

LEARNING OBJECTIVES:

- Obtain basic understanding of the development of current voluntary admission processes.
- Understanding / clarification of required documentation, signatures, and completion of forms as required by the MHPA.
- Understanding of who can consent/provide signature for voluntary admission.
- Understanding / clarification of who is authorized to release/receive information for individuals in voluntary inpatient treatment.

Mental Health/Intellectual Disability Act of 1966

- Establishes County Mental Health/Intellectual Development (MH/ID) Board.
- Requires County Administrator appointment.
- Requires provision of services for individuals with MH/ID needs.
 - State centers.
 - State hospitals.
 - Local systems.

MH/ID Act of 1966

- Short-term inpatient.
- Outpatient.
- Partial hospitalization.
- Emergency services (24 hours/day).
- Consultation and education.
- Aftercare services following release from state/county facilities.
- Sheltered workshop.
- Rehabilitative/training.
- Unified intake procedures.

MH/ID Act of 1966

VOLUNTARY ADMISSION

- Any individual 18 or older.
- Parent, Guardian, Person standing in Loco Parentis.
- Signed form required.
- Requires physician examination.
- No longer than 30 days.
- No longer than 10 days following written notice of withdrawal.
- Provided for limited rights of the individual.

MENTAL HEALTH PROCEDURES ACT

- Treatment on a voluntary basis preferred.
- § 7102. Statement of policy

“Treatment on a voluntary basis shall be preferred to involuntary treatment; and in every case, the least restrictions consistent with adequate treatment shall be employed.”

LEAST RESTRICTIVE SERVICES

PA Code, Title 55, Chapter 5100.3 (b):

It is the policy of the Commonwealth to seek to assure that adequate treatment is available with *the least restrictions necessary to meet each client's needs*. While this policy remains a shared responsibility between State, county, and facility personnel, the accountability for recommending the transfer to the least restrictive alternatives available remains a responsibility of those directing treatment. Adequate treatment provided in an individual's own community or as close as possible to his own home shall be preferred.

MENTAL HEALTH PROCEDURES ACT

**VOLUNTARY
ADMISSIONS**

MENTAL HEALTH PROCEDURES ACT

Section 7201 – Voluntary Admission

- Any person 14 years of age or over, however, parents must be notified if the individual is between 14 and 18 years of age.
- Under 14, must be Parent, Guardian, or Person standing in Loco Parentis
- Believes they are in need of treatment
- Substantially understands the nature of the voluntary commitment
- Decision to do so is voluntary

PA CODE, TITLE 55, CHAPTER 5100.71

- (a) Persons 14 years of age or older may seek voluntary inpatient treatment if they substantially understand the nature of such treatment and the treatment setting. Parents or guardians who decide to seek voluntary inpatient treatment for persons under 14 years of age may do so only in accordance with the act and applications regulations.
- (b) The test of a person's substantial understanding for inpatient treatment is met if the person gives consent to the information and explanations outlined in section 203 of the act (50 P. S. § 4203).

MENTAL HEALTH PROCEDURES ACT

Section 7203 – Explanation and Consent

- Explanation of treatment, inclusive of any restraints or restrictions to be imposed.
- Statement of rights to be provided.
- Consent in writing upon DHS-approved form, including the following items:
 - Statement that individual understands treatment is inpatient setting.
 - Name of approved facility.
 - Consent is voluntary.
 - Explanation of notification to withdraw may require individual to stay up to 72 hours.
 - Becomes part of the medical record.

§ 5100.73. Explanation and consent to inpatient treatment.

(a) In order to assure that a person substantially understands the nature of voluntary inpatient treatment, an explanation shall be made to him of the findings of the preliminary evaluation and the proposed treatment and goals. An explanation of planned diagnostic and treatment procedures, including the medications, restraints or restrictions which may be utilized shall be given in terms understandable by the person seeking services.

PA ACT 147

- Enacted in 2004, implemented in 2005.
- Actually amends what is known as the Medical Consent Act, in conjunction with the Juvenile Act.
- Addresses legal consent of a minor between the ages of 14 and 18 years of age.
- Allows parent to provide consent for minor between the ages of 14 and 18.
- Provides for addressing differences between parents and minor child between the ages of 14 and 18.

MENTAL HEALTH PROCEDURES ACT

Section 7203 – Explanation and Consent

- Notice to parents for minors (14-18 years).
- Director of facility shall promptly notify minor's parents, guardian, or person standing in loco parentis, and inform them of right to be heard upon the filing of an objection.
- When objection is filed, hearing shall be held within 72 hours.
- Heard by a Mental Health Review Officer or Judge.

§ 5100.73. Explanation and consent to inpatient treatment.

(b) Each applicant shall be provided with a copy of the Patient's Bill of Rights. Form MH-782 or the Patient's Rights Pamphlet, PWPE #605 entitled *You Have a Right To Be Treated With Dignity and Respect*. Consent shall be obtained by use of Form MH-781 B, C or D.

EXPLANATION OF VOLUNTARY ADMISSION RIGHTS

For adult patients, patients 14 years of age or over but less than 18 years of age,
and for the parents or guardians of children under 14 years of age.

Before your or your child's voluntary admission to this hospital, you or your child have the right to:

1. An explanation of the type of treatment which may be involved.
2. An explanation of any restraints or restrictions which may be used.

Upon your or your child's admission, you or your child will have the following rights:

1. Within 72 hours after admission, an plan of treatment will be developed. You may participate in the development of this plan.
2. You may withdraw or you may withdraw your child from treatment at any time by giving written notice in advance to the Director of the facility; however,
3. You may be asked to agree to remain or allow your child to remain in the facility for a specified period of time up to 72 hours after you request discharge. If, when you request discharge, you are asked to remain or allow your child to remain for this period of time, someone will immediately explain why to you. The facility may institute involuntary commitment proceedings during this period.
4. You or your child may not be transferred from this facility to another facility without your consent.

In addition to the above rights, the Bill of Rights attached applies to you and your child upon admission. You will receive a longer, more detailed version of these rights within 72 hours of admission.

If you do not understand any of these rights, _____ would be pleased to discuss them with you.
(NAME OF MENTAL HEALTH WORKER)

IMPORTANT NOTICES

If you are 14 years of age or over but less than 18 years of age: Treatment does not require your parents' consent; however, according to the Mental Health Procedures Act of 1976, the Director of this facility is required to inform your parent or guardian of your admission. Your parent or guardian has the right to object to your treatment and may ask the court for a hearing on their objections.

If you are under 14 years of age: If any responsible person believes that treatment in this facility is not in your best interest, that person may ask the court for a hearing on their objections.

BILL OF RIGHTS

**YOU HAVE A RIGHT TO BE TREATED WITH DIGNITY AND RESPECT
YOU SHALL RETAIN ALL CIVIL RIGHTS THAT HAVE NOT BEEN SPECIFICALLY
CURTAILED BY ORDER OF COURT**

1. You have the right to unrestricted and private communication inside and outside this facility including the following rights:
 - a. To peaceful assembly and to join with other patients to organize a body of or participate in patient government when patient government has been determined to be feasible by the facility.
 - b. To be assisted by any advocate of your choice in the assertion of your rights and to see a lawyer in private at any time.
 - c. To make complaints and to have your complaints heard and adjudicated promptly.
 - d. To receive visitors of your own choice at reasonable hours unless your treatment team has determined in advance that a visitor would seriously interfere with your or others treatment or welfare.
 - e. To receive and send unopened letters and to have outgoing letters stamped and mailed. Incoming mail may be examined for good reason in your presence for contraband. Contraband means specific property which entails a threat to your health and welfare or to the hospital community.
 - f. To have access to telephones designated for patient use.
2. You have the right to practice the religion of your choice or to abstain from religious practices.
3. You have the right to keep and to use personal possessions, unless it has been determined that specific personal property is contraband. The reasons for imposing any limitation and its scope must be clearly defined, recorded and explained to you. You have the right to sell any personal article you make and keep the proceeds from its sale.
4. You have the right to handle your personal affairs including making contracts, holding a driver's license or professional license, marrying or obtaining a divorce and writing a will.
5. You have the right to participate in the development and review of your treatment plan.
6. You have the right to receive treatment in the least restrictive setting within the facility necessary to accomplish the treatment goals.
7. You have the right to be discharged from the facility as soon as you no longer need care and treatment
8. You have the right not to be subjected to any harsh or unusual treatment
9. If you have been involuntarily committed in accordance with civil court proceedings, and you are not receiving treatment, and you are not dangerous to yourself or others, and you can survive safely in the community, you have the right to be discharged from the facility.
10. You have a right to be paid for any work you do which benefits the operation and maintenance of the facility in accordance with existing Federal wage and hour regulations.

§ 5100.73. Explanation and consent to inpatient treatment.

(c) In the event that the consent of the applicant is given but cannot be obtained in writing, a statement on a form approved by the Department documenting that the applicant acknowledged the explanation given indicated his or her consent shall be signed by the person presenting the information and at least one witness. This statement shall be made part of the patient's record.

PA CODE, TITLE 55, CHAPTER 5100.71

(c) Behavioral consent, as defined in § 5100.2 (relating to definitions) shall be sufficient consent for persons presently receiving treatment at a facility to remain at that facility and to participate in treatment which is explained to him. Behavioral consent shall be documented under § 5100.73 (relating to explanation and consent to inpatient treatment). Behavioral consent shall not be relied upon for admission to or transfer from a facility.

MENTAL HEALTH PROCEDURES ACT

Section 7207 – Transfer of Person in Voluntary Treatment

“A person who is in voluntary treatment may not be transferred from one facility to another without his written consent.”

PA CODE, TITLE 55, CHAPTER 5100.73

(d) Staff of a facility, in arranging to convert a person's legal status from involuntary treatment under civil commitment to voluntary treatment under Article II of the act (50 P. S. § § 7201—7207), shall explain to the patient that he, by converting to voluntary status, is agreeing to remain in treatment for 72 hours after giving proper notice of his intent to withdraw from treatment. A patient's refusal to agree to remaining in treatment for this 72-hour period may be considered as sufficient grounds to deny the conversion and seek a new commitment.

§ 5100.76. Notice of withdrawal.

a) Upon request to any clinical employee of the treating facility, a person 14 years of age or older seeking release from voluntary treatment shall be immediately provided with Form MH-781-F issued by the Department. Unless otherwise indicated in the patient's record, the treatment team leader shall be notified of each request to withdraw. An adequate supply of Form MH781-F shall be available in all treatment and living areas of the facility.

§ 5100.76. Notice of withdrawal.

(b) The person receiving a signed Form MH 781-F from a patient shall immediately examine the patient's record to determine whether the patient has previously agreed to remain in treatment for a specified period not to exceed 72 hours after having given written notice of intent to withdraw from involuntary treatment. If no such consent has been given, the patient may immediately withdraw from treatment unless an application for emergency involuntary treatment is executed under section 302 of the act (50 P. S. § 7302), and the patient is advised accordingly.

§ 5100.76. Notice of withdrawal.

(f) Rules relating to delayed release apply to release of persons under the age of 14 who are admitted under a delayed release admission.

REQUEST TO WITHDRAW FROM TREATMENT

Name of Patient _____

I, _____, hereby give notice of intent to
(Name of Patient/Parent/or Guardian of Minor)
withdraw myself/my child within the next _____ hours from treatment. I understand that a member of the
(Up to 72)
treatment staff may discuss this matter with me and make a decision during this time period.

(Date)

(Signature of Patient/Parent/or Guardian of Minor)

(Signature of a Parent or Guardian of a Patient under 14 Years of Age)

(Relationship to Minor, if Parent or Guardian)

(Date Received)

(Facility Staff Member Receiving Request)

Mental Health Power of Attorney

5833. Form.

(a) Requirements.--A mental health power of attorney must do the following:

- (1) Identify the principal and appoint the mental health care agent.
- (2) Declare that the principal authorizes the mental health care agent to make mental health care decisions on behalf of the principal.

Mental Health Power of Attorney

- (b) Requirements.--**A mental health power of attorney must be:
- (1) Dated and signed by the principal by signature or mark or by another individual on behalf of and at the direction of the principal.
 - (2) Witnessed by two individuals, each of whom must be at least 18 years of age.

Mental Health Power of Attorney

(c) Witnesses.–

- (1) An individual who signs a mental health power of attorney on behalf of and at the direction of a principal may not witness the mental health power of attorney.
- (2) A mental health care provider and its agent may not sign a mental health power of attorney on behalf of and at the direction of a principal if the mental health care provider or agent provides mental health care services to the principal.

Guardianship

- Pennsylvania Law (MHPA) does NOT provide for a guardian to sign voluntary consent for treatment for an individual over the age of 14
- Act 147 does provide for a parent or legal guardian to seek and sign for voluntary treatment for an individual between 14 and 18 years of age, unless the individual is an emancipated minor.
- Case law in Pennsylvania does NOT support guardians seeking voluntary treatment for individuals over the age of 14, but since Act 147 was enacted in 2005, it does support up to the age of 18.

**ADDITIONAL
RESOURCES
&
QUESTIONS**