

Wyoming Administrative Rules

Health, Department of

Hospital, State - Patient Bill of Rights

Chapter 1: State Hospital - Patient Bill of Rights

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Chapter I

PATIENT BILL OF RIGHTS: ADMINISTRATIVE POLICIES AND PROCEDURES

Section 1. Authority. The Board of Charities and Reform, Pursuant to W.S. 25-10-120, is authorized to promulgate rules creating a Patients' Bill of Rights and establishing the procedures by which such rights shall be enforced, limited or denied.

Section 2. Purpose.

(a) These rules are adopted to create a Patients' Bill of Rights and establish the administrative procedures whereby patients' rights shall be enforced, limited or denied.

(i) The creation of a Patients' Bill of Rights acknowledges the importance of recognizing and preserving the rights and dignity of individuals served by the State Hospital while providing the most effective treatment possible, with the goal of advancing each patient's welfare and health.

(ii) The guidelines, procedures and criteria contained in these rules are intended to facilitate the provision of care and services by providing official guidelines to hospital staff and employees, and all others involved in the provision and administration of such care and services.

Section 3. Definitions.

(a) "Head of hospital" means the individual in charge of the State Hospital;

(b) "Hospital" means the Wyoming State Hospital at Evanston, Wyoming;

(c) "Mental Health Professional" means:

(i) A psychiatrist with three years of residency training in psychiatry;

(ii) A psychologist with a doctoral degree from an accredited program;

(iii) A social worker with a master's degree from an accredited program and two years of clinical experience under the supervision of a qualified mental health professional;

(iv) A registered nurse with a graduate degree in psychiatric nursing and two years of clinical experience under the supervision of a qualified mental health professional.

(d) "Minor" or "minor person" means a person who has not attained the age of nineteen.

(e) "State" means the State of Wyoming, and any of its political subdivisions.

(f) "Treatment" means diagnosis, evaluation, medication, therapy or prescribed care including observation, supervision or discharge planning.

Section 4. Patients' Bill of Rights.

(a) A person admitted to the hospital for the purposes of receiving mental health services shall be accorded the following:

(i) The right to appropriate treatment and related services in a setting and under conditions that:

PAT-5.2

(Addendum)

8 pages

(A) Are most supportive of the person's personal liberty; and
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(B) Restrict such liberty only to the extent necessarily consistent with the person's treatment needs, applicable requirements of law, and applicable judicial orders.

(ii) The right to an individualized, written treatment or service plan developed pursuant to and in compliance with W.S. 25-10-113, including:

(A) The right to treatment based on such plan;

(B) The right to periodic review and reassessment of treatment and related service needs as required by W.S. 25-10-116; and

(C) The right to appropriate revision of the plan. Appropriate revision includes any revision necessary to provide a description of mental health services that may be needed after the person is discharged from the hospital or its program(s).

(iii) The right to ongoing participation, in a manner appropriate to the person's capabilities, in the planning of mental health services to be provided the person. This right of participation includes the right to participate in the development and periodic revision of the plan described in subsection (ii).

(A) In connection with such participation, the right to be provided with a reasonable explanation, in terms and language appropriate to a person's condition and ability to understand, of:

(I) The person's general mental condition and, if the program or the hospital has provided a physical examination, the person's general physical condition.

(II) The objectives of treatment:

(III) The nature, duration, and significance of possible adverse effects of recommended treatments.

(IV) The reasons why a particular treatment is considered appropriate.

(V) Any appropriate and available alternative treatments, services, and types of providers of mental health services, including the right of the patient to seek an opinion of an outside mental health professional (at the patient's own expense).

(iv) The right not to receive a mode or course of treatment established pursuant to the treatment plan, in the absence of the person's informed, voluntary, written consent to such mode or course of treatment, except treatment:

(A) During an emergency situation if such treatment is pursuant to or documented contemporaneously by the written order of a responsible mental health professional; or

(B) As permitted under applicable law in the case of a person committed by a court to the hospital or its treatment program(s).

(v) The right not to participate in experimentation in the absence of the person's informed, voluntary, written consent.

(A) The right to appropriate protections in connection with such participation. Appropriate protections include the right to a reasonable explanation of the procedure to be followed, the benefits to be expected, the relative advantages of alternative treatments, and the potential discomforts and risks.

(B) The right and opportunity to revoke consent to such participation.

(vi) The right to freedom from restraint, seclusion, or other similar interventions which may be administered solely for purposes of discipline, staff convenience, or as a substitute for a less restrictive therapeutic treatment program.

(A) In the event of an emergency situation, in which it is likely that patients could harm themselves or others, and in which less restrictive means of restraint are not feasible, patients may be physically restrained or placed in isolation only on a qualified mental health professional's written order which explains the rationale for such action.

(B) Restraint or seclusion during an emergency situation shall not be ordered by a medical doctor who is also not a qualified mental health professional.

(vii) The right to humane treatment environment that affords a person reasonable protection from harm and appropriate privacy with regard to personal needs.

(A) A humane treatment environment includes the right to be free from any physical, verbal, sexual, financial, or psychological abuse, exploitation, or punishment.

(B) Personal privacy and dignity shall be protected.

(viii) The right to confidentiality of the person's records, in accordance with W.S. 25-10-122.

(ix) The right to access, upon request, to the person's own mental health care records, except the person may be refused access to:

(A) Information in the records provided by a third party under assurance that such information will remain confidential; and

(B) Specific material in the records if the mental health professional responsible for the mental health services concerned has made a determination in writing that access would be detrimental to the person's health. However, such material may be made available to a similarly licensed health professional selected by the person, and the health professional selected may, in the exercise of professional judgment, provide the person with access to any or all parts of the specific material or otherwise disclose the information contained in the material to the person.

(x) The right, in the case of a person admitted on a residential or inpatient care basis:

(A) To converse with others privately;

(B) To have convenient and reasonable access to the telephone and to send and receive uncensored and unopened mail; and

(C) To see visitors during regularly scheduled hours.

(I) However, if a mental health professional treating the person determines that denial of access to a particular person is necessary for treatment purposes, the mental health professional may, for a specific, limited, and reasonable period of time, deny access if the mental health professional has ordered the denial in writing and the order has been incorporated in the treatment plan for the person. A order denying access shall include the reasons for denial.

(II) Any denial of access to a particular person shall be reviewed by a qualified mental health professional at regular intervals not to exceed seven (7) days.

(xi) Right of access to:

(A) A protection service within the hospital through the Human Rights Committee;

(B) A protection system established by the State of Wyoming through the state patient advocate;

(C) The system established under the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. SS 10801 et seq.), to protect and advocate the rights of mentally ill individuals. This right of access includes opportunities and facilities for private communication.

(xii) The right to be informed promptly at the time of admission and periodically

thereafter, of the right described in this section.

(A) Such information shall be in language and terms appropriate to the person's condition and ability to understand.

(B) Such information shall include patient's right under the Fair Labor Standards Act, 42 U.S.C. SS 201 et seq., which includes:

(I) The right to refuse to perform services for the hospital;

(II) The right to have the need or desire to work documented in the patient's individual treatment plan in the event the patient chooses to perform services;

(III) The individual treatment plan shall specify the nature of the services and whether the services are voluntary or performed for compensation;

(IV) The agreement to perform services may be terminated at any time.

(xiii) The right to assert grievances with respect to infringement of the rights described in these rules, including the right to have such grievances considered in a fair, timely and impartial grievance procedure provided for by the hospital, in accordance with Section 5(a)(iii) of these rules.

(xiv) The right to exercise the rights described in this section without reprisal, including reprisal in the form of denial of any appropriate, available treatment.

(xv) The right to referral, as appropriate, to other providers of mental health services upon discharge.

(b) The rights described in these rules shall be in addition to and not in derogation of any other statutory or constitutional rights.

(i) The right to confidentiality of and access to records described in provisions designated (a)(viii) and (a)(ix) shall remain applicable to records pertaining to a person after the person's discharge from the hospital or program(s), with the following exception: Records and reports which are made under the Hospitalization of Mentally Ill Persons Act (W.S. 25-10-101 through 25-10-404), and directly or indirectly identify a patient, former patient, or person for whom an application for hospitalization has been filed, may be provided without the person's consent, if the records and reports as provided:

(A) By and between a mental health center, the State Hospital and hospitals designated under W.S. 25-10-104; and

(B) Only for the purpose of facilitating referral treatment, admission, readmission or transfer of the patient under the Hospitalization of Mentally Ill Persons Act.

(c) No otherwise eligible person will be denied admission to the hospital or its program(s) for mental health services as a reprisal for the exercise of the rights described in these rules.

(i) Nothing in these rules shall:

(A) Obligate an individual mental health or health professional to administer treatment contrary to the professional's clinical judgement;

(B) Prevent the hospital or any of its programs from discharging any person for whom the provision of appropriate treatment, consistent with the clinical judgement of the mental health professional primarily responsible for the person's treatment, is or has become impossible as a result of the persons' refusal to consent to the treatment.

(C) Require the hospital or any of its programs to admit any person who, while admitted on prior occasions to such program or facility, has repeatedly frustrated the purposes of admission by withholding consent to proposed treatment; or

(D) Obligate the hospital or any of its programs to provide treatment services to any person who is admitted to such program or facility solely for diagnostic or evaluative purposes.

(ii) In order to assist a person admitted to a program or facility in the exercise or protection of the person's rights, the person's attorney or legal representative shall have reasonable access to:

(A) The person;

(B) The areas of the hospital or its program(s) where such person has received treatment, resided, or had access; and

(C) Pursuant to the written authorization of the person, the records and information pertaining to such person's diagnosis, treatment, and related services described in paragraph (a)(ix).

(iii) The hospital and each of its programs shall post a notice listing and describing the rights described in this section of all persons admitted to the hospital or any of its program.

(A) The notice shall be in language and terms appropriate to the ability of the persons to whom the notice is addressed to understand.

(B) Each notice should conform to the format and content for such notices, and shall be posted in appropriate locations.

(d) When a person is adjudicated by a court of competent jurisdiction as being incompetent to exercise the rights or provide the authorization described in paragraphs (i), (ii) or (iii) of this subsection, such rights may be exercised or such authorization provided by the individual appointed by the court as the person's guardian for the purpose of:

(i) Exercising the right to consent to treatment or experimentation described in the provisions designated as (a)(iv) and (a)(v) of this section;

(ii) Exercising the right to confidentiality of or access to records described in provisions designated as (a)(viii) or (a)(ix) of this section;

(iii) Providing authorization as described in subparagraph (c)(ii)(C) of this section; or

(iv) Avoiding conflicts of interest.

(e) The following shall apply with respect to minors:

(i) A minor's parent or legal guardian may, on behalf of the minor:

(A) Exercise the right to consent to treatment to experimentation described in the provisions designated as (a)(iv) and (a)(v) of this section;

(B) Exercise the right to confidentiality of or access to records described in provisions designated as (a)(viii) or (a)(ix) of this section; or

(C) Provide authorization as described in the provision designated as (c)(ii)(C) of this section.

(ii) Notwithstanding provision (e)(i) above, a minor, and not the minor's parent or legal guardian, may exercise the rights contained in these rules and provide any necessary authorization to exercise the rights, in the following cases:

(A) The minor's parent or legal guardian cannot with reasonable diligence be located and the minor's need for treatment is sufficiently urgent to require immediate attention;

(B) The minor was living apart from the parent or guardian and managing his own affairs regardless of his source of income, at the time of admission or commitment;

(C) The minor is or was legally married;

(D) The minor is in the active military service of the United States;

(E) The minor is emancipated under W.S. 14-1-201 through 14-1-206.

Section 5. Administrative Policies and Procedures.

(a) In addition to any policies and procedures required by the Patients' Bill of Rights contained in section 4 of these rules, the hospital shall establish appropriate policies and procedures as required to implement and enforce these rules. Appropriate policies and procedures required to implement and enforce these rules include but are not limited to the following:

(i) Affirm and protect the patient's right stated under Section 4, to include:

(A) Ensure that all allegations of mistreatment, abuse or neglect, as well as any injuries to patients, are reported immediately to the administrator or to other officials in accordance with

State law and through established hospital standard reporting procedures;

(B) Ensure that action is taken as necessary to prevent the potential of further abuse while an investigation is in process;

(C) Provide for an immediate and thorough investigation of all allegations by trained, experienced personnel delegated with all necessary authority; results of all investigations must be reported to the administrator or designated representative, or to other officials in accordance with state law, within five working days of the incident;

(D) Establish reasonable and appropriate corrective actions, including education, training and/or punishment for any hospital-affiliated individual who has been found to be responsible for acts of mistreatment, abuse or neglect of patients;

(E) Prohibit the employment of individuals with a conviction or substantial documentation of child or patient abuse, neglect or mistreatment;

(F) Provide training and informational materials on patients' rights and on the prevention of abuse/neglect/mistreatment for administrators, mental health professionals and direct care staff and volunteers; each new staff member should be presented this information at the time of employment and training should be given for each of the groups at least annually.

(ii) The hospital shall designate and staff an administrative function charged with the following responsibilities:

(A) An assessment and report, to be submitted to the head of the hospital and the hospital's governing body on at least an annual basis, of the hospital's compliance or lack thereof with the requirements in these rules, and any applicable statutory, constitutional and accreditation standards.

(B) Establishment and implementation of procedure(s) which provide every person admitted to the hospital or any of its programs with adequate notice of the rights contained in these rules.

(C) To act in the capacity of liaison for the hospital and its programs to the services and systems enumerated in provision 4(a)(xiii) of these rules.

(iii) The hospital shall develop and implement an administrative procedure for the review of patient grievances with respect to the protection and enforcement of patients' rights, in compliance with provision 4(a)(xiii) of the Patients' Bill of Rights. This procedure shall include, but is not limited to the following elements:

PATIENT GRIEVANCE PROCEDURE

A formal procedure to assist patient's with problems or complaints will be provided to the patient.

1. The complaint or grievance may be verbal or written and may be registered

with the hospital designated patient representative or with the state designated patient advocate or with any external advocate the patient chooses.

2. The complaint may be registered at any time.
3. The names, addresses and telephone numbers of the hospital patient representative, the state patient advocate, and external advocacy organizations will be posted and/or otherwise made available to all patients.
4. Access to external advocacy organizations will include contact information about:
 - a) Protection and Advocacy, Inc.;
 - b) Private attorneys;
 - c) Legal services;
 - d) Other mental health, legal and family consumer organizations; and
 - e) The Chairman of the Wyoming State Mental Health Grievance Committee.
5. If the patient chooses to file a formal grievance with the hospital, patient representative and/or with the state patient advocate:
 - a) A response to the initial complaint will be made within twenty-four (24) hours, exclusive of weekends and holidays.
 - b) The state patient advocate, the Human Rights Committee of the Wyoming State Hospital, and the head of the Wyoming State Hospital will work to resolve the grievance with the patient.
 - c) If unresolved, the state patient advocate will present the patient's grievance to the Wyoming State Mental Health Grievance Committee for resolution.