

# D R A F T

## SUMMARY

Aligns definitions in mental health services bill of rights with definitions applicable to reporting of abuse of persons with mental illness.

### A BILL FOR AN ACT

Relating to rights of consumers of mental health services; amending ORS 430.205 and 430.210.

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1.** ORS 430.205 is amended to read:

430.205. As used in this section and ORS 430.210:

(1) “Facility” means any of the following that are licensed or certified by the Oregon Health Authority or that contract with the authority for the provision of services:

(a) A health care facility as defined in ORS 442.015;

(b) A domiciliary care facility as defined in ORS 443.205;

(c) A residential facility as defined in ORS 443.400; or

(d) An adult foster home as defined in ORS 443.705.

(2) “Person” means an individual who has a mental illness and receives services from a program or facility.

(3) “Program” means [*a community mental health program and agencies with which the program contracts to provide services*]:

**(a) A community mental health program established under ORS 430.620;**

**(b) A public or private entity contracting with the authority under ORS 430.021 to provide services; or**

1       **(c) Any other provider that is paid directly or indirectly by the au-**  
2 **thority to provide services in the community.**

3       (4) “Services” means mental health services [*provided under*] **described**  
4 **in** ORS 430.630.

5       **SECTION 2.** ORS 430.210 is amended to read:

6       430.210. (1) While receiving services, every person shall have the right to:

7       (a) Choose from available services those which are appropriate, consistent  
8 with the plan developed in accordance with paragraphs (b) and (c) of this  
9 subsection and provided in a setting and under conditions that are least re-  
10 strictive to the person’s liberty, that are least intrusive to the person and  
11 that provide for the greatest degree of independence.

12       (b) An individualized written service plan, services based upon that plan  
13 and periodic review and reassessment of service needs.

14       (c) Ongoing participation in planning of services in a manner appropriate  
15 to the person’s capabilities, including the right to participate in the devel-  
16 opment and periodic revision of the plan described in paragraph (b) of this  
17 subsection, and the right to be provided with a reasonable explanation of all  
18 service considerations.

19       (d) Not receive services without informed voluntary written consent ex-  
20 cept in a medical emergency or as otherwise permitted by law.

21       (e) Not participate in experimentation without informed voluntary written  
22 consent.

23       (f) Receive medication only for the person’s individual clinical needs.

24       (g) Not be involuntarily terminated or transferred from services without  
25 prior notice, notification of available sources of necessary continued services  
26 and exercise of a grievance procedure.

27       (h) A humane service environment that affords reasonable protection from  
28 harm, reasonable privacy and daily access to fresh air and the outdoors, ex-  
29 cept that such access may be limited when it would create significant risk  
30 of harm to the person or others.

31       (i) Be free from abuse or neglect and to report any incident of abuse

1 without being subject to retaliation.

2 (j) Religious freedom.

3 (k) Not be required to perform labor, except personal housekeeping duties,  
4 without reasonable and lawful compensation.

5 (L) Visit with family members, friends, advocates and legal and medical  
6 professionals.

7 (m) Exercise all rights set forth in ORS 426.385 if the individual is com-  
8 mitted to the Oregon Health Authority.

9 (n) Be informed at the start of services and periodically thereafter of the  
10 rights guaranteed by this section and the procedures for reporting abuse, and  
11 to have these rights and procedures, including the name, address and tele-  
12 phone number of the system described in ORS 192.517 (1), prominently posted  
13 in a location readily accessible to the person and made available to the  
14 person's guardian and any representative designated by the person.

15 (o) Assert grievances with respect to infringement of the rights described  
16 in this section, including the right to have such grievances considered in a  
17 fair, timely and impartial grievance procedure.

18 (p) Have access to and communicate privately with any public or private  
19 rights protection [*program*] **organization** or rights advocate.

20 (q) Exercise all rights described in this section without any form of re-  
21 prisal or punishment.

22 (2) The rights described in this section are in addition to, and do not  
23 limit, all other statutory and constitutional rights that are afforded all citi-  
24 zens including, but not limited to, the right to vote, marry, have or not have  
25 children, own and dispose of property, enter into contracts and execute doc-  
26 uments.

27 (3) The rights described in this section may be asserted and exercised by  
28 the person, the person's guardian and any representative designated by the  
29 person.

30 (4) Nothing in this section may be construed to alter any legal rights and  
31 responsibilities between parent and child.

