

PATIENTS' RIGHTS...

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PATIENTS' RIGHTS IN B.C.

REVIEW PANEL

Any time after admission, an involuntary patient may apply for a hearing by a Review Panel, to which he or she is entitled after 30 days from the date of admission. Most patients, however, are simply discharged on their physician's order.

COURT REVIEW

Anyone, patient, relative, friend or any interested person who believes the patient should not be admitted to, or kept in hospital may apply to the Supreme Court to have the admission reviewed by the court. One is well advised to consult a lawyer with respect to this procedure.

The present Mental Health Act of B.C. is designed to protect the COMMUNITY from the MENTAL PATIENT. We want legislation - particularly a CHARTER OF MENTAL PATIENTS RIGHTS - to protect as well the mental patient from the community.

We want a Mental Health Act which serves both patient and community as fairly as humanly possible.

We want an Act which spells out specifically the fine phrases of the Canadian Council on Hospital Accreditation of Mental Health Facilities in Canada: The Mental Health Service SHALL ACKNOWLEDGE THE PERSONAL DIGNITY OF AND PROTECT THE RIGHTS OF THE CLIENT AND THE COMMUNITY; and the Canadian Bill of Rights: ...the right to life, liberty, security of the person and the enjoyment of property and the right not to be deprived thereof EXCEPT BY DUE PROCESS OF LAW.

We want a Charter of Mental Patients Rights and a new Act to incorporate the best ideas and legislation now available to us from Europe, the U.S. and the rest of Canada, because we view this province as in the psychiatric Dark Ages vis a vis mental health legislation reform.

At a well-attended Workshop on Patients Rights held at MPA, May 13, 1977, we put forward a number of Patients Rights for discussion.

MPA, Coast Foundation and VCLAS collected the following "rights" into legislative form from perusing other mental health acts from both Canada and the U.S.

We hope that those in decision-making positions in government will read these rights and others re-printed in this issue of the Nutshell when they formulate a Charter of Mental Patients Rights in B.C.

No person by reason of being a patient shall forfeit the right to civil or criminal legal redress for neglect, mistreatment, assault or any other form of negligent or wilful misconduct.

Emergency medical care shall be given within an institution if in the written opinion of the attending physician of a patient a true medical emergency exists and surgery is necessary to save the life, physical health, eyesight, hearing or member of the patient. The "Director" may give consent if no proper relatives or guardian is available and he cannot obtain the appropriate judicial authority.

Every person detained for evaluation or treatment shall have the right to be visited by his personal physician, attorney and clergyman or any other person, between the hours of 9 a.m. and 9 p.m. except that this right may not interfere unreasonably with the operation of the agency.

A patient shall have the right to enjoy religious freedom and the right to continue the practice of his religion in accordance with its tenets during the detainment, except that this right may not interfere unreasonably with the operation of the agency. Provision for religious worship shall be made available on a nondiscriminatory basis. A resident shall not be coerced into engaging in religious activity.

Any type of photography including video-tape cameras used for providing services or research material shall require the patient's written consent, unless precautions are taken to conceal the patient's identity.

At all hearings a person shall have the right to an analysis of his psychological condition by an independent evaluator who is a licensed physician selected by the patient or by his attorney.

Every person undergoing treatment or evaluation shall be entitled to the rights set forth in the Act and to rights that the department specifies by the rules. A list of patients' rights shall be prominently posted in English and French in all facilities providing evaluation or treatment. In addition, a copy of the list shall be furnished to every patient upon admission to a mental health facility.

A physician is obligated to consider more than a diseased organ, more even than the whole man - he must view the man in his world.

Harvey Cushing.

A patient shall have the right to refuse shock treatment. The administration of electro-convulsive therapy shall meet the following conditions:

- (a) Written documentation and signed approval and consent shall be entered in the record of the recipient.
- (b) Consent shall be for a stated number of treatments, and within a series during a stated time period. Prior to each treatment a recipient can refuse consent.
- (c) There shall be an absolute right to refuse ECT, before and during a series of treatments.

A patient shall have access to individual storage space for his private use while undergoing evaluation or treatment.

A patient shall have access to telephones between the hours of 9 a.m. and 9 p.m. to make and receive confidential calls. Long distance calls shall be allowed if the patient can pay the agency for them or can properly charge them to another number. The agency may restrict the right of a patient to call a particular person when notified in writing by that person that he is being harassed by the calls and wishes them curtailed or halted.

A person shall receive treatment and physical and psychiatric care for the full period he is detained. The clinical record shall record all medical and psychiatric evaluations and care and treatment received by the person. An agency shall provide a treatment program based on individual needs; careful and periodic re-examination by appropriate professionals each 30 days and recorded. A full physical examination shall be given once a year.

If a patient of the hospital works, this work shall be in the patient's interest. If any work performed by the patient is to benefit the hospital or agency of the hospital, the patient shall be employed and paid in accordance with the law, except as follows:

There may or may not be remuneration for a 2 day assessment period, record of which shall be entered into the patient's clinical record and the information contained in the clinical record shall be made available on request of the person, his attorney or guardian.

Any violation of a person's rights shall give him a cause of action for the greater of either \$1,000 or 3 times the amount of damages. It is not a prerequisite to this action that the plaintiff suffer or be threatened with actual damages. Any person acting in good faith upon either actual knowledge or reliable information who makes application for evaluation or treatment of another person is not subject to civil or criminal liability for such act.

Recipients of mental health services shall be permitted to the maximum extent feasible and in any legal manner, to: conduct personal and business affairs and otherwise exercise all rights, benefits and privileges not divested or limited.

Mail addressed to a patient shall not be opened unless the patient, or a legally empowered guardian, or the parent of a minor, has consented that an article of mail may be opened by a des-

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ated person, or there is reasonable belief that the article contains a sign or other object which poses an immediate danger of serious physical harm to the patient or to any member of staff of the institution. Where such reasonable belief exists, the mailed article shall be opened in the presence of the patient.

At Douglas Hospital Centre, Montreal, there is a committee called the Patients' Rights and Ethics Committee made up of people both inside the hospital and the community which meets monthly in an Ombudsman role. This hospital also has had a number of years a Patients' Executive Council, which meets weekly to review grievances at the patient level. This committee is composed of one representative from each of the wards in the hospital, plus a staff adviser. The Chairperson of the Patients' Rights and Ethics Committee (a member of the clergy), also acts as a member of the Patients' Executive Council. This is why the Chairman is able to get direct feedback from the patient population concerning areas of concern. Douglas Hospital sent MPA a copy of their Grievance and Patient Report Procedure, and also a copy of their draft proposal of a Bill of Patients' Rights and Responsibilities in the Douglas Hospital Centre.

have the right:
to be treated with respect and dignity at all times.
to prompt and adequate medical attention, and care and treatment provided by qualified staff.
to be given all relevant information regarding your treatment.
to your own legal counsel.
to uncensored communication by letter, person or telephone (unless a suspension of these rights is ordered for therapeutic reasons and properly recorded in your file).
to decent living conditions, nutritious food and adequate clothing.

7. to retain your own personal property except for reasons of space, safety or value.
8. to be informed of all your rights and responsibilities as circumstances arise e.g. audio visual, ECT, etc.
9. to refuse to participate in any research or educational project.
- 10 to confidentiality of your treatment record.
11. to be informed of any expenses charged to your account.

RESPONSIBILITIES:

Insofar as you are declared to be capable of (or not declared incapable of) behaving in a responsible manner:

1. You are expected to abide by the rules and regulations of the institution.
2. You are subject to the same legal procedures as any other citizen.
3. You are expected to respect the rights and property of other patients and staff.
4. You are expected to be responsible for your physical care, i.e. bathing, grooming, dressing.
5. You are expected to do normal housekeeping tasks appropriate to your situation.

INTERIM DEMANDS OF THE PARTICIPANTS in the North American Conference on Human Rights and Psychiatric Oppression, May 30, 1976:

1. Mental patients demand the right to be informed in clear language of the effects of any "treatment" (drugs, electro-shock, psychosurgery, etc.) offered. We demand the right to refuse any "treatment", or to withdraw our consent at any time after we have given it, without reprisals.
2. We demand the right to uncensored communication by telephone, letter and in person, with whomever we wish and at any time. Telephones should be available on each ward.
3. We demand the right to be paid at the prevailing rate for non-mental patients for any work assignments performed while in the hospital - at a rate never to be less than the minimum wage.

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4. We demand an end to the practice of keeping psychiatric records of patients. Until such time, we demand the right to see our records at any time and to complete confidentiality of our records.
5. We demand an end to physical abuse of mental patients. We demand an end to the practices of seclusion and restraints to make us conform. We demand an end to sexual abuse of mental patients.
6. We demand the right to decent, humane living conditions while in the hospital.
7. We demand the right to a sexual life while in the hospital and the right to our sexual preference.
8. We demand the right to remain silent during the initial and subsequent psychiatric interviews and the right to have legal counsel or ex-patient advocates present, as anything we say might be used against us in future legal proceedings. We demand the right to have legal counsel who represents our interests as defined by us.
9. We demand the right to financial assistance while in the hospital. The state has an obligation to supply us with spending money for things that make life in the hospital bearable: cigarettes, food from the canteen, phone calls, writing materials and postage, transportation (especially for seeking housing and jobs), etc.
10. We demand the right to an alternative to incarceration in a mental hospital. If we decide we want a hospital, we demand the right to the hospital of our choice.
11. We demand an end to involuntary commitment and "conditional voluntary" commitment. We demand that all hospitalization be completely voluntary with no strings attached.

12. Until such time as commitment is abolished, we demand an automatic hearing outside the hospital for all patients facing commitment. We demand the automatic appointment of free legal counsel for the hearing, and the right to a number of interviews with the attorney before the hearing.
13. We demand an end to re-percussions such as kicking patients out of the hospital when we exercise our right to refuse treatment or engage in political activity.
14. We demand the right to be adequately provided with income and housing when we leave the hospital. We demand jobs or easily accessible vocational training of our choice for those who want it.
15. We demand the right to organize patients' rights groups in the hospital and to hold meetings from which staff is excluded. We demand that ex-patient advocates be freely allowed to attend these meetings and have free access to patients who want to see them.
16. We demand the right to immediate and adequate medical treatment from the doctor of our choice, when we request it.
17. We demand that all medical procedures be clearly explained to us. We demand the right to refuse sterilization and all other medical and surgical procedures.
18. We demand an end to the practice of "behaviour modification".
19. We demand that hospitals provide nutritious food including adequate food for vegetarians. We demand the right to choose what we eat and how much.
20. We demand the right to be involved in decision-making at all levels of the institution, including decisions about the making of hospital rules, the hiring and firing of staff, and the way in which money is used. We demand that mental patients make up 50% of any governing body.

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Any patient voluntarily admitted to a mental health facility shall retain the right to refuse any particular treatment or form of treatment. No person shall be discharged from a provincial mental health facility or refused admission to such facility or discriminated against within such facility by reason of his or her refusal to consent to any treatment or form of treatment. Any person who is discharged from a provincial mental health facility or refused admission to such a facility or discriminated against in violation of this provision, shall have a cause of action for the greater of either \$_____ or 3 times the amount of damages. It is not a prerequisite to such action that a person suffer or be threatened with actual damage.

A person who is or has been evaluated or treated in an agency for a mental disorder shall not be discriminated against in any manner, including but not limited to:

- (a) seeking employment
- (b) resuming or continuing professional practice or previous occupation.
- (c) obtaining or retaining licenses or permits, including but not limited to motor vehicle licenses, motor vehicle operator's and chauffeur's licenses and professional occupational licenses. Applications for positions, licenses and housing shall contain no requests for information which encourage such discrimination.

A person who is or has been evaluated or treated in an agency for a mental disorder shall not be discriminated against in any manner.

All information and records obtained in the course of evaluation, examination or treatment shall be kept confidential and not as public records, except as the requirements of a hearing may necessitate a different procedure. Information and records shall be disclosed, pursuant to rules established in the regulations, to:

- (a) physicians and nurses, etc.
- (b) individuals to whom the patient has given consent.
- (c) persons authorized by court order; Department of Corrections.
- (e) persons legally doing research using hidden identity methodology.
- (f) and the patient himself or herself.

A patient has the right to be furnished with reasonable amounts of stationery and postage and to be permitted to correspond by mail without censorship with any person.