



Ohio Legal Rights Service

50 West Broad Street, Suite 1400, Columbus, Ohio 43215-5923
olrs.ohio.gov

Telephone 614-466-7264
TOLL FREE 1-800-282-9181
TTY TOLL FREE 1-800-858-3542
FAX 614-644-1888

March 11, 2008

Jill Hay
Ohio Department of Mental Health
30 East Broad Street, 8th Floor
Columbus, Ohio 43215

Re: Proposed O.A.C. §5122-26-16

Dear Jill:

Ohio Legal Rights Services (OLRS) appreciates the opportunity to comment on the proposed Ohio Administrative Code §5122-26-16 rule on seclusion and restraint. OLRS supports the Ohio Department of Mental Health's (ODMH) efforts to reduce or eliminate seclusion and restraint in Ohio's mental health facilities. However, several requirements should be incorporated into the rule.

Requirement: Incident Report to ODMH and OLRS on Every Instance of Restraint/Seclusion

As you are aware, OLRS has consistently requested that the rule contain a requirement that every episode of seclusion or restraint be reported on an Incident Report (IR) to ODMH and OLRS. The use of restraint presents a high risk of physical danger and the potential for emotional harm to patients, many of whom have been victims of physical and sexual assault.

ODMH has responsibility for ensuring the health and safety of Ohioans who receive mental health services while OLRS has the responsibility to investigate allegations of abuse and neglect. Timely reviews of incident reports are critical to effective oversight by ODMH and also, to OLRS' performance of its protection and advocacy responsibilities. Currently, mental health agencies provide aggregated data that are up to over six months old. The rules should require the timely reporting of every incident of restraint and seclusion to ODMH and OLRS.

Requirement: Incident Report on Any Injury During Restraint/Seclusion Episode

In the alternative and at a minimum, every injury sustained during an episode of seclusion/restraint should be reported. Restraint episodes that result in minor injuries i.e., scratches, rug burns and bruises, are not captured under the current rule which requires the filing of an IR for serious bodily injuries only.

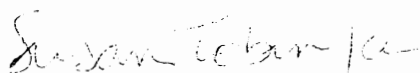
The requirement for reporting every incident of restraint and seclusion or every injury inflicted during an incident would improve the ability of ODMH and OLRS to protect Ohioans rights to safe and humane care and mental health treatment.

OLRS thanks you for considering our suggestions and we are available if you wish to discuss these issues.

Sincerely,



Beth A. Oberdier
Disability Rights Advocate



Susan G. Tobin
Managing Attorney