

Personal Rights of Subjects

Rights of a subject of a mental health board proceeding for commitment of a dangerous sex offender

A. Procedural rights

1. To written notice of the time and place of hearing.
2. To notice of the reasons alleged for believing the subject is a dangerous sex offender who requires Mental Health Board Ordered treatment
3. To receive a copy of the petition.
4. To a list of his/her rights.
5. To the label of the mental disorder of the subject unless the physician or mental health professional on the board determines that it is not prudent to disclose the label of the mental disorder to the subject, then notice of this label may be disclosed to the subject's counsel rather than the subject. When the subject does not have counsel, the subject has a right to the information about his or her mental illness including its label.
6. To inquiry by the Board as to whether the subject has read and understood the petition and list of rights.
7. To a lawyer (Board appointed if the subject is indigent)
8. To access (either in person or through his/her attorney) all evidence and information including the label given to the alleged mental illness.
9. To an independent evaluation by physicians or clinical psychologists and to have their testimony and assistance in the subjects behalf. If the subject is indigent, the reasonable cost of the evaluation and related professional assistance in the subject's behalf will be paid by the Board.
10. To have continuances liberally granted.
11. To closed hearings unless the subject requests that they be open.
12. To be present at all hearings and present witnesses and information defending against the petition
13. To subpoena witnesses to testify for the subject's defense.
14. To confront and cross examine witnesses and evidence
15. To have rules of evidence applicable in civil proceedings apply to Board hearings.
16. To testify or refuse to testify.
17. To be free of such quantities of medication or other treatments prior to any Board hearing as would substantially impair his/her ability to assist in his/her defense at the hearing.
18. To written statements by the Mental Health Board about the evidence relied upon and the reasons for finding clear and convincing proof at the hearing that the subject is a dangerous sex offender and, that less restrictive alternatives are not available or feasible to prevent the harm and for the choice of the particular treatment ordered.
19. To have the Board's written findings made part of the person's record.
20. To have all proceedings be of record
21. To appeal the decision of the Mental Health Board to the District Court and to appeal a final order of the District Court to the Court of Appeals

B. Rights while in custody or Board ordered treatment.

1. To be considered legally competent for all purposes (ie. Voting, contracts, use of money, marriage, divorce, etc.) unless one has been declared legally incompetent.
2. To receive prompt and adequate evaluation and treatment for mental illness and physical ailments and to participate in one's treatment planning activities (to the extent deemed appropriate by the mental health professional responsible)
3. To refuse treatment medication, except (a) in an emergency, such treatment as is essential in the judgment of the mental health professional in charge of such treatment to prevent the subject from causing injury to himself, herself or others or (b) following a hearing and order of a mental health board, such treatment medication as will substantially improve his or her mental illness.
4. To communicate freely with all persons by sealed mail, personal visitation or private telephone communications.
5. To have reasonably private living conditions, including private storage space for personal belongings.
6. To engage or refuse to engage in religious worship and political activity.
7. To be compensated for labor in accordance with the fair labor standards act.
8. To have access to a grievance procedure
9. To file writs of habeas corpus to challenge the legality of his or her custody or treatment.
10. To have his/her records remain confidential except as otherwise provided by law.
11. To have access to his/her records unless ordered otherwise by the Court.