

5122-2-04

**Client complaint and grievance procedure for integrated behavioral healthcare system (IBHS), intensive and specialized services and forensic inpatient services.**

- (A) The purpose of this rule is to promote individual recovery and provide a means for persons served who have or are receiving IBHS intensive and specialized services and forensic inpatient services or persons acting on their behalf to lodge complaints, request mediation, and file grievances and appeals regarding care, treatment, environmental conditions, the exercise of client rights or other aspects of inpatient care or services and to have those complaints, grievances and appeals heard and acted upon in a timely manner, including access to mediation. This rule also reinforces the obligation of all staff to listen to and respond to complaints of persons served.
- (B) The provisions of this rule shall be applicable to all IBHS behavioral healthcare organizations (BHO) providing inpatient services under the managing responsibility of the department.
- (C) The following definitions shall apply to this rule in addition to or in place of those appearing in rules 5122-1-01 and 5122-7-02 of the Administrative Code:
- (1) "Alternative dispute resolution" is a term used to describe any process, such as mediation, designed to settle a dispute without litigation or administrative adjudication.
  - (2) "Appeal" means any grievance which remains unresolved to the client's satisfaction and for which the client requests an appeal or review by the state client rights advocate of the chief executive officer's written response to the grievance.
  - (3) "Appeal hearing" means the last level of resolution which occurs as a result of the client being dissatisfied with the response from the state client rights advocate; or the state client rights advocate determines that due to the severity of the complaint and/or grievance, an appeal hearing is necessary to address the client's issues and resolve the concern to the client's satisfaction.
  - (4) "Client advocacy services" means an array of advocacy and mediation activities designed to protect and promote the rights of persons served.
  - (5) "Complaint" means an initial and informal communication, oral or written, by a person served, client, ex-client or any other person or agency acting on behalf of a person served questioning, complaining or expressing dissatisfaction about the care or treatment received by the person served, the environmental conditions or other aspects of his/her treatment.

- (6) "Grievance" means a formal request for further review of any unresolved written complaint or a complaint containing allegations of the denial, exercise or violation of the rights of persons served. A grievance may be initiated either verbally or in writing by a person served, client, ex-client, or any other person or agency acting on behalf of a person served.
  - (7) "Grievant" means the person who initiates the grievance.
  - (8) "IBHS client rights advocate" means an individual responsible for planning, implementing and coordinating BHO or campus of multi-site BHO client advocacy programs; representing and assisting persons served who have or are receiving IBHS intensive and specialized services and forensic inpatient services by promoting recovery, mental and emotional well-being, social and economic well-being, protecting and promoting the human and civil rights of persons served; investigating and responding to grievances; and providing client advocacy services as stated in rule 5122-7-02 of the Administrative Code. The client rights advocate reports directly to the chief executive officer of the IBHS.
  - (9) "Inquiry" means any request for information that would clarify policy, procedures or any aspect of IBHS services.
  - (10) "Mediation" is a form of alternative dispute resolution involving a voluntary process in which a neutral third party meets with persons who have a disagreement or dispute and facilitates their reaching a mutually satisfactory resolution.
  - (11) "State client rights advocate for inpatient services" means an individual appointed by the department in central office within the office of consumer services who is responsible for providing direction and support to the BHO's client rights advocates, investigating and responding to appeals from persons served, and assuring a systemic advocacy approach, as stated in rule 5122-7-02 of the Administrative Code, to the department's IBHS intensive and specialized services and forensic inpatient services. This person is also referred to as the client advocacy coordinator.
- (D) Within twenty-four hours of admission, all persons served shall be given orally and in writing an explanation of their rights, including the right to complain, grieve, appeal and/or request mediation under the complaint and grievance procedure. The written explanation shall include at least the information contained in paragraph (R) of this rule and booklet of rights.

- (E) Any family member or other representative of a person served present at the time of admission shall also receive a copy of the description of the complaint and grievance procedure as found in paragraph (R) of this rule and booklet of rights.
- (F) The information contained in paragraph (R) of this rule shall be posted on each unit, in all common areas and at conspicuous places around the BHO. This rule should also be made available to any person who requests it.
- (G) At any time during the complaint and grievance process, the client rights advocate shall inform the client of alternative dispute resolution mechanisms such as mediation and assist the client in utilizing these resources prior to filing a written grievance, if the client chooses.
- (H) All staff are responsible for responding to an inquiry.
- (I) When a complaint and/or grievance is communicated to any staff person, that staff person shall immediately notify the nursing supervisor who will ascertain whether or not the person served is fearful of any retaliation, other adverse consequences resulting from the complaint and/or grievance, and if so immediately notify the client rights advocate. Necessary disciplinary action shall be taken for failure by any staff to notify the appropriate persons.
- (J) If the content of any complaint and/or grievance is an incident as defined in rule 5122-2-06 of the Administrative Code, or abuse or neglect as defined in rule 5122-3-14 of the Administrative Code, an incident report shall be immediately filed. Thereafter, the incident shall be investigated in accordance with rule 5122-3-13 of the Administrative Code. The result of the investigation shall be communicated to the person served by the client rights advocate. If the person served is dissatisfied with the result, he/she shall then be informed of the right to grieve and be given an opportunity to file a written grievance with the client rights advocate.
- (K) If the complaint and/or grievance was communicated or filed by someone other than the person served, the client rights advocate shall notify the person served of the complaint and/or grievance. If the person served knowingly and voluntarily objects to any further consideration of the complaint and/or grievance, the grievant shall be so informed. The complaint and/or grievance shall be closed accordingly, unless the complaint and/or grievance involves an allegation of abuse or neglect as defined in rule 5122-3-14 of the Administrative Code or is an incident as defined in rule 5122-2-06 of the Administrative Code.
- (L) There shall be no retaliation against any person served, grievant, staff or client rights

advocate for having filed or having assisted in the filing of a complaint or grievance. Any staff aware of any retaliatory actions shall immediately complete an incident report.

- (M) The chief executive officer and client rights advocate shall periodically review the complaint logs and written grievances to determine if any pattern or systemic problem(s) exists. If so, the chief executive officer shall take necessary steps to correct the problem.
- (N) All staff shall receive training annually and at the beginning of employment regarding this procedure. The client rights advocate should participate in such training.
- (O) The client rights advocate and the state client rights advocate shall maintain a permanent record of all grievances indexed by client name and subject matter.
- (P) Complaint procedure:
  - (1) All staff are obligated to listen to and respond to complaints of persons served as follows:
    - (a) If the complaint is communicated to any staff person, that staff person shall immediately notify the nursing supervisor.
    - (b) The nursing supervisor shall look into the situation, act promptly and ascertain whether or not the person served, the complaint and/or grievance needs any actions required by this rule.
    - (c) Within two working days of receiving a complaint, the nursing supervisor shall inform the person served or grievant what was done and the resolution. If the person served is dissatisfied with the resolution and requests further review, the complaint shall be forwarded immediately to the client rights advocate by the nursing supervisor involved.
    - (d) The nursing supervisor shall document all complaints, resolutions, response of person served and status of complaints in the appropriate department unit complaint log.
    - (e) A complaint may be forwarded or communicated verbally or in writing directly to the IBHS client rights advocate.

(2) When the client rights advocate receives a complaint, the following actions must be completed:

- (a) The client rights advocate shall immediately look into the situation, act promptly and ascertain whether or not the person served, the complaint and/or grievance needs any actions required by this rule.
- (b) The client rights advocate shall respond to a complaint, other than a complaint that is an incident or an allegation of abuse or neglect by: (i) making a referral to staff responsible for the situation or, (ii) conducting a further review or investigation.

Within two working days, the client rights advocate shall inform the person served or grievant of the status and progress of the complaint resolution.

Within four working days of receiving the complaint, the client rights advocate will inform the person served or grievant of the resolution. If the person served is dissatisfied with the resolution and requests further review, the complaint shall be considered a grievance.

- (c) The IBHS client rights advocate shall maintain a log, separate from the unit complaint log, of all complaints received, resolution, status and response of person served using the appropriate department form.

(Q) Grievance procedure:

(1) Step one:

- (a) If the grievant is dissatisfied with the resolution of the complaint, he/she must be immediately and fully informed of the right to file a grievance and/or be provided access to mediation, a voluntary alternative dispute resolution mechanism.
- (b) If the grievant requests mediation, the BHO must provide or arrange access to mediation services at no cost to the grievant. The BHO may choose to provide mediation by utilizing IBHS client rights advocates not directly involved with the original concern. The BHO staff or other parties involved in the dispute shall be informed of the grievant's choice of mediation and encouraged to participate.

The mediation shall occur within ten working days of the decision by

the grievant to request and accept mediation.

Mediation shall further be offered to persons served who express conflict among peers, or community or BHO entities.

(2) Step two:

- (a) If the grievant chooses not to participate in mediation and is dissatisfied with the resolution of the complaint or remains dissatisfied after mediation, he/she may put the unresolved complaint in writing including exactly what happened, when it happened, the name of the staff member or other persons involved and what resolution is desired. The grievant may choose to use the appropriate department form or write a letter. If the grievant is unable to present the grievance in writing or is unable to read, write or speaks a language other than standard English as a primary means of communication and requests assistance, any staff or the client rights advocate shall arrange for appropriate assistance or help the grievant put the unresolved complaint in writing and initiate the grievance procedure.
- (b) Once a grievance is written, it shall be delivered immediately to the chief executive officer's office and client rights advocate. The client rights advocate shall immediately look into the situation, act promptly and ascertain whether or not the complaint and/or grievance needs the actions required by the client rights advocate in this rule.
- (c) The client rights advocate shall begin an immediate investigation consisting of at least an interview with the grievant, appropriate staff, review of pertinent documentation and any steps necessary to resolve the grievance. As necessary, the client rights advocate shall consult with and/or request the assistance of the chief of security.
- (d) The grievance shall be immediately listed on appropriate department forms by the chief executive officer and client rights advocate. The grievance may first be logged with the chief executive officer's designee at the discretion of the chief executive officer.

(3) Step three:

The client rights advocate shall review each grievance within one working day of its submission. The following actions should be taken promptly:

- (a) The client rights advocate, in consultation with the chief executive officer

or delegated administrator, shall consider whether or not the person served is in a vulnerable or unsafe situation. If the client rights advocate and chief executive officer or delegated administrator conclude that action is necessary to protect the person served pending resolution of the grievance, such action shall immediately be taken. This may include, but is not limited to, transferring the patient involved to another ward, temporarily reassigning a staff member, adjusting a staff member's responsibilities, in accordance with applicable collective bargaining agreements, or review by another staff person within the BHO (for example, medical director or quality assurance coordinator).

(4) Step four:

- (a) The chief executive officer or delegated administrator shall meet with the grievant (and person served, if not the grievant), representative(s) of his/her choice and the client rights advocate within five working days of the filing of the grievance with the chief executive officer.
- (b) Within five working days of this meeting, the chief executive officer or delegated administrator shall respond by correcting the problem; by initiating steps that will lead to a correction of the problem; by determining that the grievance has no merit; by determining that the grievance has merit, but he/she is unable to resolve the problem; or by identifying a more appropriate review mechanism.
- (c) The response shall be noted on the log and communicated by the chief executive officer to the person served and/or grievant in writing. The written response shall include notification to the grievant of his/her right to appeal to the state client rights advocate.
- (d) It is the responsibility of the chief executive officer to assure that the resolution is implemented and ascertain if a quality assurance process is needed as part of the resolution and if so, assure the resolution is appropriately monitored.

(5) Step five:

- (a) If the grievant elects to appeal the decision of the chief executive officer to the state client rights advocate, he/she may submit the grievance appeal directly or may request that the client rights advocate submit the grievance appeal to the state client rights advocate. This should be done within ten working days of the notification of the chief executive officer's decision.

- (b) The state client rights advocate shall obtain all information necessary to review the appeal. The state client rights advocate shall notify the grievant, (and person served if not the grievant) client rights advocate and chief executive officer within twenty working days of receipt of appeal of time lines for the initiation of the appeal, investigation process, and if indicated, the appeal hearing.
- (c) The state client rights advocate, in consultation with the deputy director, and medical director as needed, shall adopt, reject or modify the decision of the chief executive officer and so notify the grievant, (and person served if not the grievant) client rights advocate and chief executive officer.

(R) Persons served shall be given orally and in writing at least the following information:

"Client complaint, mediation and grievance procedure." This describes the complaint and grievance procedures available at the hospital site:

If you have a complaint about anything at the hospital, you should talk with the nursing supervisor on your unit or another staff person with whom you feel comfortable who will then inform the nursing supervisor. The nursing supervisor should tell you within two working days what he or she is doing to solve the problem. If you feel uncertain about this, you might prefer to talk with the client rights advocate. The client rights advocate will look into it and let you know the result.

The client rights advocate has four working days to attempt to resolve your complaint. If your complaint isn't resolved the way you want it to be, you may request mediation or file a grievance by telling the nursing supervisor or the client rights advocate you want the problem looked into further. You will be provided information regarding your options of requesting mediation or filing a grievance.

Mediation is a voluntary process in which a neutral third party meets with you and other person(s) involved in your concern or disagreement. At the end of the mediation you and the other person(s) will develop a mutually satisfactory resolution.

If you decide to file a grievance, you will be asked to write down your complaint, including exactly what happened, when it happened, the name of the staff member or other persons involved, and what you would like to see done. The nursing supervisor or the client rights advocate may assist you in writing this down if you ask for help. After your complaint is written, it will be investigated by the client rights advocate as a grievance.

You may then meet with the chief executive officer and client rights advocate to tell them of your grievance. You may also have another person with you. That person may be anyone you choose who is willing to help you. The chief executive officer will review your concern and tell you of his/her decision about your complaint within five working days of the meeting.

If you are dissatisfied with the resolution of the chief executive officer you may appeal the decision by contacting the department's state client rights advocate at the following address:

"State Client Rights Advocate

Ohio Department of Mental Health, Central Office

30 East Broad Street, 8th fl.

Columbus, Ohio 43266-0414

(614) 466-2333

(614) 752-9696 (TDD)"

If you wish the client rights advocate will help you contact this person.

At any time during the complaint, grievance or appeal process, you may call or write to Ohio legal rights service at:

"The Ohio Legal Rights Service

8 East Long Street, 5th floor

Columbus, Ohio 43215

(1-800-282-9181)"

Effective:

WITHDRAWN ELECTRONICALLY

---

Certification

12/06/2005

---

Date

Promulgated Under:	111.15
Statutory Authority:	111.15, 5119.01, 5119.02, 5122.27 through 5122.301
Rule Amplifies:	5122.27 through 5122.301
Prior Effective Dates:	3-7-1986, 7-27-1990, 12-13-1999