



# HAWAII DISABILITY RIGHTS CENTER



HAWAII'S PROTECTION AND ADVOCACY SYSTEM FOR PEOPLE WITH DISABILITIES  
HAWAII'S CLIENT ASSISTANCE PROGRAM



## **A BILL OF RIGHTS FOR PEOPLE WITH MENTAL ILLNESS**

1132 Bishop Street, Suite 2102, Honolulu, Hawaii 96813

Phone (V/TTY): (808) 949-2922 Toll Free (V/TTY): 1-800-882-1057 Fax: (808) 949-2928

E-mail: [Info@HawaiiDisabilityRights.org](mailto:Info@HawaiiDisabilityRights.org) Website: [www.HawaiiDisabilityRights.org](http://www.HawaiiDisabilityRights.org)

# **PAIMI: THE PROTECTION AND ADVOCACY FOR INDIVIDUALS WITH MENTAL ILLNESS ACT**

The Protection and Advocacy for Individuals with Mental Illness Act (PAIMI) was first passed by the Congress of the United States in 1986. The purpose of this law is to protect the human, civil, and legal rights of people with mental illness. You may qualify for protection under this law if:

1. You have a diagnosis of mental illness or emotional impairment;  
and
2. You believe that you have been abused or neglected, or have experienced discrimination, or a violation of your civil or legal rights, because of your mental illness.

You may be eligible for PAIMI assistance in any of the following circumstances:

- You are an in-patient or resident of a hospital or any other facility, such as a group home or a jail; or
- You are being admitted to a hospital or other facility; or
- You are being transported to a hospital or other facility; or
- You have recently been discharged from a hospital or other facility; or
- You are living in the community; or
- You are homeless.

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*For more information about PAIMI, or for assistance from PAIMI, please contact:*

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# **YOUR RIGHTS**

## **1. You have a right to appropriate treatment and related services.**

The services and treatment you receive must meet your particular needs. This includes medical services, therapeutic and rehabilitative programs.

- a. The services must be provided in a way which supports your personal freedom.
- b. Your freedom can be limited only if a court finds it necessary for your treatment, or in emergencies.

## **2. You have a right to an individualized treatment plan.**

Your individualized treatment plan must be developed specifically for you. The plan will define the goals of your treatment and state how they will be reached.

- a. The plan must be written down so that you can read it.
- b. Your treatment must be based on this plan.
- c. The plan must be reviewed from time to time and any necessary and appropriate changes made.
- d. It must also be revised to include plans for services and housing after you are discharged from the facility or program.
- e. You have a right to participate in the planning of the mental health services you receive.

**3. You have a right to have your treatment explained to you in language and terms you understand.**

- a. The explanation must define the nature and goal of your treatment and why it is appropriate for you.
- b. The explanation must also include:
  - diagnosis of your mental condition
  - any physical conditions you may have
  - possible negative side effects of the treatment
  - other possible treatments
  - the names of providers of other mental health services

**4. You have a right to the least restrictive environment unless you are committed after being charged with a crime of violence.**

**5. You have a right to refuse treatment and medication except in an emergency or when court orders for medication have been issued.**

- a. You cannot be treated or given medication unless you understand the reasons for treatment and have voluntarily given your consent in writing.
- b. You may, however, be given the treatment or medication in case of an emergency or when there are court orders specifying medication.

**6. You have a right not to participate in experimentation.**

- a. If you do decide to participate in experimentation you must fully understand what it involves and your consent must be voluntary and in writing.
- b. You may also change your mind at any time and withdraw consent.

**7. You have a right to choose your doctor so long as that doctor agrees to treat you.**

**8. You have a right to a qualified, competent staff.**

**9. You have a right to know the names and titles of staff.**

**10. You have a right not to be restrained or secluded.**

- a. You can only be secluded or restrained during an emergency situation and then the seclusion or restraint can be for no more than one hour without an order from a doctor.

**11. You have a right to a humane treatment environment.**

- a. The facility must ensure your physical safety and provide privacy for your personal needs.
- b. The facility must allow you to have personal belongings in your room.
- c. The facility must allow you physical exercise and recreation.
- d. The facility must provide an adequate diet.

**12. You have a right to access to personal funds and valuables.**

**13. You have a right to have your records kept confidential.**

- a. People from outside the program or facility, including your family and friends, must have your written consent before they can see your records.

**14. You have the right to see your own records.**

- a. This right may be limited if the facility administrator has decided that seeing certain material would be harmful to you or to someone else.
  - You can appeal this decision by asking for the opinion of another mental health professional.
- b. This right may also be limited if someone else has given information about you and asked that it remain confidential.
- c. You keep the right to have your records kept confidential after you are discharged.
- d. You also keep the right to access your records after you are discharged.
- e. You can challenge your records if you think something was mistakenly reported and can write your own version of the facts for your record.

**15. You have a right, if you are a resident or in-patient of a treatment facility, to communicate and associate with others according to the guidelines of the facility.**

- a. This means you must be able to use the phones, write and receive letters and talk privately with visitors.

- b. This right may be limited if it is decided that you should not see a particular visitor. This limitation must be in writing and be a part of your treatment plan.
- c. Your rights may also be limited to prevent you from harming, threatening or harassing someone, from breaking the law, or from disrupting the facility.

**16. You have a right to be informed of your rights.**

- a. The facility must inform you of your rights as soon as you are admitted to the program or facility.
- b. If, because of your mental condition, you cannot understand your rights when you are admitted, the facility must inform you of these rights within two (2) weeks after you are admitted.

**17. You have a right to assert your grievances.**

- a. The program or facility must provide you with an opportunity to have your complaints heard in a fair, timely and unbiased manner.
- b. The facility must inform you of any action it takes as a result of your grievance.

**18. You have a right to have access to rights protection services.**

- a. You must be allowed to contact a rights protection service within the program or facility, or an outside service such as Protection & Advocacy.
- b. You may also contact an attorney to act as your advocate.

- 19. You have a right to freely exercise your rights without fear of reprisal.**
  - a. You cannot be denied services or have services stopped, or be treated in a way which is not part of your treatment plan because you have exercised your rights.
  
- 20. You have a right to be referred to other mental health services when you are discharged.**
  
- 21. You have a right to be admitted to another program or facility even though you have exercised your rights.**
  - a. You cannot be denied services at a new facility or program because you exercised your rights somewhere else.

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***This booklet does not state or explain all of your rights in detail.  
If you have questions about your rights, please contact:***

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## **YOUR RIGHTS AT A COMMITMENT HEARING**

1. If you have been placed in the facility by a court because you were arrested and charged with a crime and you want to know about your rights to be released, you should call either the:
  - Public Defender - 586-2200; *or the*
  - Hawaii Disability Rights Center - 949-2922.
  
2. Unless you have been placed in a facility by a court, you cannot be involuntarily committed to a psychiatric hospital for more than 48 hours, unless requirements set by Hawaii law are met. You must meet all of the following criteria:
  - a. A court must determine that you are mentally ill or suffering from substance abuse and
  - b. You must be considered to be a danger to yourself or others; or be gravely ill; or be obviously ill and
  - c. You must be in need of care and treatment, which is not available in a less restrictive place.
  
3. You may be involuntarily admitted for up to 48 hours without a court order if:
  - a. A mental health worker believes you are obviously ill; or

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## A Bill of Rights for People with Mental Illness

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- b. A policeman believes you are threatening or attempting suicide;  
or
  - c. A judge, without holding a hearing, issues an order at the request of a doctor, lawyer, member of the clergy, or certain other professionals, or
  - d. A doctor finds that you meet the criteria a, b, and c of #2 above.
- 4. If a commitment hearing is scheduled you have certain rights which are protected by law in the State of Hawaii:**
- a. A public defender will be appointed for you if you cannot hire an attorney.
  - b. The attorney will investigate and prepare your case, present your arguments and cross-examine other witnesses.
- 5. You have the right to be present at all hearings.**
- a. A guardian ad litem or temporary guardian must be appointed to represent you if you are not able to attend the hearing, or if you are not able to understand the proceedings.
- 6. You have the right to get an independent medical evaluation.**
- 7. You have the right, if you are committed, to not be held for more than 90 days without another order of the court.**
- a. The hospital must ask for a commitment hearing for a second 90-day commitment and then has the right to ask for a 180-day commitment if all of the requirements listed under #2 of this section are still met and are likely to continue for more than 90 days.

## **TO FILE A COMPLAINT**

Most hospitals and treatment facilities have a grievance procedure, which needs to be followed when you want to file a complaint. If you do not know the procedure, the staff with whom you have direct contact should be able to assist you.

You can also file complaints with the Department of Health:

- Chief  
Office of Health Care Assurance (OHCA)  
601 Kamokila Blvd., Kapolei, Hawaii 96707
  
- Chief  
Adult Mental Health Division (AMHD)  
1250 Punchbowl Street, Honolulu, Hawaii 96813

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## HAWAII DISABILITY RIGHTS CENTER

The Hawaii Disability Rights Center defends and enforces the human, civil and legal rights of people with disabilities.

**HUMAN RIGHTS** are those natural rights that are accorded to all human beings, stated in the U.S. Constitution as the right to Life, Liberty and the Pursuit of Happiness.

**CIVIL RIGHTS** are an expansion of basic human rights and are stated in the U.S. Constitution, the U.S. Bill of Rights and the Hawaii State Constitution. They include the rights to: Freedom of Religion, Speech, Press, Assembly, Equal Protection under the Law, Privacy, Confidentiality.

**LEGAL RIGHTS** are an expansion of our human and civil rights as established by specific laws, such as those laws which authorize **Protection & Advocacy** for people with disabilities.

**IT IS THE POLICY OF HDRC** to advocate for as many people with disabilities in the State of Hawaii, on as wide a range of disability rights issues, as our resources allow; and to resolve rights violations with the lowest feasible level of intervention; but, if necessary, to also provide full legal representation to protect the rights of people with disabilities, consistent with authorizing statutes and Center priorities.

*For more information, or to obtain this publication in an alternate format, please contact:*

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