

441—28.10(218) Resident's rights for the mentally retarded.

28.10(1) The recipient of mental retardation services shall be treated with consideration, respect, and full recognition of the recipient's dignity and individuality.

28.10(2) In order to preserve each resident's self-respect and dignity, to ensure optimum care and treatment, and to prevent physical and psychological abuse, the resident shall be afforded the following considerations:

a. The resident shall be evaluated promptly following admission and shall receive emergency services appropriate to the person's needs.

b. The resident may participate in the development of treatment plans and shall be advised of hospital rules and regulations applying to individual conduct as a resident.

c. The resident shall be provided with current information concerning diagnosis, treatment and progress in terms and language understandable to the resident. When it is not feasible to give this information directly to the resident the information shall be made available to an immediate family member, guardian, or person in charge on behalf of the resident.

28.10(3) Each resident and the parent or guardian may participate in the planning and decision making with regard to the resident and be informed in writing of progress at reasonable intervals. Whenever possible, the resident shall be given the opportunity to decide which of several appropriate alternative services to receive.

28.10(4) An individual written plan of services shall be developed for each resident. The plan shall be implemented through prompt treatment of identified ailments, shall be kept current, and shall be modified when indicated.

28.10(5) The resident shall not receive unusual treatment procedures such as surgery, electroconvulsive therapy or aversive therapy without the resident's expressed, informed consent or that of the legally constituted guardian. Any unusual treatment shall be fully explained to the resident in language that the resident can reasonably be expected to understand.

28.10(6) The resident shall have the least restrictive conditions necessary to achieve the purposes of treatment. The resident shall be free from restraint or seclusion except when necessary to prevent harm to the resident or others or damage to property, or when utilized as a treatment method in which case the procedures in subrule 28.4(5) will apply.

28.10(7) The resident shall be free from unnecessary or excessive medication or treatment intervention.

28.10(8) Medical records, ward charts and information regarding the evaluation, diagnosis, care and treatment shall be considered private and confidential.

28.10(9) An individual postinstitutional plan shall be developed for each resident when release becomes an immediate goal.

28.10(10) When the resident is assigned to industrial therapy, the specific assignment shall be an integrated part of the treatment plan and the resident shall be appropriately supervised. The resident shall be compensated in accordance with federal and state laws for any work assignment.

28.10(11) The resident shall retain all the rights of full citizenship except as may be specifically limited by the constitution, statute, or court order.

28.10(12) The resident, parent, or legal guardian shall be advised of the provision of the law pertaining to admissions and discharge.

28.10(13) The resident may file application for a writ of habeas corpus and petition the court for release.

28.10(14) The resident may wear personal clothing and keep and use a reasonable amount of money as appropriate to the treatment program. The institution shall make provision for the laundering of the resident's clothing and will provide a reasonable amount of storage space for clothing and personal property.

28.10(15) When the resident does not have personal clothing or resources to purchase clothing, the institution shall furnish clothing which is clean, neat and seasonally suitable.

28.10(16) The resident shall have the opportunity for educational, vocational, rehabilitational and recreational programs as compatible with the resident's needs.

28.10(17) The resident shall have access to current informational recreational media, e.g., newspapers, television, or periodicals in keeping with the resident's treatment program.

28.10(18) The resident may participate in religious worship of personal choice in accordance with individual treatment program. Pastoral counseling shall be available when desired.

28.10(19) The resident shall be accorded privacy and uncensored communication with others by mail and telephone and with persons of the resident's choice except when therapeutic or security reasons dictate otherwise. Any limitations or restrictions imposed shall be approved by the superintendent or designee and the reasons noted shall be made a part of the resident's record.

28.10(20) The resident or any person acting on behalf of the resident may submit to the appropriate human rights committee in the institution or other appropriate authority for investigation and appropriate action complaints or grievances against any person, group of persons, organization, or business regarding infringement of the benefits of the mentally retarded person and delivery of the mental retardation services.

28.10(21) The rules for mentally retarded residents shall be publicly posted in each facility.

28.10(22) All rights and responsibilities of the resident shall devolve to the resident's guardian, next of kin, or sponsoring agency when:

- a.* A resident is adjudicated incompetent in accordance with state law.
- b.* A resident's physician has documented in the resident's record the specific impairment that has rendered the resident incapable of understanding the rights for the mentally retarded.