



Promoting Wellness and Recovery

John R. Kasich, Governor
Tracy J. Plouck, Director

Client Rights and Grievance Procedure Rule 5122-26-18 Effective April 1, 2016

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FAQ

Q: Is client rights and grievance procedure covered under deemed status?

A: Yes. MHAS will continue to follow up on complaints alleging a violation of rights.

Three Sets of Rights

1. Forensic
2. Driver Intervention Program
3. All other MH and AoD

5122-26-18 (A)

(A) The purpose of this rule is to state the minimum client rights and grievances requirements for a provider certified pursuant to Chapter 5122-25 of the Administrative Code.

5122-26-18 (B)

(B) The following definitions are in addition to or supersede the definitions in rule 5122-24-01 of the Administrative Code:

(1) "Client advocate" means the individual designated by a provider with responsibility for assuring compliance with the client rights and grievance procedure rule as implemented within each provider or board, and shall have the same meaning as client rights officer or client rights specialist.

5122-26-18 (B) (continued)

(B) The following definitions are in addition to or supersede the definitions in rule 5122-24-01 of the Administrative Code:

(2) "Grievance" means a written complaint initiated either verbally or in writing by a client or by any other person or provider on behalf of a client regarding denial or abuse of any client's rights.

(3) "Reasonable" means a standard for what is fair and appropriate under usual and ordinary circumstances.

5122-26-18 (C)

- (C) Each provider shall have the following:
- (1) Written client rights policy that lists all of the client rights identified in this rule;
 - (2) Written client grievance procedure;

5122-26-18 (C) (continued)

- (C) Each provider shall have the following:
- (3) Policy for maintaining for at least two years from resolution, records of client grievances that include, at a minimum, the following:
 - (a) Copy of the grievance;
 - (b) Documentation reflecting process used and resolution/remedy of the grievance; and,
 - (c) Documentation, if applicable, of extenuating circumstances for extending the time period for resolving the grievance beyond twenty-one calendar days.

5122-26-18 (D)

(D) Posting of client rights

(1) The client rights policy and grievance procedure shall be posted in each location in which services are provided, unless the certified agency location is not under the control of the provider, i.e. a shared location such as a school, jail, etc. and it is not feasible for the provider to do so.

(2) The client rights policy and grievance procedure shall be posted in a conspicuous location that is accessible to persons served, their family or significant others and the public.

5122-26-18 (D) (continued)

(D) Posting of client rights

(3) When a location is not under the control of the provider and it is not feasible for the provider to post the client rights policy and grievance procedure, the provider shall assure that copies are available at the location for each person that may request a written copy.

5122-26-18 (E)

(E) Except for clients receiving forensic evaluation service as defined in rule 5122-29-07 of the Administrative Code from a certified forensic center, or attending a driver intervention program as defined in rule 5122-29-12 of the Administrative Code, each client has all of the following rights:

- (1) The right to be treated with consideration and respect for personal dignity, autonomy and privacy;
- (2) The right to reasonable protection from physical, sexual or emotional abuse and inhumane treatment;
- (3) The right to receive services in the least restrictive, feasible environment;

5122-26-18 (E) (continued)

(E) Except for clients receiving forensic evaluation service as defined in rule 5122-29-07 of the Administrative Code from a certified forensic center, or attending a driver intervention program as defined in rule 5122-29-12 of the Administrative Code, each client has all of the following rights:

- (4) The right to participate in any appropriate and available service that is consistent with an individual service plan (ISP), regardless of the refusal of any other service, unless that service is a necessity for clear treatment reasons and requires the person's participation;
- (5) The right to give informed consent to or to refuse any service, treatment or therapy, including medication absent an emergency;

5122-26-18 (E) (continued)

(E) Except for clients receiving forensic evaluation service as defined in rule 5122-29-07 of the Administrative Code from a certified forensic center, or attending a driver intervention program as defined in rule 5122-29-12 of the Administrative Code, each client has all of the following rights:

- (6) The right to participate in the development, review and revision of one's own individualized treatment plan and receive a copy of it;
- (7) The right to freedom from unnecessary or excessive medication, and to be free from restraint or seclusion unless there is immediate risk of physical harm to self or others;
- (8) The right to be informed and the right to refuse any unusual or hazardous treatment procedures;

5122-26-18 (E) (continued)

(E) Except for clients receiving forensic evaluation service as defined in rule 5122-29-07 of the Administrative Code from a certified forensic center, or attending a driver intervention program as defined in rule 5122-29-12 of the Administrative Code, each client has all of the following rights:

- (9) The right to be advised and the right to refuse observation by others and by techniques such as one-way vision mirrors, tape recorders, video recorders, television, movies, photographs or other audio and visual technology. This right does not prohibit an agency from using closed-circuit monitoring to observe seclusion rooms or common areas, which does not include bathrooms or sleeping areas;

5122-26-18 (E) (continued)

(E) Except for clients receiving forensic evaluation service as defined in rule 5122-29-07 of the Administrative Code from a certified forensic center, or attending a driver intervention program as defined in rule 5122-29-12 of the Administrative Code, each client has all of the following rights:

- (10) The right to confidentiality of communications and personal identifying information within the limitations and requirements for disclosure of client information under state and federal laws and regulations;
- (11) The right to have access to one's own client record unless access to certain information is restricted for clear treatment reasons. If access is restricted, the treatment plan shall include the reason for the restriction, a goal to remove the restriction, and the treatment being offered to remove the restriction;

5122-26-18 (E) (continued)

(E) Except for clients receiving forensic evaluation service as defined in rule 5122-29-07 of the Administrative Code from a certified forensic center, or attending a driver intervention program as defined in rule 5122-29-12 of the Administrative Code, each client has all of the following rights:

- (12) The right to be informed a reasonable amount of time in advance of the reason for terminating participation in a service, and to be provided a referral, unless the service is unavailable or not necessary;
- (13) The right to be informed of the reason for denial of a service;

5122-26-18 (E) (continued)

(E) Except for clients receiving forensic evaluation service as defined in rule 5122-29-07 of the Administrative Code from a certified forensic center, or attending a driver intervention program as defined in rule 5122-29-12 of the Administrative Code, each client has all of the following rights:

- (14) The right not to be discriminated against for receiving services on the basis of race, ethnicity, age, color, religion, gender, national origin, sexual orientation, physical or mental handicap, developmental disability, genetic information, human immunodeficiency virus status, or in any manner prohibited by local, state or federal laws;
- (15) The right to know the cost of services;
- (16) The right to be verbally informed of all client rights, and to receive a written copy upon request;

5122-26-18 (E) (continued)

(E) Except for clients receiving forensic evaluation service as defined in rule 5122-29-07 of the Administrative Code from a certified forensic center, or attending a driver intervention program as defined in rule 5122-29-12 of the Administrative Code, each client has all of the following rights:

- (17) The right to exercise one's own rights without reprisal, except that no right extends so far as to supersede health and safety considerations;
- (18) The right to file a grievance;
- (19) The right to have oral and written instructions concerning the procedure for filing a grievance, and to assistance in filing a grievance if requested;
- (20) The right to be informed of one's own condition; and,
- (21) The right to consult with an independent treatment specialist or legal counsel at one's own expense.

5122-26-18 (F)

(F) Client rights - forensic evaluations.

Each client receiving a forensic evaluation service from a certified forensic center has these rights:

- (1) The right to be treated with consideration and respect for personal dignity;
- (2) The right to be evaluated in a physical environment affording as much privacy as feasible;
- (3) The right to service in a humane setting which is the least restrictive feasible if such setting is under the control of the forensic center;

5122-26-18 (F) (continued)

(F) Client rights - forensic evaluations.

Each client receiving a forensic evaluation service from a certified forensic center has these rights:

- (4) The right to be informed of the purpose and procedures of the evaluation service;
- (5) The right to consent to or refuse the forensic evaluation services and to be informed of the probable consequences of refusal;
- (6) The right to freedom from unnecessary restraint or seclusion if such restraint or seclusion is within the control of the forensic center;

5122-26-18 (F) (continued)

(F) Client rights - forensic evaluations.

Each client receiving a forensic evaluation service from a certified forensic center has these rights:

(7) The right to be advised of and refuse observation by techniques such as one-way vision mirrors, tape recordings, televisions, movies, or photographs, or other audio and visual technology, unless ordered by the court, in which case the client must be informed of such technique. This right does not prohibit an agency from using closed-circuit monitoring to observe seclusion rooms or common areas, which does not include bathrooms;

5122-26-18 (F) (continued)

(F) Client rights - forensic evaluations.

Each client receiving a forensic evaluation service from a certified forensic center has these rights:

(8) The right not to be discriminated against in the provision of service on the basis of race, ethnicity, age, color, religion, gender, national origin, sexual orientation, physical or mental handicap, developmental disability, genetic information, human immunodeficiency virus status, or in any manner prohibited by local, state or federal laws;

(9) The right to be fully informed of all rights;

(10) The right to exercise any and all rights without reprisal in any form;

5122-26-18 (F) (continued)

(F) Client rights - forensic evaluations.

Each client receiving a forensic evaluation service from a certified forensic center has these rights:

- (11) The right to file a grievance; and,
- (12) The right to have oral and written instructions for filing a grievance including an explanation that the filing of a grievance is exclusively an administrative proceeding within the mental health system and will not affect or delay the outcome of the criminal charges.

5122-26-18 (G)

(G) Client rights - driver intervention programs:

Each client participating in a driver intervention program has these rights:

- (1) The right to be treated with consideration and respect for personal dignity, autonomy and privacy;
- (2) The right to reasonable protection from physical, sexual or emotional abuse and inhumane treatment;
- (3) The right to give informed consent to or to refuse any service:
- (4) The right to be free from restraint or seclusion unless there is immediate risk of physical harm to self or others;

5122-26-18 (G) (continued)

(G) Client rights - driver intervention programs:

Each client participating in a driver intervention program has these rights:

- (5) The right to be informed and the right to refuse any unusual or hazardous procedures;
- (6) The right to be advised and the right to refuse observation by others and by techniques such as one-way vision mirrors, tape recorders, video recorders, television, movies, photographs or other audio and visual technology. This right does not prohibit an agency from using closed-circuit monitoring to observe seclusion rooms or common areas, which does not include bathrooms or sleeping areas;

5122-26-18 (G) (continued)

(G) Client rights - driver intervention programs:

Each client participating in a driver intervention program has these rights:

- (7) The right to confidentiality of communications and personal identifying information within the limitations and requirements for disclosure of client information under state and federal laws and regulations;
- (8) The right to have access to one's own client record;
- (9) The right to be informed of the reason for terminating participation in a service;

5122-26-18 (G) (continued)

(G) Client rights - driver intervention programs:

Each client participating in a driver intervention program has these rights:

(10) The right to be informed of the reason for denial of a service;

(11) The right not to be discriminated against for receiving services on the basis of race, ethnicity, age, color, religion, gender, national origin, sexual orientation, physical or mental handicap, developmental disability, genetic information, human immunodeficiency virus status, or in any manner prohibited by local, state or federal laws;

5122-26-18 (G) (continued)

(G) Client rights - driver intervention programs:

Each client participating in a driver intervention program has these rights:

(12) The right to know the cost of services;

(13) The right to be verbally informed of all client rights, and to receive a written copy upon request;

(14) The right to exercise one's own rights without reprisal, except that no right extends so far as to supersede health and safety considerations;

(15) The right to file a grievance;

(16) The right to have oral and written instructions concerning the procedure for filing a grievance, and to assistance in filing a grievance if requested

5122-26-18 (G) (continued)

(G) Client rights - driver intervention programs:

Each client participating in a driver intervention program has these rights:

- (17) The right to be informed of one's own condition;
and,
- (18) The right to consult with an independent treatment specialist or legal counsel at one's own expense.

5122-26-18 (H)

(H) Provision of client rights

- (1) The provider shall explain and maintain documentation in the ICR of explanation of rights to each person served prior to or when beginning assessment or treatment services.
- (2) In a crisis or emergency situation, or when the client does not present for services in person such as through a hotline; the provider may verbally advise the client of at least the immediately pertinent rights only, such as the right to consent to or to refuse the offered treatment and the consequences of that agreement or refusal. Full verbal explanation of the client rights policy shall be provided at the first subsequent meeting.

5122-26-18 (H) (continued)

(H) Provision of client rights

(3) Clients or recipients of information and referral service, consultation service, mental health education service, and prevention service as described in Chapter 5122-29 of the Administrative Code may have a copy and explanation of the client rights policy upon request.

(4) Explanations of rights shall be in a manner appropriate for the person's understanding

5122-26-18 (I)

(I) All staff shall be required to follow the client rights policy and client grievance procedure. There shall be documentation in each employee's personnel file, including contract staff, volunteers and student interns that each staff member has received a copy of the client rights policy and the client grievance procedure and has agreed to abide by them.

5122-26-18 (J)

(J) The client grievance procedure shall have provisions for at least the following:

- (1) Statement to whom the client is to give the grievance;
- (2) Designation of a client advocate who will be available to assist a client in filing of a grievance, the client advocate shall have their name, title, location, hours of availability, and telephone number included with the posting of client rights as required by paragraph (D) of this rule;

5122-26-18 (J) (continued)

(J) The client grievance procedure shall have provisions for at least the following:

- (3) Requirement that the grievance must be put into writing; the grievance may be made verbally and the client advocate shall be responsible for preparing a written text of the grievance;
- (4) Requirement that the written grievance must be dated and signed by the client, the individual filing the grievance on behalf of the client, or have an attestation by the client advocate that the written grievance is a true and accurate representation of the client's grievance;

5122-26-18 (J) (continued)

(J) The client grievance procedure shall have provisions for at least the following:

- (5) Requirement that the grievance include, if available, the date, approximate time, description of the incident and names of individuals involved in the incident or situation being grieved;
- (6) Statement that the program will make a resolution decision on the grievance within twenty business days of receipt of the grievance. Any extenuating circumstances indicating that this time period will need to be extended must be documented in the grievance file and written notification given to the client;

OOPS!!!

(J)(6) Statement that the program will make a resolution decision on the grievance within **twenty business days** of receipt of the grievance....

(C)(3)(c) Each provider shall have the following:...

Documentation, if applicable, of extenuating circumstances for extending the time period for resolving the grievance beyond **twenty-one calendar** days.

- Will revise rule and correct.
- 20 business days is longer than 21 calendar days, so MHAS will require 20 business days, i.e. least stringent requirement in rule.

5122-26-18 (J) (continued)

(J) The client grievance procedure shall have provisions for at least the following:

- (7) Statement that a client has the option to file a grievance with outside organizations, that include, but are not limited to, the following, with the mailing address and telephone numbers for each stated:
- (a) Applicable board of alcohol, drug addiction, and mental health services;
 - (b) Ohio department of mental health and addiction services;
 - (c) Disability rights Ohio; or,
 - (d) U.S. department of health and human services, civil rights regional office in Chicago.

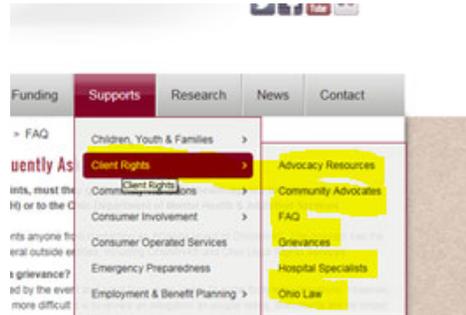
5122-26-18 (J) (continued)

(J) The client grievance procedure shall have provisions for at least the following:

- (8) Requirement that a written acknowledgment of receipt of the grievance be provided to each grievant. Such acknowledgment shall be provided within three business days from receipt of the grievance. The written acknowledgment shall include, but not be limited to, the following:
- (a) Date grievance was received;
 - (b) Summary of grievance;
 - (c) Overview of grievance investigation process;
 - (d) Timetable for completion of investigation and notification of resolution; and,
 - (e) Treatment provider contact name, address and telephone number.

MHAS Client Rights Webpage

From <http://mha.ohio.gov>:



MHAS Webpages

Incident Report Information

<http://mha.ohio.gov/Default.aspx?tabid=125>

Webinar Registration Information & Archived Recordings

<http://mha.ohio.gov/Default.aspx?tabid=743>

Rules in Effect Webpage

<http://mha.ohio.gov/Default.aspx?tabid=250>

Certification and Methadone Licensure Applications

<http://mha.ohio.gov/Default.aspx?tabid=259>

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➤ Questions or comments re: rules filings or process

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