

**Arizona Department of Health Services
Division of Behavioral Health Services
PROVIDER MANUAL
NARBHA Edition**

Section 10.11 Member Rights

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10.11.1 Introduction

Organizations and individuals participating in the NARBHA system of care provide services to members which promote a sense of dignity, autonomy, a positive self regard, involve members in decision making, and respect members' human, civil, constitutional and statutory rights.

10.11.2 References

- 9.A.A.C. 20
- 9.A.A.C. 21

10.11.3 Scope

This policy applies to Responsible Agencies.

10.11.4 Procedures

10.11.4-A

- A. NARBHA requires that members receive a copy of their rights, in a language they understand, from the Responsible Agency enrolling the member in the NARBHA system of care, and upon request.
- B. Responsible Agencies are required to document members' receipt of those rights in the clinical record.
- C. Responsible Agencies are required to provide members with a NARBHA Member Handbook.
- D. A copy of member rights is posted at each provider agency.
- E. Providers are required to comply with other federal and state laws (Title VI of the Civil Rights Act, Age Discrimination Act, Rehabilitation Act, Titles II and III of the Americans with Disabilities Act).
- F. Member rights include the following, at a minimum:
 - To be treated with respect, and due consideration for **his/her dignity and privacy**.
 - Not to be discriminated against based on race, national origin, religion, gender, sexual orientation, age, disability, marital status, diagnosis, or source of payment.
- G. Rights related to member treatment services
 - Treatment supports and respects the member's individuality, choices, strengths, and abilities;
 - Treatment supports the member's personal liberty and only restricts the member's personal liberty, according to a court order; or with the member's consent.
 - Treatment is provided in the least restrictive environment that meets the member's needs.

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- Members participate in decisions regarding their health care, including the right to refuse treatment;
- Members receive information on available treatment options and alternatives which is presented in a manner appropriate to their condition and ability to understand
- Members have the right to consent to treatment after receiving a verbal explanation of the member's condition and the proposed treatment, any procedures involved in the proposed treatment, any risks or side effects from the proposed treatment, and any alternatives to the proposed treatment.
- Members have the right to participate in treatment decisions and in the development and periodic review and revision of the member's written treatment plan. If applicable, to have the member's parent, guardian, or custodial agent to participate.
- Members have the right to receive a referral to another agency if the provider is unable to provide a behavioral health service that the member requests or that is indicated in the member's treatment plan.
- Members have the right to refuse treatment or withdraw consent to treatment unless such treatment is ordered by a court or is necessary to save the member's life or physical health.
- Members have to right to receive appropriate screening or assessment and referral for or provision of management of pain.
- Members are free from any form of restraint or seclusion used as a means of coercion, discipline, convenience or retaliation;
- Members may to participate or refuse to participate in research or experimental treatment.
- Members may consent in writing, refuse to consent, or withdraw written consent to participate in research or treatment that is not a professionally recognized treatment.

H. Other member rights:

- Not to be prevented or impeded from exercising the member's civil rights unless the member has been adjudicated incompetent or a court of competent jurisdiction has found that the member is unable to exercise a specific right or category of rights.
- Freedom to exercise their rights, and that the exercise of those rights does not adversely affect the way the behavioral health member is treated
- To request or receive a copy of the member's medical records and request that they be amended or corrected;
- To have member information and records kept confidential, and released only in accordance with state and federal law.
- To submit complaints, grievances, and appeals without constraint or retaliation.
- To have complaints, grievances and appeals considered in fair, timely, and impartial manner.
- To seek, speak to, and be assisted by legal counsel of the member's choice, at the member's expense.
- To receive assistance from a family member, designated representative, or other individual in understanding, protecting, or exercising their rights.

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- To privacy in correspondence, communication, visitation, financial affairs, and personal hygiene, except as required by treatment;
- To privacy in treatment, including the right not to be fingerprinted, photographed, or recorded without consent.
- To review the following reports:
 - OBHL Licensure Rules
 - The report of the most recent OBHL licensure inspection of the provider premises.
 - To be informed of all fees that the member is required to pay and of refund policies and procedures before receiving a behavioral health service, except a crisis service.
- To be free from:
 - Abuse
 - Neglect
 - Exploitation
 - Coercion
 - Manipulation
- Discharge or transfer, or threat of discharge or transfer, for reasons unrelated to the member's treatment needs.
- Treatment that involves denial of:
 - Food
 - The opportunity to sleep
 - The opportunity to use the toilet

- To control their own finances, except when the member is under guardianship, has a representative payee, or is ordered by a court as not competent.
- To participate or refuse to participate in religious activities.
- To refuse to perform labor for a provider, except for housekeeping activities and activities to maintain health and personal hygiene.
- To refuse to acknowledge gratitude to the provider through written statements, other media, or speaking engagements at public gatherings.
- To receive behavioral health services in a smoke-free facility, although smoking may be permitted outside the facility, according to the provider's policies and procedures.

- Members receiving treatment in a residential agency or inpatient treatment program, have the following additional rights:
 - If assigned to share a bedroom, with the following standards:
 - Children not to share any bedroom or any common areas with members 18 and older;
 - In accordance with gender;
 - In accordance with developmental level, behavioral health issues, treatment needs, and need for group support, independence, and privacy.
 - To associate with individuals of the member's choice, receive visitors, and make telephone calls during the hours established by the provider and conspicuously posted in the facility, except as required for treatment.

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- To send and receive uncensored and unopened mail, unless restricted by court order, and documented in the members record.
- To maintain, display, and use personal belongings, including clothing, unless restricted by court order, or to protect the member's or other's safety, and documented in the member record.
- To be provided storage space, capable of being locked, on the premises while the member receives treatment.
- To be provided meals to meet the member's nutritional needs, with consideration of member preferences.
- To have clean, seasonably appropriate clothing that is in good repair and selected and owned by the member.
- To be provided access to medical services, including family planning to maintain the member's health, safety, and welfare.
- To have opportunities for social contact and daily social, recreational, or rehabilitative activities;
- To be informed of the requirements necessary for the member's discharge or transfer to a less restrictive physical environment.
- To receive, at the time of discharge or transfer, recommendations for any treatment needed when the member is discharged.
- To have access to pastoral services, if desired.

- Members enrolled as an Adult with Serious Mental Illness have the following rights, in addition to those stated above:
 - To acquire and dispose of property, to execute instruments, to enter into contractual relationships, to hold professional or occupational driver's licenses, unless the member has been adjudicated incompetent to do so by a court of law.
 - To vote, unless under guardianship.
 - To be visited and visit with others.
 - To associate with anyone of the member's choosing, and to form associations.
 - The same civil rights as all other citizens of Arizona, including the right to marry and to obtain a divorce, to have a family, and to live in the community of their choice without constraints upon their independence, except those constraints to which all citizens are subject.
 - To be provided with a reasonable explanation of all aspects of one's condition and treatment;
 - To a continuum of care in a unified and cohesive system of community services that is well integrated, facilitates the movement of members among programs, offers different levels of intensity of services to meet individual member needs, and ensures continuity of care.
 - To a continuum of care that consists of, but is not limited to services as defined in A.A.C.9-21.
 - To receive assistance from DBHS Office of Human Rights advocates in understanding, protecting, or exercising member rights.