

PATIENT RIGHTS

Clinical Individual Rights (WAC 246-341-0600)

1) You have the right to:

- (a) Receive services without regard to race, creed, national origin, religion, gender, sexual orientation, age or disability;
- (b) Practice the religion of choice as long as the practice does not infringe on the rights and treatment of others or the treatment service. Individual participants have the right to refuse participation in any religious practice;
- (c) Be reasonably accommodated in case of sensory or physical disability, limited ability to communicate, limited-English proficiency, and cultural differences;
- (d) Be treated with respect, dignity, and privacy, except that staff may conduct reasonable searches to detect and prevent possession or use of contraband on the premises or to address risk of harm to the individual or others. "Reasonable" is defined as minimally invasive searches to detect contraband or invasive searches only upon the initial intake process or if there is reasonable suspicion of possession of contraband or the presence of other risk that could be used to cause harm to self or others;
- (e) Be free of any sexual harassment;
- (f) Be free of exploitation, including physical and financial exploitation;
- (g) Have all clinical and personal information treated in accord with state and federal confidentiality regulations;
- (h) Review your clinical record in the presence of the administrator or designee and be given an opportunity to request amendments or corrections;
- (i) Receive a copy of agency grievance system procedures upon request and to file a grievance with the agency, or Behavioral Health Organization (BHO), if applicable, if you believe your rights have been violated, and
- (j) Lodge a complaint with the department when you feel the agency has violated a WAC requirement regulating Behavioral Health Agencies.

(2) Each agency must ensure the applicable individual participant rights described in (1) of this section are:

- (a) Provided in writing to each individual on or before admissions;
- (b) Available in alternative formats for individuals who are visually impaired;
- (c) Translated to the most commonly used languages in the agency's service area;
- (d) Posted in public areas;
- (e) Available to any participant upon request.

2) For Medicaid recipients, you have the right to be informed of your rights at the time of admission and in a manner that is understandable.

3) Rights—Posting of list. (RCW 71.05.217)

(1) Insofar as danger to the individual or others is not created, each person involuntarily detained, treated in a less restrictive alternative course of treatment, or committed for treatment and evaluation pursuant to this chapter shall have, in addition to other rights not specifically withheld by law, the following rights, a list of which shall be prominently posted in all facilities, institutions, and hospitals providing such services:

- (a) To wear his or her own clothes and to keep and use his or her own personal possessions, except when deprivation of same is essential to protect the safety of the resident or other persons;
- (b) To keep and be allowed to spend a reasonable sum of his or her own money for canteen expenses and small purchases;
- (c) To have access to individual storage space for his or her private use;
- (d) To have visitors at reasonable times;
- (e) To have reasonable access to a telephone, both to make and receive confidential calls;
- (f) To have ready access to letter writing materials, including stamps, and to send and receive uncensored correspondence through the mails;
- (g) To have the right to individualized care and adequate treatment;
- (h) To discuss treatment plans and decisions with professional persons;
- (i) To not be denied access to treatment by spiritual means through prayer in accordance with the tenets and practices of a church or religious denomination in addition to the treatment otherwise proposed;
- (j) Not to consent to the administration of anti-psychotic medications beyond the hearing conducted pursuant to RCW 71.05.320(4) or the performance of electroconvulsant therapy or surgery, except emergency lifesaving surgery, unless ordered by a court of competent jurisdiction pursuant to the following standards and procedures:
 - (i) The administration of anti-psychotic medication or electroconvulsant therapy shall not be ordered unless the petitioning party proves by clear, cogent, and convincing evidence that there exists a compelling state interest that justifies overriding the patient's lack of consent to the administration of anti-psychotic medications or electroconvulsant therapy, that the proposed treatment is necessary and effective, and that medically acceptable alternative forms of treatment are not available, have not been successful, or are not likely to be effective.

(ii) The court shall make specific findings of fact concerning: (A) The existence of one or more compelling state interests; (B) the necessity and effectiveness of the treatment; and (C) the person's desires regarding the proposed treatment. If the patient is unable to make a rational and informed decision about consenting to or refusing the proposed treatment, the court shall make a substituted judgment for the patient as if he or she were competent to make such a determination.

(iii) The person shall be present at any hearing on a request to administer anti-psychotic medication or electroconvulsant therapy filed pursuant to this subsection. The person has the right: (A) To be represented by an attorney; (B) to present evidence; (C) to cross-examine witnesses; (D) to have the rules of evidence enforced; (E) to remain silent; (F) to view and copy all petitions and reports in the court file; and (G) to be given reasonable notice and an opportunity to prepare for the hearing. The court may appoint a psychiatrist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, psychologist within their scope of practice, physician assistant, or physician to examine and testify on behalf of such person. The court shall appoint a psychiatrist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, psychologist within their scope of practice, physician assistant, or physician designated by such person or the person's counsel to testify on behalf of the person in cases where an order for electroconvulsant therapy is sought.

(iv) An order for the administration of anti-psychotic medications entered following a hearing conducted pursuant to this section shall be effective for the period of the current involuntary treatment order, and any interim period during which the person is awaiting trial or hearing on a new petition for involuntary treatment or involuntary medication.

(v) Any person detained pursuant to RCW 71.05.320(4), who subsequently refuses anti-psychotic medication, shall be entitled to the procedures set forth in this subsection.

(vi) Anti-psychotic medication may be administered to a nonconsenting person detained or committed pursuant to this chapter without a court order pursuant to RCW 71.05.215(2) or under the following circumstances:

(A) A person presents an imminent likelihood of serious harm;

(B) Medically acceptable alternatives to administration of anti-psychotic medications are not available, have not been successful, or are not likely to be effective; and

(C) In the opinion of the physician, physician assistant, or psychiatric advanced registered nurse practitioner with responsibility for treatment of the person, or

his or her designee, the person's condition constitutes an emergency requiring the treatment be instituted before a judicial hearing as authorized pursuant to this section can be held.

If anti-psychotic medications are administered over a person's lack of consent pursuant to this subsection, a petition for an order authorizing the administration of anti-psychotic medications shall be filed on the next judicial day. The hearing shall be held within two judicial days. If deemed necessary by the physician, physician assistant, or psychiatric advanced registered nurse practitioner with responsibility for the treatment of the person, administration of anti-psychotic medications may continue until the hearing is held;

(k) To dispose of property and sign contracts unless such person has been adjudicated an incompetent in a court proceeding directed to that particular issue;

(l) Not to have psychosurgery performed on him or her under any circumstances.

(2) Every person involuntarily detained or committed under the provisions of this chapter is entitled to all the rights set forth in this chapter and retains all rights not denied him or her under this chapter except as limited by chapter 9.41 RCW.

(3) No person may be presumed incompetent as a consequence of receiving evaluation or treatment for a behavioral health disorder. Competency may not be determined or withdrawn except under the provisions of chapter 10.77 or * 11.88 RCW.

(4) Subject to RCW 71.05.745 and related regulations, persons receiving evaluation or treatment under this chapter must be given a reasonable choice of an available physician, physician assistant, psychiatric advanced registered nurse practitioner, or other professional person qualified to provide such services.

(5) Whenever any person is detained under this chapter, the person must be advised that unless the person is released or voluntarily admits himself or herself for treatment within one hundred twenty hours of the initial detention, a judicial hearing must be held in a superior court within one hundred twenty hours to determine whether there is probable cause to detain the person for up to an additional fourteen days based on an allegation that because of a behavioral health disorder the person presents a likelihood of serious harm or is gravely disabled, and that at the probable cause hearing the person has the following rights:

(a) To communicate immediately with an attorney; to have an attorney appointed if the person is indigent; and to be told the name and address of the attorney that has been designated;

(b) To remain silent, and to know that any statement the person makes may be used against him or her;

- (c) To present evidence on the person's behalf;
 - (d) To cross-examine witnesses who testify against him or her;
 - (e) To be proceeded against by the rules of evidence;
 - (f) To have the court appoint a reasonably available independent professional person to examine the person and testify in the hearing, at public expense unless the person is able to bear the cost;
 - (g) To view and copy all petitions and reports in the court file; and
 - (h) To refuse psychiatric medications, including anti-psychotic medication beginning twenty-four hours prior to the probable cause hearing.
- (6) The judicial hearing described in subsection (5) of this section must be held according to the provisions of subsection (5) of this section and rules promulgated by the supreme court.
- (7)(a) Privileges between patients and physicians, physician assistants, psychologists, or psychiatric advanced registered nurse practitioners are deemed waived in proceedings under this chapter relating to the administration of anti-psychotic medications. As to other proceedings under this chapter, the privileges are waived when a court of competent jurisdiction in its discretion determines that such waiver is necessary to protect either the detained person or the public.
- (b) The waiver of a privilege under this section is limited to records or testimony relevant to evaluation of the detained person for purposes of a proceeding under this chapter. Upon motion by the detained person or on its own motion, the court shall examine a record or testimony sought by a petitioner to determine whether it is within the scope of the waiver.
- (c) The record maker may not be required to testify in order to introduce medical or psychological records of the detained person so long as the requirements of RCW 5.45.020 are met except that portions of the record which contain opinions as to the detained person's mental state must be deleted from such records unless the person making such conclusions is available for cross-examination.
- (8) Nothing contained in this chapter prohibits the patient from petitioning by writ of habeas corpus for release.
- (9) Nothing in this section permits any person to knowingly violate a no-contact order or a condition of an active judgment and sentence or an active condition of supervision by the department of corrections.
- (10) The rights set forth under this section apply equally to ninety-day or one hundred eighty-day hearings under RCW 71.05.310. Effective January 1, 2022

Communications by patients. RCW 71.12.570

No person in an establishment as defined in this chapter shall be restrained from sending written communications of the fact of his or her detention in such establishment to a friend, relative, or other person. The physician in charge of such person and the person in charge of such establishment shall send each such communication to the person to whom it is addressed. All persons in an establishment shall have no less than all rights secured to involuntarily detained persons by RCW 71.05.217 and to voluntarily admitted or committed persons pursuant to RCW 71.05.050 and 71.05.380.

Rights of voluntarily committed persons. (RCW 71.05.380)

All persons voluntarily entering or remaining in any facility, institution, or hospital providing evaluation and treatment for behavioral health disorders shall have no less than all rights secured to involuntarily detained persons by RCW 71.05.217.

Voluntary application for treatment of a behavioral health disorder—Rights—Review of condition and status—Detention—Person refusing voluntary admission, temporary detention. (RCW 71.05.050)

(1) Nothing in this chapter shall be construed to limit the right of any person to apply voluntarily to any public or private agency or practitioner for treatment of a behavioral health disorder, either by direct application or by referral. Any person voluntarily admitted for inpatient treatment to any public or private agency shall be released immediately upon his or her request. Any person voluntarily admitted for inpatient treatment to any public or private agency shall orally be advised of the right to immediate discharge, and further advised of such rights in writing as are secured to them pursuant to this chapter and their rights of access to attorneys, courts, and other legal redress. Their condition and status shall be reviewed at least once each one hundred eighty days for evaluation as to the need for further treatment or possible discharge, at which time they shall again be advised of their right to discharge upon request.

(2) If the professional staff of any public or private agency or hospital regards a person voluntarily admitted who requests discharge as presenting, as a result of a behavioral health disorder, an imminent likelihood of serious harm, or is gravely disabled, they may detain such person for sufficient time to notify the designated crisis responder of such person's condition to enable the designated crisis responder to authorize such person being further held in custody or transported to an evaluation and treatment center, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program pursuant to the provisions of this chapter, which shall in ordinary circumstances be no later than the next judicial day.

(3) If a person is brought to the emergency room of a public or private agency or hospital for observation or treatment, the person refuses voluntary admission, and the professional staff of the public or private agency or hospital regard such person as presenting as a result of a behavioral health disorder an imminent likelihood of serious harm, or as presenting an imminent danger because of grave disability, they may detain such person for sufficient time to notify the designated crisis responder of such person's condition to enable the designated crisis responder to authorize such person being further held in custody or transported to an evaluation treatment center, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program pursuant to the conditions in this chapter, but which time shall be no more than six hours from the time the professional staff notify the designated crisis responder of the need for evaluation, not counting time periods prior to medical clearance.

(4) Dismissal of a commitment petition is not the appropriate remedy for a violation of the timeliness requirements of this section based on the intent of this chapter under RCW 71.05.010 except in the few cases where the facility staff or designated crisis responder has totally disregarded the requirements of this section.