

# OVERVIEW & SUMMARY OF CLIENT RIGHTS

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APSM 95-2

NC General Statutes

United States Constitution

PBH Contract

# Disclaimer

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- This Client Rights presentation was developed and completed by the Client Rights Committee of PBH as part of their mission to educate the community on client rights.
- This presentation is for informational purposes only as a general overview for all audiences in the local community covered by the Client Rights Committee of PBH. To ensure complete understanding of this information, the Client Rights Committee of PBH encourages participants to read each slide.
- This presentation does not replace the Client Rights training required for provider staff or consumers.
- Provider agencies are responsible for ensuring that staff are trained in specific agency procedures and are determined to be competent. Provider agencies are also responsible for providing client rights education to consumers.

# Who Might Want to Know This Information??

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- PBH Staff
- Contracted Providers' Staff
- Individuals Receiving Services
- Family Members
- General Public

(If you have questions, need help or an explanation,  
please call PBH Quality Management at 704-721-7000)



# Why Are CLIENT RIGHTS Important to Know?

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Knowing about Client Rights assures every consumer is treated with the dignity and respect they deserve while being provided a safe and appropriate environment for their comfort and care.

# What Does Client Rights Education Do?

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- Ensures safety
- Provides individuals with a sense of control
- Protects staff from inadvertently acting inappropriately
- Staff are trained on rights and use of de-escalation of aggressive behaviors
- Education empowers consumers and staff
- Consumers are informed of rights



pbH

*Creating solutions, One person at a time*

# Informing Consumers of their Rights

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## Providers must inform consumers of their rights:

- Within 3 visits for outpatient / community based services / day/night
- Within 72 hours for residential

## Notification must include the following:

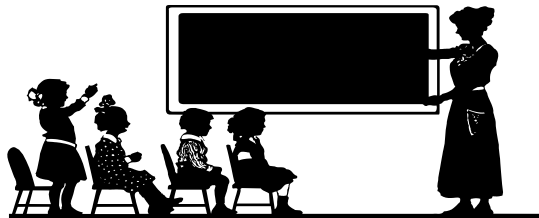
- Written summary of all rights
- Additional rights for 24 hour programs
- Search and Seizure process
- Suspension and Expulsion process
- Confidentiality rights



# Consumer Notification must include the following:

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- Program/Facility rules and consequences for violation
- How to get a copy of their treatment plan
- How to get a copy of their discharge plan
- How to complain or file a grievance that includes contact information and timeframes
- Agency fees and collection requirements
- Explanations about agency behavior management system to include the purposes, goals and reinforcements of the system



# Consumer Notification for 24 hour facilities must include the following:

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- Rights that can be restricted
- How notifications will be communicated to the consumer, parent, legal representative or designee of consumer choice for implementation of any restrictive intervention or rights restrictions
- Consumers/families are involved in making decisions about treatment as appropriate
- Right to contact Disability Rights North Carolina 1-877-235-4210 for help



# Consumer Notification for 24 hour facilities must include the following:

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- Benefits, risks and alternatives to treatment
- Length of time consent/authorization for treatment is valid
- Process for revoking consent/authorization
- Right to refuse treatment

# Rights for Adults and Minors

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- Privacy
- Freedom of Association
- Freedom from cruel and unusual punishment
- Right to marry, procreate and raise children
- Right to vote
- Freedom of speech and expression
- Freedom of religious expression
- Right to own property
- Equal Employment Opportunity
- Equal Educational Opportunity



# Human Rights

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- Dignity and respect
- All treatment must occur in a safe setting (including medical and habilitative)
- No one should be neglected, abused or exploited financially, physically, sexually or emotionally
- Consumer information must be kept confidential

# Rights for Adults and Minors

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- Person Centered treatment plan implementation within 30 days of admission
- Freedom from unnecessary medication
- Medication cannot be used for punishment, discipline or staff convenience





# Rights for Adults and Minors

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- Participation in recreational activities in the community
- Participation in facility governance (residential)
- Participation in voluntary, non-compensated activities
- Participation in employment

# Advance directives

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- Right to control decisions about your physical health and mental health care
- Health Care Power of Attorney
  - GS 32A-25
- Advance Instruction for MH Treatment
  - NCGS 122C-77

# Personal Funds

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- Financial Management consent is required
- Consumers should have a personal bank account
- Money Management should be encouraged
- Consumer funds separate from facility funds
- Reconciliation of bank statements with ledger
- Authorization prior to deduction of money for any amount owed or allegedly owed for damages to facility, employee, visitor or other consumer





# Suspension and Expulsion

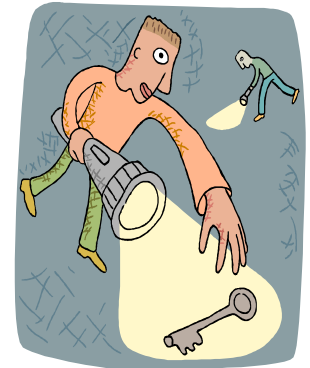
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- Consumers should be free from the threat or fear of unwarranted suspension/expulsion
- Suspension/Expulsion requirements:
  - Criteria / Reason
  - Event that led to the action
  - Alternative service options
  - Specific time and conditions for resuming services
  - Discharge plan, if applicable
- PBH Contract Providers: 3 incidents must be documented prior to suspension/expulsion to include: date, time, circumstances and severity

# Search and Seizure

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- Consumers should be free from the threat or fear of unwarranted Search and Seizure, to include freedom from unwarranted invasion of privacy
- Documentation Requirements:
  - Scope of search
  - Reason for search with reasonable cause
  - Procedure followed in conducting search
  - Description of any property seized
  - An account of the disposition of seized property
- Two staff members must be present for a search of a person. One staff member must be the same gender as the consumer





# Rights for Adults and Minors

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- Consultation with Legal Council, Private Physician and/or Private MH/DD/SA Professional of choice
- Consumer Advocate
- Personal Choice
- Personal Hygiene
- Uninterrupted Sleep
- Send and receive sealed mail
- Adults: Private telephone access

# Additional Rights for Minors in a 24 hour Facility

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- Contact/Consult with Parent/Legal Guardian
- Adult Supervision and Guidance
- Normal opportunities for education, growth and development





# Types of Restrictions Permitted

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- Rights Restrictions
- Protective Devices used for Behavioral Control
- Physical Restraint
- Seclusion
- Isolation Time-out

# Rights Restrictions Requirements

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- Approved as determined by a Qualified Professional
- Relation to the consumer needs
- Close monitoring
- Documentation of the following notifications:
  - Consumer
  - Legal Guardian/Representative
- Documentation in the Treatment Plan



# Rights Restrictions Monitoring Requirements

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- Review by Provider Agency Qualified Professional:
  - Every 7 days - Monitoring
  - Every 30 days – Restriction renewal
- Documentation to include:
  - Status of restriction and progress
  - Rationale for continuation
  - Minor/Incompetent Adult: notification to the guardian/legally responsible person at initial and renewal
  - Competent Adult: notification to the designated person at initial and renewal

# Rights that can be Restricted

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Make and Receive Confidential Calls

Retain a Driver's License

Have Storage Space

Keep and Spend Money

Keep Personal Possessions

Participate in Religious Worship

# Rights that can be Restricted for Adults

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- Visitation with others including limiting the choice of friends and contacts
- Leave Facility
- Outdoor recreation



# Rights that can be Restricted for Minors

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- Send and receive mail or have the mail read by staff
- Receive special education and vocational training
- Receive visitors
- Outdoor recreation





# Protective Devices Requirements

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- Approval through an assessment of need and determined by a Qualified Professional who is trained, competent and privileged in the use of the device
- Requirements:
  - Least restrictive alternative
  - Most appropriate positive alternative
  - Relate to the consumer needs and documented in the Treatment Plan
  - Close monitoring during use of device



# Protective Devices Monitoring

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- Documentation of the following:
  - Opportunities for toileting, exercise, etc.
  - Hourly observation when device limits freedom of movement
  - Continuous observation when restrained and subject to injury
  - Interventions provided by staff
  - Cleaning of protective devices regularly
  - Client Rights Committee review and approval

# Restrictive Intervention Requirement

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- Least Restrictive Alternative
- Most appropriate setting and method
- Promote coping and engagement skills that are alternatives to injurious behavior to self / others
- Provide choices of activities meaningful to the clients served
- Share control of decisions with the consumer, legally responsible person and staff
- A restrictive intervention should be implemented by certified staff to reduce a behavior or ensure safety and must be used only as a last resort



# Restrictive Intervention Documentation

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- Comprehensive health assessment to include conditions that could create a risk
- Continuous assessment / monitoring of physical and psychological well being and safe use by certified staff
- Continuous monitoring by staff certified in CPR who are able to monitor physical and psychological well-being for a minimum of 30 minutes after the termination of a restrictive intervention



# Emergency Restrictive Interventions

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- Consumer is in imminent danger of causing abuse or injury to self or others
- When substantial property damage is occurring as a result of unexpected and severe forms of inappropriate behavior and rapid intervention by the staff is needed to ensure safety or prevent harm
- Requirements:
  - 15 minute implementation maximum
  - Assessment
  - Authorization – as soon as possible

There is no formal plan on how to handle situation

# Emergency Use Requirements

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- Qualified Professional authorization for the use of the restrictive intervention
- Verbal Authorization if the QP is not immediately available, but concurs with intervention
- Verbal Authorization occurs within 3 hours after the implementation of the intervention
- Written Orders: Original Order must be renewed with these limits or up to a total of 24 hours



# Planned Restrictive Interventions

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- When used more than 4 times or 40 hours in a calendar month
- In a single episode in which the original order is renewed for up to a total of 24 hours
- As a measure of therapeutic treatment designed to reduce dangerous, aggressive, self-injurious or undesirable behaviors to a level which will allow the use of less restrictive treatment or habilitation procedures

# Planned Restrictive Interventions

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- Original Order - only renew in accordance with these limits or up to a total of 24 hours
- Standing Orders or PRN orders are not to be used to authorize the use of seclusion, physical restraint or isolation timeout
- Consent / Authorization is valid for 6 months
- Decision to continue intervention must be based on clear and recent behavioral evidence that the intervention is having a positive impact and continues to be needed



# Planned Restrictive Intervention Requirements

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- Approval of the plan by the responsible Qualified Professional and the treatment team
- Consent of the Consumer/Legally Responsible Person
- Notification of a Consumer advocate of consumer's choosing
- Physician approval, if there are medical conditions
- Approval by the provider's Client Rights Committee within 30 days of initiation
- Appeal process



# Unique Rules for Restrictive Intervention

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- Restrictive Interventions should not be used as:
  - Coercion
  - Punishment
  - Staff retaliation
  - Convenience of staff
  - Staffing inadequacy
  - Interventions due to historical behaviors of the consumer
- Restrictive interventions must be used in a manner that causes no harm or abuse



# Seclusion or Isolation Time-out Facility Requirements

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- Ensure health, safety and well-being
- Empty Walls
- 75 watt bulb in lights mounted on ceiling with screen to prevent tampering
- 50 square feet with at least 8 feet ceiling
- Floor and wall contents must ensure one hour fire retardant protection
- Floor and wall contents shall not produce toxic fumes if burned

# Seclusion or Isolation Time-out Facility Requirements

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- One door must have a window to allow for inspection of the entire room
- The glass in the window must be impact resistant and shatterproof
- Room temperature and ventilation must be comparable with the entire facility
- If locked room, must be interlocked with the fire alarm to ensure the door will unlock if/when the fire alarm is activated (seclusion)

# Restrictive Intervention Observation Requirements

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- Seclusion, Physical Restraint or use of a Protective Device due to behavior:
  - Continuous monitoring with documentation every 15 minutes
  - More often if health and safety concerns
- Isolation Time-out: Continuous observation with verbal intervention
- Physical Restraint and when injury is a possibility: continuous staff observation

# Restrictive Intervention Discontinuation

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## Discontinue Restrictive Intervention:

- Immediately at any indication of risk to the consumer's health or safety
- Immediately after control is gained
- If consumer is unable to gain behavioral control within the time frame specified in the authorization of the intervention, a new authorization must be obtained

# Restrictive Interventions Documentation

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- DHHS Incident and Death Reporting Form
- Restrictive Intervention Detail Report to include the following:
  - Physical and psychological well-being of the consumer
  - Precipitation circumstance contributing to the onset of the behavior to include the frequency, intensity and duration
  - Intervention used to include date, time and duration
  - Positive Methods attempted by staff
  - Debriefing and planning with all involved including consumer and guardian
    - Signature / title of employee that initiated
    - Signature / title of employee that authorized the intervention
- Description and frequency of debriefing
- Evaluation every 14 days by the Responsible/Qualified Professional of the planned interventions that approved the plan
- Monthly review by the involved treatment team

# Restrictive Intervention Review Requirements

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- Provider Review
- LME Review
- Provider Client Rights Committee Review
- Investigation of any unusual / possibly unwarranted patterns of utilization
- DHHS Incident and Death Report
- Restrictive Intervention Detail Report
- Quarterly Reporting of Level I Incident Reports to ensure analysis of trends and patterns



# Restrictive Intervention Notification Requirements:

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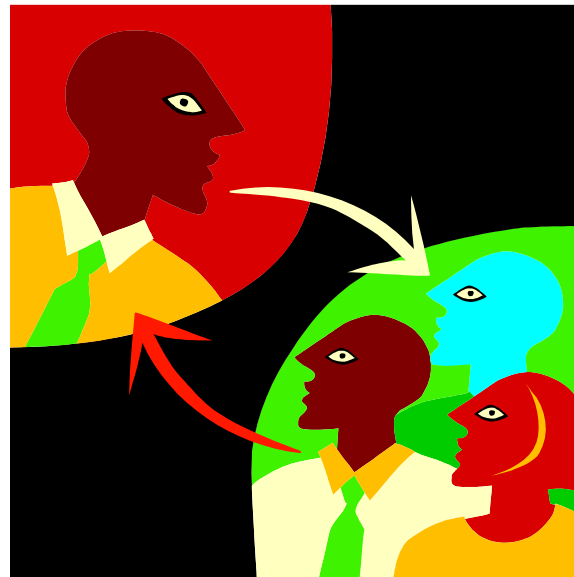
- The Legally Responsible Person should be notified of the utilization of restrictive interventions for any minor or an incompetent adult consumer immediately unless he/she has requested not to be notified
- Planned or Emergency Restrictive Intervention
  - Within 24 hours
  - Treatment team or designee
  - A designee of the governing body



# Debriefing

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- Discussion with staff, consumer and legally responsible person must occur to eliminate future use of restrictive interventions
- Debriefing and planning should be completed at the cognitive level of the consumer



# Prohibited Procedures

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- Corporal Punishment
- Painful Body Contact
- Electric Shock
- Insulin Shock
- Noxious Substances
- Unpleasant Tasting Foodstuffs
- Potentially Physical painful procedure
- Substances administered to induce painful bodily reactions, exclusive of Antabuse
- Provider agency may determine additional interventions to be prohibited





# Individual Responsibility

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- Protect consumers from harm, abuse, neglect and exploitation
- Protect consumers from neglect, indignity and abuse
- Goods or services should not be sold to or purchased from a consumer except through established governing body policy
- Only use the degree of force necessary and which is permitted by provider/facility to repel or secure a violent and aggressive consumer

# Consumers' Rights on Grievances

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- Each provider agency has a grievance procedure
- Staff must assist consumers in completing forms
- Consumers have a right to file a complaint or a grievance
- Complaint and grievance processes should be reviewed periodically with consumers
- Goal: To resolve the issue quickly while satisfying legitimate concerns
- Provide opportunity for therapeutic process



# Abuse/Neglect Reporting

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- ALL instances of alleged or suspected abuse, neglect or exploitation **MUST** be reported to the Department of Social Services
- Anyone who makes a report in good faith is immune from any civil liability
- Providers are responsible for investigating allegations/suspicious and should complete an investigative report



# Abuse/Neglect Reporting

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All reports are anonymous except for the following situations:

- Civil/criminal action
- To authorized personnel
- Grievance/personnel hearing
- Disclosure is legally compelled
- Reporting individual is testifying
- Authorized by judicial discovery
- State/federal law to investigate them



# Abuse/Neglect Reporting

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1. **NEVER** assist, advise or solicit, or offer to assist, advise or solicit a consumer to leave a facility without the proper authority
2. **NEVER** transport or accept a minor consumer into any place, structure, building or conveyance for the purpose of engaging in any act that would constitute a sex offense, or to solicit a minor consumer to engage in any act that would constitute a sex offense
3. **NEVER** hide an individual who has left a facility without authority to engage in - or offer to engage in - an act with a consumer of a facility that would constitute a sex offense

# Abuse/Neglect Reporting

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## NC General Statute 122C-66

### **Class 1 misdemeanor**

- Knowingly causes pain/injury to a consumer
- Borrow/take personal property from a consumer

### **Class 3 misdemeanor**

- Witnesses/has knowledge of violation of abuse, neglect, exploitation or of accidental injury to consumer – does not report to authorized personnel

# Client Rights

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- **Protecting** any individual from harm or abuse is very important, and it ensures their right to a healthy and safe environment.
- **Reporting** any allegation of abuse, neglect or exploitation assures protection from harm.
- **Health and Safety** of all individuals is a form of respect and dignity.
- **If you see** any act that concerns you or makes you feel that someone is in danger, report it! You can remain anonymous!



# Client Rights

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Client Rights awareness, education and training ensure that a mutually respectful relationship occurs between consumers, providers and stakeholders, and it benefits the entire community.



# If you have a concern or complaint about a provider

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Call the PBH Concern Line toll free at  
1-888-213-9687

Leave a message.

You do not have to leave your name.

If you want someone to call you back, leave a number  
where you can be reached.



# If you have a concern about the health and safety of another person

Call the PBH Concern Line toll free at  
1-888-213-9687

Leave a message.

You do not have to leave your name.

If you want someone to call you back, leave a number  
where you can be reached.



If you or someone you know is in  
need of services

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Call the PBH Toll Free Access Line at  
1-800-939-5911

A responsible person is available to  
talk with you

24 Hours A Day

7 Days a Week

365 Days a Year



# Having a Crisis? Need an Assessment?

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Call the PBH Toll Free Access Line at  
1-800-939-5911

A responsible person is available to  
talk with you

24 Hours A Day

7 Days a Week

365 Days a Year

# If you have any questions

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Please call:

- PBH Consumer Affairs at 704.721.7000

Or

- PBH Quality Management at  
704.721.7000



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Thank you for viewing this  
presentation!