter the hospital.

(2) You have the right to request a change of your admission status to voluntary at any time (see page 4).

(3) If your status does not change, you are entitled to an involuntary admission hearing within 10 days. The hearing may be postponed for no more than 7 days. The purpose of the hearing is to determine whether you meet the criteria described above. You must be released if you do not meet these criteria.

(4) You will be given oral and written notice of the hearing date and an explanation of your rights at the hearing. A copy of this notice will be given to you, placed in your medical record, and sent to your parent, guardian, or next of kin.

COURT ADMISSIONS

If you are arrested, a court may send you to a psychiatric hospital for evaluation. If you are sent to the hospital for an inpatient evaluation, this is generally completed within 30 day, and the hospital's recommendation is submitted to the court. If the court finds you not criminally responsible (NCR) and commits you to a psychiatric hospital for treatment, you may request a yearly hearing to review your status.

If you are court committed, your release can be granted only by the court. The court may release you at the recommendation of an Administrative Law Judge following a hearing, or the hospital may apply to the court for your release. The court will usually require that you be released on conditions (such as continuing outpatient treatment) imposed by the court.

YOUR RIGHTS AT THE HEARING

You have the right to be represented by an attorney of your choice. If you cannot afford a lawyer, an attorney from the Public Defender's office will be available to represent you.

Before the hearing, you have the right to be examined by a psychiatrist of your choice, at your expense, to help you prepare your case.

You should not be required to take excessive medication that will greatly impair your ability to participate fully in your hearing. If you feel that you have taken too much medication you should tell the Administrative Law Judge immediately.

You have the right to wear your own clothes to the hearing.

At the hearing, the hospital presenter will present the case for your continued hospitalization. You have the right to bring your own witnesses to present your opinion, you also have the right to ask

questions of those witnesses you disagree with and to speak for yourself. If your witness is unable to attend the hearing, you may request that the Administrative Law Judge call and speak to the witness over the telephone.

At the end of the hearing, the Administrative Law Judge will determine whether you meet the criteria for admission and retention. If you do not, you will be released. If you do meet the criteria, you must remain in the hospital, and the Administrative Law Judge will advise you of your right to appeal the decision within 30 days. The Administrative Law Judge will also inform you of your right to seek judicial release. (See page 14 for explanation). Although you may not waive your rights to a hearing, you may waive your right to be present.

You will have a hearing every six months as long as you are hospitalized involuntarily.

VOLUNTARY ADMISSION

In order to be admitted voluntarily to a psychiatric hospital, all of the following must be true:

- You are 16 years old or older;
- You have a mental disorder that is susceptible to care or treatment;
- You are able to understand the nature of your request for treatment;
- You are able to give continuous assent to remain in the facility; and
- You are able to ask for release.

There are two types of voluntary admissions: formal and informal.

(1) Formal: If you submit a signed written application and the application is accepted by the hospital, a formal voluntary agreement has been made. If you have signed a formal voluntary admission agreement, you may request your release. Within 72 hours the hospital must either release you, or if you meet the standards for involuntary admission (see page 2), you may be certified and will be given an administrative hearing within 10 days to determine if you must remain at the hospital (see page 3).

(2) Informal: If you request admission without a written application and the hospital allows you to stay, this is an informal admission. If you are admitted informally and you want to leave the hospital, you may do so only between the hours of 9 a.m. and 4 p.m. The hospital can stop you from leaving only if the hospital takes the steps to have you involuntarily admitted (see page 2).

VOLUNTARY ADMISSION OF MINORS

If you are under 18 years of age, your parent or guardian may "voluntarily" admit you to a private psychiatric hospital or to a State hospital even if you object. You may not be admitted unless: you have a mental illness, the illness is susceptible to care or treatment, your parent or guardian understands the nature of the request for admission, and the physician of a private facility has agreed to your admission or, if you are in a State hospital, either a hospital physician and a licensed psychologist or two hospital physicians have agreed to your admission.

An admission of a minor by a parent or guardian to a State hospital may not be longer than 20 days. If the minor is under 16 years old, an involuntary admission hearing must be held, even if the minor wishes to stay beyond the 20 days and the physician agrees.

II. TREATMENT RIGHTS

If there are limitations placed on any of your rights, either by law or for medical reasons, this must be documented in your record and must be reviewed periodically. Whether your admission is voluntary or involuntary, at the time of admission, you must be advised of your rights.

You have the right to receive appropriate humane treatment and services that restrict your liberty only to the extent necessary and consistent with your treatment needs and applicable legal requirements.

You have the right to participate in the development and periodic updating of your treatment plan and to be told, in appropriate terms and language, of:

- The content and objectives of the plan.
- The nature and significant possible adverse effects of recommended treatments.
- The name, title, and role of the persons responsible for carrying out the treatment, and
- When appropriate, alternative treatments or mental health services that are available.

Maryland law gives the right to anyone 16 years of age and over to be involved in decisions about their mental health treatment. However, a parent or guardian of a person under the age of 18 years may authorize treatment, even over the objection of the minor. The law also notes that at times, some people are unable to make treatment decisions. Maryland law states that you have the right to make decisions in advance, including mental health decisions, through a process called advanced directive. An advanced directive can be used to state your treatment choices or can be used to name a health care agent, that is someone that will make health care decisions for you should you become unable to do so. Additional information and advance directive forms are available upon request. You may obtain assistance in completing these forms from a member of your treatment team, a lawyer, or the Rights Advisor.

You have the right to refuse to participate as a subject in physically intrusive research conducted at a facility unless you have given written consent.

You have a right to appropriate assessment and management of pain.

You have the right to refuse medication used for treatment of a mental disorder except:

- In an emergency, on the order of a physician, when you present a danger to the life or safety of yourself or others; or
- In a non-emergency, when you are hospitalized involuntarily or committed for treatment by order of a court and the medication is approved by a Clinical Review Panel (CRP).

As part of your treatment in the hospital, your psychiatrist may feel that medication is necessary. If you and your psychiatrist cannot agree on prescribed medication and you refuse to take medication voluntarily, your psychiatrist may recommend that you be taken to a CRP which can order medication against your will for a period of 90 days.

If a CRP is scheduled, you will receive written notification at least 24 hours prior to the time of the panel. The Rights Advisor will meet with you, prior to the panel, in order to inform you of your rights, and will assist you in presenting your concerns regarding the medication to the panel.

If the panel approves medication, you will be informed verbally and receive a copy of the written decision. You have 48 hours after receiving this decision to file an appeal and cannot be forced to take medication during this time unless during an emergency when you are a danger to yourself or others. The Rights Advisor will discuss your appeal rights with you, assist you in filing an appeal, and help you to obtain legal representation.

Your hearing will take place within 7 days but can be postponed for good cause. At the conclusion of the hearing, the Administrative Law Judge will give you a copy of the decision and inform you of your right to appeal to Circuit Court. Your legal representative or Rights Advisor may assist you in this appeal, if requested.

III. COMMUNICATION RIGHTS

You have the right to have access, at all reasonable hours, to writing instruments, stationery and postage and you may use them, subject to reasonable limitations, to write to anyone. Your correspondence must be sent unopened to the person you have written to unless that person has asked that you send no mail.

You shall have reasonable access to a telephone. If you have privacy needs when making a telephone call, you should discuss this with your treatment team who can make reasonable accommodation. However, you may not telephone anyone who has given the facility written notice of being unwilling to be telephoned.

You are entitled to have private conversations with a lawyer and members of the clergy that you choose at any reasonable hours. You may, if you wish, see any other visitors during reasonable visiting hours set by the facility. If you refuse to see a visitor, that refusal shall be written in your record.

If medically justified, your right to communicate can be restricted. This restriction must be ordered by your physician, made a permanent part of your record, dated as to when the limitation is over, and reviewed every 30 days if the restriction is to be continued.

IV. CONFIDENTIALITY

When you are admitted to a mental health facility, you will be given a Notice of Privacy Practices, which describes how medical information about you may be used and disclosed, and how you can get access to this information. You should carefully review this information.

Your medical record is confidential. If you wish to allow this information to be shared, you must sign a release of information form authorizing access to the record. You have the right to revoke the authorization at any time by giving written notice.

You can request to read your medical record. Forms for this are available from the Medical Records Department. The nurse or social worker can assist you in obtaining a request form. The facility is required to comply, within a reasonable time, after you have submitted your written request. Your physician can refuse to disclose any portion of your medical record that the physician believes would be injurious to your health. If access to a portion of your record is denied, you may request a written summary of the undisclosed portion.

You can request that additions or corrections be made in your medical records; however, nothing may be deleted from the record. Requests for addition or corrections should be made in writing to the Medical Records Department.

You can request copies of your medical record and may be required to pay a fee for these copies. Requests for copies should be submitted to the Medical Records Department. You can request that they give you an approximate cost, in advance, for copying these records.

Personal information may be requested from you by the facility. This information is used by the facility and Mental Hygiene Administration to coordinate, provide or fund mental health services for you. Such information may include medical, mental health and financial records, which would be used for the purposes of assessing eligibility for public mental health services and in the coordination of care. Failure to provide the information may result in the denial of services. You have the right to inspect, amend, and correct this information as permitted by State Law, Health General 4-304. Information received from you is confidential and is not generally available to the public. Information collected may be available to providers, with your consent, pursuant to Health General 4-301, Annotated Code of Maryland. This Personal Information Disclosure Statement is given in compliance with State Government Article 10-624, Annotated Code of Maryland.

V. FREEDOM OF MOVEMENT, RESTRAINT AND SECLUSION

Your personal liberty can only be restricted based on your treatment needs and applicable legal requirements, such as a court order or involuntary admission status.

You have the right to request use of a quiet room and, unless clinically contra-indicated, may be granted use of a quiet room. You may terminate self-initiated use of the quiet room at any time or staff may terminate use of quiet room for clinical reasons.

Staff may determine that the use of the quiet room is clinically indicated and request that you voluntarily enter the quiet room. Staff may not coerce or force you into entering the quiet room. At the time you voluntarily enter the quiet room at staffs' request, they will discuss with you the recommended length of stay in the quiet room and the behavior expected upon your exit from the quiet room.

While you are in the quiet room, the quiet room door should not be locked or in a position that would prevent you from exiting the room voluntarily.

You shall be free from locked door seclusion or restraint except when it is necessary to prevent injury to yourself or others, or if you are disrupting the therapeutic environment. Before being restrained or secluded, the physician or registered nurse will assess whether less restrictive alternative approaches are appropriate and have been attempted.

Restraint and locked door seclusion must be ordered by a physician but may be directed by a registered nurse if a physician's order is obtained within one hour of the action.

While in locked door seclusion, you will be checked every 15 minutes and will be offered bathroom privileges and fluids, at least every 2 hours. A staff person will talk to you at least once each hour to determine if you have any special needs. You will receive meals at the regularly scheduled hours and be allowed to bathe and do oral hygiene at least once during a 24 hour period.

While in restraint, staff will keep you in full view at all times and ensure that you are protected from harm by others. You must be released from restraint or seclusion when the clinical evaluation of the physician or registered nurse determines that you are no longer a danger to yourself or others.

VI. FREEDOM FROM HARM AND ABUSE

You have the right to be protected from harm and abuse. Abuse means cruel or inhumane treatment that causes any physical injury including sexual abuse. If you believe that you have been abused, physically or sexually, you should report this immediately to your physician, a member of your treatment team, or the Rights Advisor, who will notify the administrative head of the facility who will inform the appropriate law enforcement agency. A thorough investigation by the law enforcement agency will follow promptly and you will be informed of the results when it is concluded.

If you are assaulted by another patient, you should immediately inform staff so that they can assess any injuries and take the necessary steps to ensure that you are protected from further assault. If you would like information about filing criminal charges, you should let staff know who will then contact the police and Rights Advisor so that they may explain your rights to you and if necessary, assist you in this process.

You also have the right to be free from mental abuse. This includes such things as ridiculing comments, use of profanity, racial, religious or ethnic insults. If you believe that you have been mentally abused, you can report this to a staff person or the Rights Advisor.

VII. CIVIL RIGHTS

Civil rights include the basic rights of all citizens in our society such as the right to vote, buy and sell property and the right to marry.

You may not be deprived of the right to vote, or to receive, hold and dispose of property solely because you are in a facility being treated for a mental illness. The Rights Advisor can assist you in registering to vote or in obtaining absentee ballots.

You are considered legally competent unless there has been a court decision declaring you incompetent.

You have the right to manage your own affairs unless a court has decided you are not legally competent and has given you a guardian. The guardian decides only things listed in the court order.

You may give instructions concerning your future mental health and medical care and treatment, including decision about treatments to sustain life, through an advance directive. At the time of your admission, you will be given written information and can request assistance in implementing an advance directive.

VIII. GENERAL RIGHTS

General rights include basic rights of persons as human beings such as living in a safe environment and being treated with dignity and respect.

You have the right to keep and use most personal property, wear your own clothes, have a reasonable amount of lockable storage space for your clothing and other personal property.

Limited accounting services for residents are available at State facilities; however, residents are encouraged to use the services of banks and financial institutions located in their community. In order to ensure immediate access to funds deposited with the facility, deposits must be in the form of a money order or certified bank check. Reasonable delays in accessing funds can be anticipated when deposits are made with a personal check.

You have the right to practice the religion or faith of your choice.

IX. LEGAL RIGHTS

Legal rights include the rights to contact and be represented by a lawyer, to seek release from a facility and to file complaints with responsible authorities.

If any right is taken away and you don't know why or you think it's unfair, you always have the right to discuss this with your treatment team, the Rights Advisor, or an attorney. Your lawyer can see your records only if you give written permission.

All psychiatric facilities must have an impartial, timely complaint procedure through which you can address rights violations. In State owned, operated and licensed facilities you can contact a Rights Advisor. You also can contact a lawyer at any time to represent you.

A person may not knowingly interfere with your rights and if a person violates certain rights and is found guilty of a misdemeanor and is convicted, the person is subject to a fine not exceeding $5,000 or imprisonment not exceeding two years or both.

X. RELEASE/DISCHARGE RIGHTS

If your current admission status is based on a written application for voluntary admission and you wish to be discharged, you must inform the staff, in writing, of your desire to leave. You may not be held for more than three days (72 hours) after formally requesting release, unless your status is changed to an involuntary admission.

If your treatment team believes you are not ready for discharge, the physician will discuss this with you and may place you on involuntary commitment status. If you are certified as an involuntary commitment, you will be scheduled for an administrative hearing within 10 days. If you do not meet ALL the criteria for an involuntary admission as shown on page 2, the Administrative Law Judge will release you from the hospital.

If you are admitted on an informal request, you may leave at any time between 9 a.m. and 4 p.m., unless your admission status has been changed to an involuntary admission.

If you are a voluntary admission and believe you are being retained inappropriately after you have submitted your request for release, you or a person acting on your behalf may contact an attorney or one of the advocates shown in section XII Resources.

If you are an involuntary patient and wish to be released there are three procedures you may use:

(1) Appeal of Commitment – If you are dissatisfied with the decision of the Administrative Law Judge to keep you in the facility, you have the right to have a court review the decision. You must file this appeal within 30 days of the Administrative Law Judge's decision.

(2) Habeas Corpus – You or someone acting on your behalf may apply for a Writ of Habeas Corpus to the appropriate court at any time. This questions the legality of the original commitment process and whether it was done correctly.

(3) Judicial Release – You or an interested person may file a petition for judicial release with the court. A judge or jury will determine whether you should remain in the facility. They will look at two things: Do you have a mental illness? Do you need inpatient care to protect yourself or others?

DISCHARGE

The hospital must discharge any patient not committed by the court who is not mentally ill. The hospital also must discharge patients who no longer need inpatient care or treatment, are not dangerous, and can care for themselves or can be cared for by others who are willing to do so. If you have been committed involuntarily, you will

be discharged when your treatment team determines your condition has stabilized sufficiently for you to return to the community.

As part of your discharge plan, the hospital will advise you on the advisability of creating an advance directive. You may wish to work with your community providers or others to create such a document for yourself. You can obtain information and assistance regarding an advance directive from a member of your treatment team, a lawyer, or the Rights Advisor.

RELEASE OF A MINOR

If you were admitted by a parent/guardian, you must be released within three days after your parent or guardian requests your discharge, unless your admission status has changed. Upon turning 18, if your status does not change, you can request your own release.

If you have been involuntarily committed you must follow the same procedures as an adult.

If you are a court ordered minor, the Juvenile Court retains jurisdiction until you reach the age of 21 years, but the facility may release you when you are no longer in need of inpatient care and treatment.

If you are 16 or older and you are a voluntary patient who requested your own admission, you may request your own release (see page 13).

AFTERCARE PLAN

Prior to your discharge from the hospital, the staff will prepare an aftercare plan, which should provide the necessary supports to allow you to remain in the community and to prevent homelessness. The aftercare services may include medical care, psychiatric care, vocational and social rehabilitation, supportive housing, or case management services. With your written permission, the plan will be sent to the treatment program in the community that you have chosen. If you do not consent to an aftercare plan, a statement to this effect signed by you, your guardian, or other representative will be placed in your record.

XI. COMPLAINT PROCEDURES

You have the right to complain and to get assistance to resolve your complaints.

If you are a resident of a State facility and you believe that your rights have been violated, you should contact the Resident Grievance System and discuss this with a Rights Advisor. The Resident Grievance System is responsible for ensuring that the rights of residents in Mental Hygiene Administration facilities are fully protected and that allegations of rights violations are investigated and resolved in a timely manner.

Resident Grievance System
1-800-RGS-7454

If you feel that your complaint has not been adequately resolved through the Resident Grievance System, you have the right to file a complaint with the Office of Health Care Quality, Spring Grove Hospital Center, Bland Bryant Building, 55 Wade Avenue, Catonsville, Maryland 21228. For further information or to submit a complaint by telephone, call toll free 877-402-8218 or 410-402-8000.

An employee or patient who has concerns about the safety or quality of care provided in the hospital may report these concerns to the Joint Commission on Accreditation of Healthcare Organizations (JCAHO). There will be no retaliation when safety or quality of care issues are reported. Issues can be addressed by contacting JCAHO at One Renaissance Boulevard, Office of Quality Monitoring, Oakbrook Terrace, IL 60181; 1-800-994-6610.

You may also contact the Legal Assistance Provider for your facility. The name and telephone number of the Legal Assistance Provider for each facility is listed in the Resources section.

If you are a resident of a private facility, you should be informed about the complaint procedure of that facility at the time you are admitted.

You may also contact the Protection and Advocacy Agency for the State of Maryland, the Maryland Disability Law Center, 1-800-233-7201.

XII RESOURCES

Facility Legal Assistance Providers

Eastern Shore	Law Office of Jenning & Treff	1 (410) 479-2800
Thomas B. Finan	Law Office of Nikki Behre, LLC	1 (410) 428-0558
Clifton T. Perkins	Ria Rochvarg	1 (410) 313-9725
RICA Balt.	Ria Rochvarg	1 (410) 313-9725
RICA—Rockville	Law Office of Nikki Behre, LLC	1 (410) 428-0558
Spring Grove	Terri D. Mason, PC	1 (410) 484-6150
Springfield	Terri D. Mason, PC	1 (410) 484-6150

Maryland's Protection and Advocacy Agency:

Maryland Disability Law Center	1 (800) 233-7201
NAMI – Maryland	1 (800) 467-0075 1 (410) 467-7100
Mental Health Association of Maryland	1 (410) 235-1178
On Our Own	1 (800) 553-9899 1 (410) 488-4480
Office of Administrative Hearings	1 (800) 388-8805 1 (410) 229-4100
Office on Aging	1 (800) 243-3425

Office of the Public Defender	1 (410) 347-1068
Clifton T. Perkins	1 (410) 724-3012
Eastern Shore	1 (410) 820-6100
Springfield	1 (410) 795-6513
Spring Grove	1 (410) 402-7454
Thomas B. Finan	1 (301) 777-2142
Resident Grievance System	
To report complaints	1 (800) 747-7454
RGS Headquarters	1 (410) 767-1051
Rights Advisors:	
Eastern Shore	1 (410) 221-2345
Thomas B. Finan	1 (301) 777-2263
Clifton T. Perkins	1 (410) 724-3165
RICA – Baltimore	1 (410) 368-7957
RICA – Rockville	1 (301) 251-6823
Springfield	1 (410) 970-7410
Spring Grove	1 (410) 402-7560 1 (410) 402-7594