



MINNESOTA

OFFICE OF OMBUDSMAN

FOR MENTAL HEALTH AND

DEVELOPMENTAL DISABILITIES

OMHDD Overview

What is an Ombudsman?

- Ombudsman is defined by the United States Ombudsman Association as: “an independent, impartial public official with authority and responsibility to receive, investigate or informally address complaints about government (or government regulated agencies’) actions, and, when appropriate, make findings and recommendations, and publish reports.”

OMHDD in Minnesota

- Established in 1987
- An independent state agency
- Ombudsman appointed by the Governor
- Policy set by the legislature
- Not a regulatory agency
- Not part of DHS
- Ten Regional Ombudsmen
- Medical Review Unit

Mission Statement

...promote the highest attainable standards of treatment, competence, efficiency and justice for persons receiving services for mental health, developmental disabilities, chemical dependency or emotional disturbance.

Who we serve

- Minnesotans with concerns or questions regarding services of an agency, facility, or program for:
 - mental health
 - developmental disabilities
 - chemical dependency
 - emotional disturbance
- This includes children and adults
- Anyone can contact OMHDD on behalf of themselves, family or friends, clients, or others

About our services

- Our services are free
- There are no income limits to access our services
- There is no citizenship requirement for our services
- Translator services through Language Line available
- Retaliation against a client or other person who contacts the OMHDD is prohibited

What is an Agency, Facility or Program

- Agency: the divisions, officials or employees of the Departments of Human Services, Health or Education, local school districts, or county social service agencies that monitor, provide, or regulate services or treatment for mental health, developmental disabilities, chemical dependency, or emotional disturbance
- Facility or Program: a residential or non-residential program or an acute care inpatient facility that provides clients with services or treatment that is required to be licensed, certified, or registered by DHS, MDH, or MDE and a sober home

Why Call the Ombudsman's Office?

Any person may call with

- A concern or complaint about services
- A question about client rights
- A question about an action of an agency or program
- A question about access to services or service options
- A question about the laws and rules that apply to services
- A question about guardianship or conservatorship
- A general question concerning services

Things the Ombudsman's Office can do

- Mediate or advocate on behalf of a client or group of clients
- Consult with providers about policies, practices and procedures
- Gather and analyze information
- Conduct reviews and investigations
- Review serious injuries and death reports
- Examine records
- Visit programs
- Recommend corrective actions, issue reports and monitor results
- Identify systemic issues and need for legislative action

Priority Issues

- Practices that diminish client dignity, respect, productivity, community integration or independence
- Concerns about health, safety and welfare
- Situations of abuse or neglect
- Unusual deaths or injuries of a client
- Quality of care or services received
- Violation of client rights
- Emergency Use of Manual Restraint
- Access to appropriate services
- Termination or suspension of services
- Clients' opportunities to direct and make choices about where they live, work and socialize

Other matters appropriate for review

Actions of an agency, facility or program that

- may be contrary to law or rule
- may be unreasonable, unfair, oppressive, or inconsistent with a policy or order of an agency, facility or program
- may be mistaken in law or arbitrary in the ascertainment of facts
- may be unclear or inadequately explained, when reasons should have been revealed

Reporting Deaths and Serious Injuries

245.94 Subd. 2a. Mandatory reporting

- Within 24 hours after a client suffers death or serious injury, the agency, facility, program director, or lead investigator of a clinical drug trial at the University of Minnesota Department of Psychiatry shall notify the ombudsman of the death or serious injury

What is a Serious Injury?

- ❑ Fractures
- ❑ Dislocations
- ❑ Evidence of internal injuries
- ❑ Head injuries with loss of consciousness or potential for a closed head injury or concussion without loss of consciousness requiring a medical assessment by a health professional, whether or not further medical attention was sought
- ❑ Lacerations involving injuries to tendons or organs
- ❑ Extensive second-degree or third-degree burns
- ❑ Extensive second-degree or third-degree frostbite

Serious Injury definition – continued

- Irreversible mobility or avulsion of teeth
- Injuries to the eyeball
- Ingestion of foreign substances and objects that are harmful
- Near drowning
- Heat exhaustion or sunstroke
- Attempted suicide
- All other injuries and incidents considered serious after an assessment by a health care professional, including but not limited to self-injurious behavior, a medication error requiring medical treatment, a suspected delay of medical treatment, a complication of a previous injury, or a complication of medical treatment for an injury

Serious Injury Reviews

- Timely, appropriate medical care
- Coordination of care and follow up services
- Appropriate treatment planning and risk management
- Medication changes
- Access to appropriate residential options and supports
- Evidence of injury prevention efforts
- Compliance with state laws, rules and relevant policies
- Adequacy of existing policies/practices/protocols
- Staff training
- Trends or clusters of similar system issues

Who/what does not qualify?

- Criminal justice system and correctional facility issues
- Legal advocacy in court proceedings
- Social Security issues
- Veterans Affairs issues
- Any issue that does not meet definitions in OMHDD statutory definitions

If a person does not qualify for services, we will try to find an appropriate referral.

Other OMHDD services

- ❑ Civil Commitment Training and Resource Center
- ❑ Review of MDE, DHS and MDH licensing and maltreatment investigations
- ❑ Review of Emergency Use of Manual Restraints 245D.061
- ❑ Oversight of University of Minnesota clinical drug trials

Guardian Responsibilities

- Place of abode
- Care, comfort, maintenance needs including social, recreational, training, and education
- Reasonable care of personal effects
- Consent for medical and other professional care
- Contracts
- Supervisory authority
- Apply for benefits and services

Guardian Responsibilities

- Establish an ABLER account
- Institute suit on behalf of person subject to guardianship

Rights of People Subject to Guardianship

- Treatment with dignity and respect
- Due consideration of personal desires and preferences
- Receive timely and appropriate health care and participate in care decisions
- Control all aspects of life not delegated to the guardian (or conservator)
- Guardianship services suited to the needs of the person
- Petition the court to prevent or initiate a change in abode
- Care, comfort, and maintenance needs within available resources

Rights of People Subject to Guardianship

- Consulted about the care and disposition of personal property/effects
- Personal privacy
- Communication, visits, calls, mail, other electronic communication, and social activities with others
- Marry and procreate
- Elect or object to sterilization
- Petition the court for termination or modification of the guardianship and any decisions made by the guardian

Rights of People Subject to Guardianship

- Legal representation in any proceeding
- Vote
- Consulted and make decisions to the extent possible about personal image and name
- Execute a health care directive
- ***Control of earned income (524.5-417(g))

Home and Community Based Services (HCBS) Rule Rights

The HCBS Rule applies to providers whose services are funded by a waiver

Accessibility

Employment

Community Life

Control of Money

Privacy (including mail/phone)

Dignity and Respect

No Coercion/Restraint

Independent Choices

Setting Choice

Choice of Services and Support

Home and Community Based Services (HCBS) Rule

- The HCBS Rule specifies the 7 rights that MAY be restricted
 - Enforceable lease
 - Privacy in their sleeping or living unit
 - A lock on the unit door with only appropriate staff having keys to the door
 - Choice of roommates if sharing a unit
 - Furnish and decorate their sleeping or living units within lease agreement
 - Freedom and support to control their own schedules and activities and have access to food at any time
 - Visitors of their choosing at any time

245D Service Recipient Rights

- Have personal, financial, service, health and medical info kept private
- Access records and recorded info about the person
- Be free from maltreatment
- Be free from restraint, time out, seclusion, restrictive intervention or other prohibited procedures with few exceptions
- Clean and safe environment (CRS)
- Treated with courtesy and respect to person and property

245D Service Recipient Rights

- Reasonable observance of cultural and ethnic practice and religion
- Free from bias regarding race, gender, age, disability, spirituality, and sexual orientation
- Informed of grievance policy and procedures
- Know contact info for P&A, appropriate ombudsman
- Assert these rights personally or by family, authorized rep, legal rep
- Give or withhold informed consent to research/experimental treatment

245D Service Recipient Rights

- Associate with other persons of the person's choice in the community
- Personal privacy, including the use of a lock on bedroom or unit door
- Engage in chosen activities
- Access personal possessions at any time, including financial resources
- Private access to a phone
- Receive and send mail or electronic correspondence or communication
- Use of and free access to common areas and freedom to come and go from residence at will

245D Service Recipient Rights

- Choose visitors and time of visits and privacy for visits with spouse, next of kin, legal counsel, religious advisor, etc including privacy in person's bedroom
- Access to 3 meals and snacks per day
- Access to water at any time
- Freedom to decorate and furnish bedroom or unit
- Clean setting free from health and safety hazards

Alternatives to Guardianship

- Supported Decision Making
- Psychiatric Health Care Directive
- Health Care Directive
- Commitment??

Thank you

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