**Client Rights – Comparisons**

| **7070** | **394** | **397** | **CARF** | **NASW** |
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| (1) Right to Dignity | (1) Right to Individual Dignity | (1) Right to Individual Dignity: | Section 1k. 2 - Freedom from abuse, financial exploitation, retaliation, humiliation, and neglect | Respect for dignity; Protection from exploitation, harassment, abuse |
| Shall not be transported in vehicles used for criminals, except for protection of self or others; | Shall not be transported in vehicles used for criminals, except for protection of self or others |  |  |  |
| Shall not be incarcerated in jails. | Shall not be incarcerated in jails. | Shall not be incarcerated in jail except under protective custody. |  |  |
|  |  |  | Section 1k.2 - Adherence to research guidelines and ethics, if applicable | Protection if participating in evaluation and research |
| (2) Protective Custody without Consent for Substance Abuse |  | Protective Custody without Consent for Substance Abuse |  |  |
| This section outlines the full criteria, process, and disposition for protective custody; 72 hour time period for hold; requirement for physical examination |  | Addressed in 397 Part V B., specifying criteria, process, disposition alternatives for protective custody; 72 hour time period for hold; requirement for physical examination |  |  |
| Must notify nearest relative of minor or adult, unless adult requests no notification be given | Must notify nearest relative of minor or adult, unless adult requests no notification be given |
| Must be assessed by attending physician within 72 hours |  | Must be assessed by attending physician within 72 hours |  |  |
| Must be released by qualified professional when no longer meeting criteria, when 72 hours has elapsed, or individual voluntarily consents to admission |  | Must be released by qualified professional when no longer meeting criteria, when 72 hours has elapsed, or individual voluntarily consents to admission |  |  |
| May be detained in protective custody beyond 72 hours if petitioner has initiated involuntary assessment or treatment petition |  | May be detained in protective custody beyond 72 hours if petitioner has initiated involuntary assessment or treatment petition |  |  |
| (3) Right to Treatment | (2) Right to Treatment | (2) Right to Nondiscriminatory Services | Accessibility of services | Access to Services |
| May not be denied services due to inability to pay | May not be denied services due to inability to pay | May not be denied services due to inability to pay | Section 1f.8 - Set, review, and disclose fee structure; modify when necessary; Section 1l.1- Address barriers to services including economic | Fair and reasonable fees commensurate with services performed |
|  |  | May not be denied services on basis of demographics (e.g., race, age, gender), HIV status, prior service departures against medical advice; number of relapses; or due to taking prescribed medication | Section 1L.1, 2, 3 - Address barriers to services including disability, language, race, gender, etc. | Right to culturally sensitive treatment |
| To receive the least restrictive treatment appropriate | To receive the least restrictive treatment appropriate | To receive the least restrictive treatment appropriate |  |  |
| Shall be given a physical examination by health care practitioner, and MH or SA evaluation by psychiatrist, psychologist, psychiatric nurse, or qualified substance abuse professional within 24 hours after arrival at receiving facility; must include efforts to identify indicators of substance abuse impairment, intoxication, and withdrawal | If held at a receiving facility more than 12 hours, must have physical exam within 24 hours |  |  |  |
| To participate in activities designed to enhance self-image and beneficial effects of other treatment | To participate in activities designed to enhance self-image and beneficial effects of other treatment | To participate in activities designed to enhance self-image | 2a.11 - Support recovery and health, enhance quality of life, support integration to community; access or referral to self-help support services |  |
| Individualized treatment plan with patient input and review within five days of admission to a receiving facility | Individualized treatment plan with patient input and review within five days of admission to a receiving facility | Individuals may participate in treatment planning and review to the extent of ability to participate | 2c.1 - Person-centered treatment planning, SNAP, natural support systems involved; address co-occurring disorders |  |
| (4) Right to Express and Informed Consent | (3) Right to Express and Informed Patient Consent |  | Section 1K.2 - Informed Consent | Informed Consent |
| Shall be asked to give express and informed consent at admission | Shall be asked to give express and informed consent at admission |  |  | Provide services only with valid informed consent |
| If adjudicated incompetent or found to be incompetent to consent, consent is to be sought from guardian or from guardian advocate or health care surrogate or proxy | If adjudicated incompetent or found to be incompetent to consent, consent is to be sought from guardian or from guardian advocate | Involuntary treatment is addressed in 397, part V, including criteria, evaluations, disposition, and transfer from involuntary to voluntary | Standard 2A.8 - Program has policies to address situations when person served does not have legal decision-making authority | If client is unable to give consent, seek consent from appropriate third parties, seeking to assure third parties act in client’s best interests |
| If a minor, consent must be sought from parent or legal guardian, and the minor’s consent is not required; Minors may seek outpatient crisis intervention without parental consent | If a minor, consent must be sought from parent or legal guardian, and the minor’s consent is not required; Minors may seek outpatient crisis intervention without parental consent | Right of minor to seek substance abuse treatment without parental consent is addressed in 397.601 (4)a |
| Before giving consent, individual (or guardian/ guardian advocate / health care surrogate or proxy) must be informed of reason for admission, proposed treatment, purpose, common risks, benefits and side effects, specific dosage range for medication, alternative treatment modalities, approximate length of care, potential effects of stopping treatment, how treatment will be monitored, and right to revoke consent | Before giving consent, patient (or guardian/ guardian advocate) must be informed of reason for admission, proposed treatment, purpose, common risks, benefits and side effects, specific dosage range for medication, alternative treatment modalities, approximate length of care, potential effects of stopping treatment, how treatment will be monitored, and right to revoke consent |  | Section 1k.2 - Access to information pertinent to the person served in sufficient time to facilitate decision-making; Informed consent or refusal or expression of choice regarding: Service delivery, release of information, concurrent services, composition of the service delivery team, involvement in research projects | Inform clients of the right to refuse services; options for alternative services and referrals; give Information on extent of rights to refuse services if committed to treatment on an involuntary basis |
| If DCF is legal guardian or custodian, DCF must to get court order for ECT or other medical procedure when patient does not consent; | Separate consent required for anesthesia or ECT, or requires specific court order if DCF is legal guardian or custodian and patient does not consent |  | Section 2a.14 – Written procedures governing use of special treatments including ECT |  |
| Administrator of receiving or treatment facility may authorize emergency medical treatment if deemed life-saving or to avoid serious bodily harm | Administrator of receiving or treatment facility may authorize emergency medical treatment if deemed life-saving or to avoid serious bodily harm |  |  |  |
| (5) Quality of Treatment | (4) Quality of Treatment | (3) Right to Quality Services | Right to Quality Services | Right to Quality Treatment |
| Suited to patient needs, delivered skillfully, humanely, safely with respect for dignity | Suited to patient needs, delivered skillfully, humanely, safely with respect for dignity | Suited to individual needs, delivered skillfully, humanely, safely with respect for dignity |  | Practice within boundaries of education, training, license, supervised experience |
| Department shall coordinate MH programs with other DCF programs and state agencies | Department shall coordinate MH programs with other DCF programs and state agencies |  |  |  |
| Facilities have criteria for use of any close supervision, restraint or seclusion, emergency treatment orders, and physical management | Facilities have criteria for use of any close supervision, restraint or seclusion, emergency treatment orders, and physical management | Services must include the use of methods and techniques to control aggressive behavior that poses an immediate threat to the individual or to other persons, includes use of restraints, seclusion, time-out, and other behavior management techniques; DCF must specify by rule methods that may be used and techniques that may be applied to control aggressive behavior and must specify by rule the physical facility requirements for seclusion rooms, including dimensions, safety features, methods of observation, and contents. | Section 2a.13, 2f. 9, 10 - Policies and procedures that address positive approaches to behavioral interventions; govern use of seclusion/ restraint, and special treatment interventions; |  |
| Facilities have procedures for documenting, monitoring, and clinical review of seclusion, restraint, ETOs | Facilities have procedures for documenting, monitoring, and clinical review of seclusion, restraint, ETOs |  | Section 2.f. 4, 5, 13 - Procedures to monitor and review use of seclusion and restraint, plan to reduce incidents of use; always reported as a critical incident |  |
| System for investigating, tracking, managing, and responding to complaints by individuals receiving services or persons acting on their behalf | System for investigating, tracking, managing, and responding to complaints by individuals receiving services or persons acting on their behalf | Addressed in 397.419, Quality Improvement programs | Section 1k.3 - Investigation and resolution of alleged infringement of rights, without fear of retaliation or barriers to services; levels of review for grievances; time frames; rights and responsibilities of each party; availability of advocates; Section 1k.4 – written analysis of all formal complaints | Grievance procedures |
| Reporting incidents to the managing entity: Death, injury requiring medical treatment, unauthorized absence of involuntary client, disaster or crisis situation that jeopardizes health or safety of individuals examined or treated in a facility, allegation of sexual battery upon individual examined or treated in a facility |  | Addressed in 397.419, Quality Improvement programs; incident reporting, analysis, systematic improvements | Section 1g.1 - Risk management program, including actions to reduce risk; Section 1h.9 – Policies and procedures to report incidents, conduct written analysis |  |
| Policies and staff training on not using seclusion or restraint as punishment, to compensate for insufficient staff, or for staff convenience | Policies and staff training on not using seclusion or restraint as punishment, to compensate for insufficient staff, or for staff convenience | When authorized, behavior management techniques may be applied only by persons who are employed by service providers and trained in the application and use of these methods and techniques | Section 2f.1, 2, 3 - Staff training in managing and responding to aggressive behaviors |  |
| (6) Communication, Abuse Reporting, and Visits | (5) Communication, Abuse Reporting, and Visits | (4) Right to Communication |  |  |
| Allow access, within reasonable rules, to make free local calls, and long distance at own expense; provide privacy for calls | Allow access, within reasonable rules, to make free local calls, and long distance at own expense; provide privacy for calls | Each individual has the right to communicate freely and privately with other persons within the limitations imposed by service provider policy. | Section 2a.19 – Families are encouraged to participate through education and clinical programs; Section 3m.7 – Visitation, telephone policies |  |
| Allow to send and receive mail unopened, unless there is reasonable belief mail contains potentially harmful substances/items | Allow to send and receive mail unopened, unless there is reasonable belief mail contains potentially harmful substances/items | Because the delivery of services can only be effective in a substance abuse free environment, close supervision of communications and correspondence is necessary, particularly in the initial stages of treatment, and the service provider must therefore set reasonable rules for telephone, mail, and visitation rights, giving primary consideration to the well-being and safety of individuals, staff, and the community; service provider informs individual and family if involved at admission about rules on communications and correspondence. | Section 3m.7 – Policies on mail |  |
| Immediate access to visits by family, guardian or guardian advocate, advocacy council, or attorney; must give patient and representative written notice of restrictions on this right, and must be reviewed every 7 days; may not be restricted as punishment | Immediate access to visits by family, guardian or guardian advocate, advocacy council, or attorney; must give patient and representative written notice of restrictions on this right, and must be reviewed every 7 days; may not be restricted for punishment | Section 1k.2 - Access or referral to advocacy support services; Access or referral to legal entities for appropriate representation |  |
| Facility may establish reasonable rules governing visitors, visiting hours, and use of phones, which must be in the least restrictive manner possible | Facility may establish reasonable rules governing visitors, visiting hours, and use of phones, in least restrictive manner possible |  |  |
| Access to telephone to report abuse at any time; abuse number posted in plain view; | Access to telephone to report abuse at any time; abuse number posted in plain view |  |  |  |
| Train staff on requirements and procedures for abuse reporting | Train staff on requirements and procedures for abuse reporting |  | Section 1L.5 - Train staff on requirements for reporting abuse and neglect |  |
| (7) Care and Custody of Personal Effects | (6) Care and Custody of Personal Effects of Patients | (5) Right to Care and Custody of Personal Effects |  |  |
| Facility may only take personal effects for safety or medical reasons; must inventory and give copy to patient; inventory must be witnessed by two staff and patient; facility must return all personal effects unless detrimental to patient, and must document reasons anything is not returned; possessions must be transferred with patient or as soon as possible afterwards | Facility may only take personal effects for safety or medical reasons; must inventory and give copy to patient; inventory must be witnessed by two staff and patient; facility must return all personal effects unless detrimental to patient, and must document reasons anything is not returned; possessions must be transferred with patient or as soon as possible afterwards | An individual has the right to possess clothing and other personal effects. The service provider may take temporary custody of the individual’s personal effects only when required for medical or safety reasons, with the reason for taking custody and a list of the personal effects recorded in the individual’s clinical record. |  |  |
| (8) Voting in Public Elections | (7) Voting in Public Elections |  |  |  |
|  |  | (6) Right to Education of Minors – providers shall coordinate with local education agencies to provide appropriate education and training to minors in residential services | Section 4b.3, 4, 5 - When services disrupt youth education, program provides or makes arrangements for continuity of education |  |
|  |  | (7) Right to Confidentiality – mirrors 42 CFR Part Two requirements | Section 1k.2 – policies on confidentiality and privacy | Right to confidentiality and privacy |
|  |  | Written consent for disclosure may only be given by minors, including to parents, legal guardians, or custodians of minors for purpose of financial reimbursement |  |  |
|  |  | If law requires parental consent for treatment, than consent for disclosure must be given by parent and minor |  |  |
|  |  | Court may authorize disclosure for purpose of conducting criminal investigation or prosecution if crime is “extremely serious,” reasonable likelihood that records will disclose valuable information in investigation, no other ways of obtaining information, and public interest outweighs potential injury to individual or treatment relationship | Section 1e.2 – Policies and procedures to respond to legal request for information, including subpoena, court order, investigations. | Request courts withdraw orders or limit orders narrowly as possible and maintain records under seal, unavailable for public inspection |
|  |  |  | Section 1e.3, 2g.1 - Policies on information that can be disclosed, records management |  |
|  |  |  | Section 1k.2 - Access to own records | Access to Records |
|  |  |  |  | Clearly address confidentiality of information when working with couples, families, or groups |
|  |  | (8) Right to Counsel; for any involuntary proceeding for assessment, stabilization, or treatment, may be court appointed if client cannot afford attorney |  |  |
| (9) Habeas Corpus | (8) Habeas Corpus | (9) Right to Habeas Corpus |  |  |
| (10) Violations - requires DCF to report violations of rights by facilities licensed by AHCA, AHCA may impose sanctions | (9) Violations; requires DCF to report violations of rights by facilities licensed by AHCA, AHCA may impose sanctions |  |  |  |
| (11) Liability for Violations – service providers liable for violations or abuse, not for acting in good faith and without negligence | (10) Liability for Violations – service providers liable for violations or abuse, not for acting in good faith and without negligence | (10) Liability and Immunity service providers - liable for violations or abuse, not for acting in good faith and without negligence |  |  |
| (12) Right to Participate in Treatment and Discharge Planning | (11) Right to Participate in Treatment and Discharge Planning |  | 2d.2, 3, & 4 - Transition planning initiated with person served as soon as clinically appropriate | Right to know the policies and procedures for termination of services; termination of services when no longer necessary or effective; continuity of care |
| (13) Advance Directives – all service providers shall provide information concerning advance directives to individuals and assist those who are competent and willing to complete an advance directive. The directive may include instructions regarding mental health or substance abuse care. Service providers shall honor the advance directives of individuals they serve, or request the transfer of the individual to another provider. |  |  | 2f.7 - Personal safety plans for person served are readily available. | Right to self-determination, limited only when actions or potential actions pose a serious, foreseeable, and imminent risk to self or others |
| (14) Posting of Notice of Rights of Patients - must include statement that ADA applies, name and phone number of contact person, phone numbers of local advocacy council and Advocacy Center for persons with disabilities. | 12) Posting of Notice of Rights of Patients; must include statement that ADA applies, name and phone number of contact person, phone numbers of local advocacy council and Advocacy Center for persons with disabilities |  | Section 1k.1 – Rights of persons served communicated in way that is understandable. | Advise clients of rights and any limitations on those rights, e.g. abuse reporting, danger to self or others |