

Office of Human Rights

There is a Human Rights Advocate assigned to WSH by the Department of Mental Health, Mental Retardation and Substance Abuse Services to assist patients with resolving service-related complaints. Ideally complaints will be resolved at the lowest possible level within the hospital management structure, but if necessary the Human Rights Advocate is able to represent patients' rights issues through a more formal review process. At WSH, human rights related inquiries may be addressed to the advocate:

Randy Urgo
Human Rights Advocate
Western State Hospital
Box 2500
Staunton, Virginia 24402
(540) 332-8308 or toll-free: (877) 600-7437
Randy.Urgo@co.dmhmrzas.virginia.gov

The Advocate assigned to WSH is independent of the Facility Director and reports directly to the Office of Human Rights of the Department of Mental Health, Mental Retardation and Substance Abuse Services.

Human Rights Advocates are charged with:

- ◆ representing clients whose rights are alleged to have been violated,
- ◆ monitoring facility compliance with client rights regulations,
- ◆ providing training and assistance to the Local Human Rights Committee and
- ◆ reviewing facility policies to ensure compliance with the Regulations.

Section 37.1-84.1 of the Code of Virginia states: "Each person who is a patient, resident, or consumer in a hospital, other facility, or program operated, funded, or licensed by the **Department of Mental Health, Mental Retardation, and Substance Abuse Services**, excluding those operated by the Department of Corrections, shall be assured his legal rights and care consistent with basic human dignity insofar as it is within the reasonable capabilities and limitations of the department, funded program, or licensee and is consistent with sound therapeutic treatment. Each person admitted to a hospital, other facility, or program operated, funded, or licensed by the department shall:

1. Retain his legal rights as provided by state and federal law;
2. Receive prompt evaluation and treatment or training about which he is informed insofar as he is capable of understanding;
3. Be treated with dignity as a human being and be free from abuse or neglect;
4. Not be the subject of experimental or investigational research without his prior written and informed consent or that of his legally authorized representative...
5. Be afforded an opportunity to have access to consultation with a private physician at his own expense and, in the case of hazardous treatment or irreversible surgical procedures, have, upon request, an impartial review prior to implementation, except in case of emergency procedures required for the preservation of his health;

6. Be treated under the least restrictive conditions consistent with his condition and not be subjected to unnecessary physical restraint and isolation;
7. Be allowed to send and receive sealed letter mail;
8. Have access to his medical and mental records and be assured of their confidentiality but, notwithstanding other provisions of law, such right shall be limited to access consistent with his condition and sound therapeutic treatment;
9. Have the right to an impartial review of violations of the rights assured under this section and the right of access to legal counsel; and
10. Be afforded appropriate opportunities, consistent with the person's capabilities and capacity, to participate in the development and implementation of his individualized services plan."

The following persons shall receive written notification of patient rights:

- 1. each patient**
- 2. parent or legal guardian, if the patient is a minor or is adjudicated incompetent**
- 3. the authorized representative, if applicable**

Complaint Resolution Processes:

"Informal" process:

Patient (or any other interested person) Makes Complaint to Staff Member X

Step 1 Staff member X attempts immediate complaint resolution.

- ❖ **Successful - If the complaint is resolved immediately no further action is required.**
- ❖ **Not successful - If staff X is not successful in resolving the complaint, proceed to Step 2.**

Step 2 Staff member X assists (as necessary) the client in documenting the complaint on the attached form.

Step 3 Complaint is given to the ward clerk by the next working day. The ward clerk makes a copy and sends to the HOTT. The original is sent to the Director's office.

Step 4 The treatment team reviews the complaint and works on resolution of the complaint with the client.

Step 5 By 5:00 pm on the third working day from the complaint date, a treatment team member will call or email (please direct the email to Jack Barber and Jody Fravel) the Director's Office to describe their actions to resolve the issue and the outcome.

Step 6 If the complaint has not been resolved by the Treatment Team, on Days 4 and 5 the Director Office will seek resolution.

Step 7 If the Director's Office has been unable to resolve the complaint to the client's satisfaction the complaint form will be submitted to the Advocate's Office by the close of business on the 5th day from the complaint date. This will initiate the "Formal Resolution Process."

"Formal" Process:

The "formal complaint resolution process is initiated when the informal process fails to resolve the complaint, or when someone asks the advocate to become involved in the resolution process.

NOTE:

At any time during the "informal" complaint process, a client may decline the informal process and express a desire to make the complaint directly to the Advocate instead. Whenever that happens, the treatment provider must assist the client in speaking to the Advocate.

The formal process includes the following steps:

- The advocate is notified of the complaint.
- The Advocate notifies the director and HOTT (head of treatment team) and begins representing the client in the resolution process.
- The HOTT must try to resolve the complaint by meeting **within 24 hours** of receipt of the complaint with the individual and others as appropriate, and by conducting an investigation if necessary.
- The HOTT will give the Director's office **written feedback regarding the status of the complaint within 5 work days** of receiving notice of the complaint.
- The Director's office must give the individual (copy to the advocate) a **written decision and action plan within 10 work days** of receiving notice of this complaint.
- If the client (or the advocate on the client's behalf) is not satisfied, he may notify the director's office **within 5 work days**.
- The director will then investigate further, as necessary, then forward a written copy of his final decision to the individual, his chosen representative and the internal advocate **within 10 work days**.
- If the individual is still not satisfied, he (with the assistance of the advocate) may file a petition for a hearing by the Local Human Rights Committee.

The Local Human Rights Committee

The Local Human Rights Committee (LHRC) is a group of 7 members who are broadly representative of various community, professional and consumer groups with an interest in Mental Health, Mental Retardation or Substance Abuse issues. Consumers and family members are an integral part of the committee's composition and it is the goal of each committee to maintain objectivity through balanced diversity. Appointed by the State Human Rights Committee for terms

of from one to three years, the members are unpaid volunteers who perform certain oversight functions regarding facility and community programs and practices. The committee also hears complaints that cannot be resolved at the facility level. The LHRC meets on a monthly basis and all committee proceedings strictly observe client confidentiality.

The WSH LHRC is always interested in hearing from individuals who have an interest in serving as members. If you would like to find out more information about the LHRC or for inquiries regarding committee membership, please contact Randy Urgo, Human Rights Advocate [(540) 332-8308 or randall.urgo@co.dmhmrzas.virginia.gov] or Margaret Bowman, secretary for the LHRC [(540) 332-8205 or margaret.bowman@wsh.dmhmrzas.virginia.gov]. A personal interview is required of all applicants for committee membership, and final decisions regarding appointments are made by the State Human Rights Committee.