

Disability Rights South Dakota (DRSD)

For Voice or TDD:

**1-800-658-4782**

or 605-224-8294

[www.drSDLaw.org](http://www.drSDLaw.org)

You have a right to access to DRSD  
as your Protection & Advocacy (P&A) System.

(Revised May 14, 2019)

*Funded in part by the U.S. Department of Health and  
Human Services, Substance Abuse and Mental Health  
Services Administration, Center for Mental Health  
Services at \$0.13 per copy.*

12

## A RIGHTS GUIDE FOR INDIVIDUALS IN AN INPATIENT MENTAL HEALTH FACILITY

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### KNOW YOUR RIGHTS

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A Publication of the Protection & Advocacy  
for Individuals with Mental Illness (PAIMI) Program

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The following informational booklet is for the use of individuals, 18 years of age or older, who are inpatients in any public or private psychiatric facility in South Dakota. The laws of South Dakota are written to ensure that each person in any psychiatric facility or unit be given privacy, individual dignity, and reasonable protection from harm.

If you feel any of your legal rights have been denied as described in this guide, you may contact Disability Rights South Dakota at 1-800-658-4782 (Voice & TDD) (SD only) or 605-224-8294 (Voice & TDD)

Handbook written by: DRSD – The Protection and Advocacy for Individuals with Mental Illness (PAIMI) Program

Illustrator: Rudi Siewerdsen

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## GRIEVANCES

A person may file a grievance if he or she feels their rights are being violated.

The facility cannot discriminate or threaten to deny a person treatment, benefits, privileges or other rights if steps are taken to assert a complaint or concern.

For further information, read the patient's handbook and refer to the facility's grievance procedure where the person is receiving services.

An individual may also contact an advocate to assist through the grievance process.

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## **TABLE OF CONTENTS**

Each Person has the Right (a list of your rights once committed to a mental health facility) ~ 4

Rights concerning your Medical Care ~ 6

Your Responsibilities ~ 8

Timelines to Consider ~ 9

How to File a Grievance ~ 10

Your rights may be limited only to protect you or someone else from harm. Rights cannot be limited for the convenience of staff.

3

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3

## EACH PERSON HAS THE RIGHT



- To **vote** and hold a driver's license
- To have **access** to his/her attorney, advocate, or private physician
- To have **private conversations**
- To **refuse** electric shock or other treatments
- To **refuse** to participate in research projects
- To **refuse** to work for the institution.
- To **refuse** being photographed or fingerprinted
- To **control his/her own money and assets** if qualified and competent to do so
- To **personal care** and safe and **sanitary housing**
- To have reasonable use of a **telephone**
- To be given writing supplies to send and receive **uncensored and unopened mail**

4



## TIMELINES TO CONSIDER

- **Within 90 days** after a person is involuntarily committed, a hearing will be held to review whether commitment should continue. If it is to continue, a commitment may last **up to 6 months**.
- Another hearing will be held within these 6 months to review whether commitment should continue.
- If involuntary commitment is continued again, a commitment may be extended for **another 6 months**.
- Another hearing will then be held after this second 6 months to review the need for continued commitment for **up to 1 year**.
- Review hearings will then be held within each year a person remains involuntarily committed.

9

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9

## EACH PERSON IS RESPONSIBLE FOR

- Having input in his/her treatment and discharge plan
- Financial obligations of health care
- Consideration of the rights of others
- Respect for the property of others
- Maintaining cleanliness and order

8



- To get at least **two hours of exercise** each day
- To wear his or her **own clothing**
- To **remain silent and fully clothed**
- To have **visitors** during regular visiting hours

- To have the **facts** of admission and all records kept **confidential** unless disclosure is authorized by the person or by law
- To be **fully informed of his/her rights**, both verbally and in writing
- To have limited **access to mental health and medical records**
- To have **storage space** for personal articles
- To have access to **toilet facilities**
- To practice **religion**
- To have a **discharge plan or aftercare plan**
- To a **comprehensive psychiatric treatment plan**



5

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## **RIGHTS CONCERNING MEDICAL CARE**

- There must be **written orders** for any emergency physical restraint or seclusion. The person must be monitored by staff who will chart the person's condition.
- Each person must have a physical & mental examination **within 48 hours** (not including weekends and holidays) after being admitted to an inpatient psychiatric facility.
- Each person & their records shall be examined at **10, 30, & 90 days** to determine whether commitment should be continued.
- Each person, at their own request & expense, has the right to consult with an **independent mental health professional** or physician prior to a commitment hearing. The person's county of residence must pay for the evaluation if the person does not have money.

**Each person has the right to actively participate in their individual treatment program.**

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**Psychotropic Medication, including ECT, can be ordered by a physician to be given in an emergency to prevent "significant deterioration of the person's mental illness." This order for medication can be administered for up to 10 days. The doctor may request an additional 10 days of treatment from a court of law.**

- **ECT** cannot be given to a person who refuses OR is unable to give informed consent, **unless** permission from a court of law, the county board of mental illness, or the person's legal guardian is obtained by the psychiatric facility to give ECT.
- Each person has the right to **prompt medical treatment.**
- Each person has the right to be provided **accurate medical information.**



7

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