

This booklet is a publication of

DisAbility Rights Idaho

(formerly Comprehensive Advocacy, Inc.)

If you feel that any of your legal rights as described in this booklet have been violated, contact [DisAbility Rights Idaho](#) at our statewide toll-free telephone number:

1-866-262-3462

[DisAbility Rights Idaho](#) is a non-profit legal and advocacy services organization whose mission is to protect the rights of [individuals with disabilities](#).

KNOW YOUR RIGHTS A Guide to Rights in Mental Health Facilities



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This document was prepared by staff of DisAbility Rights Idaho with funds from the U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Center for Mental Health Services. The contents are the sole responsibility of the authors and do not necessarily represent the views of DisAbility Rights Idaho's funding sources.

Notes

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Notes

Self-Advocacy

Self-advocacy involves asserting your rights and *helping yourself* to access the services and support systems you choose.

To be a successful self-advocate, it is important to:

- ☑ Understand your rights
- ☑ Believe in yourself
- ☑ Get the facts
- ☑ Use your communication skills
- ☑ Ask questions and discuss your concerns
- ☑ Speak up
- ☑ Follow up

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KNOW YOUR RIGHTS

A Guide to Rights in Mental Health Facilities

The purpose of this booklet is to provide information to individuals who are inpatients at any psychiatric facility in Idaho.

The material in this booklet is not legal advice and is for informational purposes only. Laws change frequently and the current law should always be reviewed before taking any legal action.

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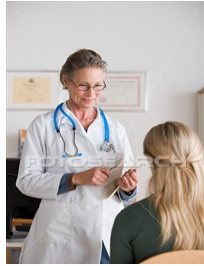
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1

Patient Rights

As a patient in a mental health facility, you have a basic right to receive appropriate treatment, including:

- ☑ An individualized treatment plan that includes therapeutic activities;
- ☑ Patient confidentiality; and
- ☑ Adequate discharge planning to help you return to the community as soon as possible.



2

You may also contact your court appointed attorney or the [Idaho State Bar](#) for a referral to a private attorney or to request free legal services.

[Idaho State Bar/Idaho Volunteer Lawyers](#)
Toll-Free Number
1-800-221-3295

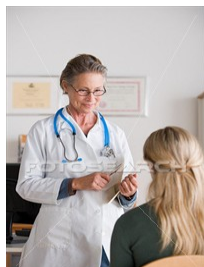


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Right to Court Appeal

If you want to legally challenge your commitment you can:

- ☑ Appeal the commitment decision;
- ☑ Petition for a re-examination of your commitment; or
- ☑ File a Writ of Habeas Corpus.

All of the above involve a court and you should ask the facility for access to a lawyer and legal information before taking action.

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In addition, you have the following specific rights which **CANNOT BE LIMITED** by the facility:

- ☑ To receive humane care and treatment;
- ☑ To be visited by your attorney or a representative from **DisAbility Rights Idaho** at any time; and
- ☑ To exercise all your civil rights not previously limited by the court, including the right to marry, to vote and to dispose of property (except your personal property at the facility).

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You also have the following rights which **CAN BE LIMITED** by the facility in certain circumstances:

- ☑ To privately communicate with other persons;
- ☑ To have access to reasonable amounts of letter writing material and postage;
- ☑ To receive visitors at all reasonable times;
- ☑ To wear your own clothes;
- ☑ To keep and use your own personal possessions;
- ☑ To keep and spend a reasonable amount of your own money for small purchases;

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Grievance Procedure

If you feel your rights have been violated, you may file a grievance. Each facility will have a different way to do this. If you are unsure of how this is done, you can ask the staff or review the patient handbook.



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Restraint and Seclusion

You may be placed in restraints or in seclusion only if facility staff determine it is necessary:

1. For your safety; or
2. For the safety of others.

The use of restraints or seclusion should be stopped when their use is no longer necessary for your safety or the safety of others.

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- ☑ To have individual storage space for your private use;
- ☑ To not be restrained or put in seclusion;
- ☑ To refuse treatment, including medications; and
- ☑ To have reasonable access to all your records.



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Access to Records

You (or your guardian) have a right to *reasonable* access to your records. Some circumstances in which the access may not be reasonable could include:

- ☑ When allowing you to see the records may endanger the safety of yourself or others;
- ☑ When the record you want is contained in the record of another patient; or



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If you are an **INVOLUNTARY** patient, you should be released from the facility if you are:

1. No longer mentally ill;
2. No longer likely to injure yourself or others; or
3. No longer gravely disabled.

Whether or not you meet the conditions for release should be determined by the facility within 90 days of your commitment and at least every 120 days after that.

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Right to be Released

If you are a **VOLUNTARY** patient, you have the right to be released upon your request. However, this is subject to the following **LIMITATION**:

If you request release and the facility staff believes you should be involuntarily committed, you may be held at the facility for up to 3 days - *excluding Saturdays, Sundays and legal holidays* - for the purpose of an examination by a designated examiner and the filing of an application for commitment.

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- ☑ When the record is not readily available because it is after business hours or there is a shortage of staff.

If you are denied access to your records, a written denial must tell you:

- ☑ The reason for the denial;
- ☑ That you have a right to have the denial reviewed; and
- ☑ How to request this review.



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Right to Refuse Treatment

If you are an **INVOLUNTARY** patient, the facility may override your right to refuse treatment, including medications, in only two circumstances:

1. In an emergency; or
2. If the court order from your commitment hearing states that you lack the capacity to make informed decisions about treatment.



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If the court order states that you lack the capacity to make informed decisions about treatment in non-emergency situations, the facility staff can treat you over your objections. However, they must first give advanced written notice and hold a hearing in which you have a right to participate.

If you are a **VOLUNTARY** patient, the facility may override your right to refuse treatment, including medications, only in an emergency.

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