# WEST VIRGINIA
# SECRETARY OF STATE
**KEN HECHLER**
# ADMINISTRATIVE LAW DIVISION

Form #2

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

## NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: Department of Health and Human Resources TITLE NUMBER: 64

RULE TYPE: Legislative ; CITE AUTHORITY §27-5-9(g)

AMENDMENT TO AN EXISTING RULE: YES___ NO X

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 59

TITLE OF RULE BEING PROPOSED: Behavioral Health Patient Rights Rule

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON August 11, 1994 AT 4:30 p.m.*.

ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS.

*Comments received after 4:30 p.m. August 11, 1994 will not be considered.

Regulatory Development
Dept. of Health & Human Resources
Room 265, Building 3, Capitol Complex
Charleston, WV 25305
ATTN: Kay Howard

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.

Garrett E. Moran, Ph.D.
Deputy Commissioner
Community Support Programs

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

11.00

STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES

Gaston Caperton
Governor

June 27, 1994

Gretchen O. Lewis
Secretary

Honorable Ken Hechler
Secretary of State
Capitol Building
Charleston, West Virginia 25305

Dear Secretary Hechler:

I hereby approve rules to be filed for public comment relative to the following subjects: aids-related medical testing and confidentiality, asbestos licensure, behavioral health facility patient rights, legally unlicensed health care facilities, personal care home licensure, radon licensure, residential board and care home licensure, and wastewater treatment works operator certification.

Sincerely,

Gretchen O. Lewis
Secretary

GOL:kjs

FISCAL NOTE FOR PROPOSED RULES

**Rule Title:** Behavioral Health Patient Rights Rule, 64 CSR 59

**Type of Rule:** X **Legislative** _____ **Interpretive** _____ **Procedural**

**Agency** Department of Health and Human Resources

**Address** Building 3, Capitol Complex

Charleston, W. Va. 25305

**1. Effect of Proposed Rule**

| | ANNUAL | | FISCAL YEAR | | |
|---|---|---|---|---|---|
| | Increase | Decrease | Current | Next | Thereafter |
| Estimated Total Cost | $ | $ | $ 0 | $ 0 | $ 0 |
| Personal Services | | | | | |
| Current Expense | | | | | |
| Repairs and Alterations | | | | | |
| Equipment | | | | | |
| Other | | | | | |

**2. Explanation of above estimates.**

The provisions of the proposed rule are already in effect as Department policy.

**3. Objectives of these rules:**

The proposed rule establishes rights of individuals in State-operated behavioral health facilities.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

None.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens.

None.

C. Economic Impact on Citizens/Public at Large.

None.

Date July 11, 1994

Signature of Agency Head or Authorized Representative

Garrett E. Moran, Ph.D.
Deputy Commissioner
Community Support Programs

[PROPOSED]
TITLE 64

WEST VIRGINIA ADMINISTRATIVE RULES
DEPARTMENT OF HEALTH AND HUMAN RESOURCES

# BEHAVIORAL HEALTH PATIENT RIGHTS RULE

Series 59

199_

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Public Comment Period Ends August 11, 1994

# RULE ABSTRACT

Agency: Department of Health and Human Resources

Rule Title: **Behavioral Health Patient Rights Rule**

CSR Title and Series: 64 CSR 59 Type: Legislative

Summary: The proposed rule adopts patient rights standards for State-operated behavioral health facilities. Most of these standards are in effect on a policy basis. Standards for participation in Medicare, Medicaid and accreditation by the Joint Commission on the Accreditation of Health Care Facilities and the Accreditation Council on Services for People with Disabilities are also adopted. Federal or accreditation standards prevail in the event of a conflict.

Topics include: definitions; adoption of other standards; patients' rights generally; patients' right to treatment; medical and dental care, other therapies and informed consent; right to refuse treatment; research and experimental treatment; seclusion and restraints; confidentiality and records; right to unrestricted communication; personal clothing and possessions; outdoor exercise and other recreational programming; physical environment; food; patients' labor, earnings and funds; employee responsibilities; juveniles' additional rights; and patient advocacy and grievance procedures.

For further information contact: Randy Myers, Office of Behavioral Health, Building 6, Room 717, Capitol Complex, Charleston, WV 25305, telephone 558-3463 or Regulatory Development Section, telephone 558-3223.

7/11/94

[PROPOSED] - TITLE 64
WEST VIRGINIA ADMINISTRATIVE RULES
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
SERIES 59
BEHAVIORAL HEALTH PATIENT RIGHTS

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BEHAVIORAL HEALTH PATIENT RIGHTS



**§64-59-1. General.**

1.1. Scope - This legislative rule establishes the rights of patients and residents in State-operated mental health facilities.

1.2. Authority - W. Va. Code §27-5-9(g).

1.3. Filing Date -

1.4. Effective Date -

1.5. Construction - This rule shall be liberally construed to effectuate the rehabilitative goals of Chapter 27 of the West Virginia Code, consistent with the protection of patient rights and dignity.

**§64-59-2. Application and Enforcement.**

2.1. **Application** - This rule applies to State-operated mental health facilities.

2.2. **Enforcement** - This rule is enforced by the secretary of the department of health and human resources or his or her designee.

**§64-59-3. Definitions.**

3.1. **Administrator** - The chief executive officer of the facility.

3.2. **Clinical director or chief medical officer** - The person who has the responsibility for decisions except involving clinical and medical treatment of patients in a mental health facility, as specified in W. Va. Code §27-1-7.

3.3. **Mental health facility or facility** - Any inpatient, residential or outpatient facility for the care and treatment of the mentally ill, developmentally disabled or addicted which is operated by the department of health and human resources.

3.4. **Patient or resident** - Any individual receiving or needing behavioral health services in a mental health facility.

**§64-59-4. Adoption of Other Standards.**

In addition to the standards set forth in this rule, the relevant portions of **Conditions of Participation for Hospitals 42 CFR Part 482, Subparts A through E, and Conditions of Participation for Intermediate Care Facilities for the Mentally Retarded, 42 CFR**

**Part 483, Subpart I**, pertaining to certification for participation in Medicare and Medicaid; the standards set forth in the 1993 **Accreditation Manual for Hospitals** of the Joint Commission on the Accreditation of Health Care Facilities; and the standards set forth in the 1993 edition of **Outcome Based Performance Measures** of the Accreditation Council on Services for People with Disabilities are hereby adopted by reference: Provided, That to the extent there is a conflict between the federal regulations or the accreditation standards and the standards specified in this rule, the more stringent standard shall apply, except that, if there is a conflict between a standard set forth herein and a federal standard required for purposes of certification for participation in Medicare or Medicaid, the relevant federal standard shall prevail.

**§64-59-5. Patients' Rights Generally.**

5.1. Persons with behavioral health problems are more likely to have their human and civil rights denied because of their condition. Consequently, special attention and effort are required to assure that these human and civil rights are exercised and protected in all behavioral health services.

5.2. No Discrimination. All mental health facilities shall make available all services to persons in need without discrimination because of race, creed, color, sex, age, national origin, marital status, lack of wealth, handicap or duration of residence.

5.3. Civil Rights of Patients. Every patient served by any facility operated by the Department shall be permitted to exercise all of his or her civil rights, including but not limited to, civil service status and appointment, the right to register and vote at elections, the right to acquire and dispose of property, execute instruments, enter into contractual relationships, to marry and obtain a divorce, to hold professional or occupational or vehicle operator's licenses, unless he or she has been appointed a guardian or conservator and the court has made a specific finding that such individual is incompetent to exercise the specific right or category of rights.

5.4. Responsibility of Administrator. It shall be the responsibility of the facility's executive officer to assure that each patient is informed of his or her rights and the responsibility of the administrator to make all necessary arrangements to allow the patient to exercise his or her rights.

5.5. Patients' Rights in A Facility or Group Setting Generally. Residents shall be housed with other individuals of similar age and activity levels unless specific reasons such as the need to protect a patient with a low level of adaptive skills and ability for self defense are noted in the treatment plan.

5.6. Right to Least Restrictive Residential Setting. The patient shall have the right to access to treatment in the

least restrictive setting. The goal of treatment for a patient shall be to address needs so as to permit the patient to be in the least restrictive setting.

5.7. Right of Privacy. A patient shall have a right to as much privacy as the area in which he or she is residing will allow, and he or she shall have the right to move about freely unless his or her safety is threatened.

5.8. No Deprivation of Rights As Punishment. No patient can be deprived of a right provided by law or regulation as punishment. No patient may be deprived of a right for clinical reasons except for an incident related to the exercise of that right and then only for so long as is necessary to permit correction of the issue.

5.9. Every patient, upon his or her admission to a mental health facility, and at any later time upon request, shall be given a summary of the rights afforded by this rule. A copy of this rule shall be posted in a prominent public place in each facility.

**§64-59-6. Patients' Right to Treatment.**

6.1. General. All individuals in mental health facilities shall have a right to treatment in the least restrictive setting and are entitled to care and treatment including habilitation, rehabilitation, medical care, education and training, when appropriate, and to mental health and support services suited to their individual needs. Treatment shall be provided humanely in an environment that affords civil, legal and regulatory rights and provides freedom from verbal or physical abuse or neglect.

6.2. Prohibition on Admission for Confinement. No individual shall be admitted to a mental health facility for the sole purpose of confinement.

6.3. Trained and Competent Personnel. Every individual in or being served by a mental health facility shall have a right to treatment by trained and competent personnel in numbers sufficient to administer adequate treatment and individualized treatment plans.

6.4. Periodic Psychiatric Evaluation. Every individual in or being served by a mental health facility shall have the right to a careful and periodic psychiatric evaluation no less frequently than once every three (3) months.

6.5. Appropriate Treatment Based on Examination and Diagnosis. Every individual in or being served by a mental health facility shall have a right to treatment based on appropriate examination and diagnosis by a staff member operating within the scope of his or her professional license.

6.6. Initial Program Plan. Every individual in or being

served by a mental health facility shall have the right to an initial program plan competed within seventy-two (72) hours of admission or initiation of service. The initial program plan must identify immediate needs and interventions, determine data or assessment needs and establish responsibility for collecting data, performing assessment and implementing immediate care or interventions. The individual shall have the right to participate in the development of the initial program plan.

6.7. Interim Program Plan. Every individual in or being served by a mental health facility shall have the right to an interim program plan within seven days of admission or initiation of service. The interim plan shall expand and update the initial plan based on data collected, assessments conducted, and the results of any initial interventions. The individual shall have the right to participate in the development of the interim plan.

6.8. Individualized Program Plan (IPP). Every individual in or being served by a mental health facility shall have the right to a master plan which is a written, individualized plan specifically tailored to individual needs. The master plan shall provide for a complete, thorough review of the patient needs, strengths, weaknesses, response to initial interventions and prognosis for resolution of acute symptoms that have resulted in inpatient care. For those individuals in an inpatient setting explicit discharge plans shall be written. The master plan shall be developed by an interdisciplinary team consisting of members representing the major mental health professions and service providers who provide care and treatment. The individual shall have the right to participate in the development of the master plan.

6.9. Minimum Requirements of the Individualized Program Plan (IPP). Every individual's program plan shall at a minimum:

6.9.1. Be based on a comprehensive assessment of the individual's presenting problems, physical health, mental health, emotional status and behavioral status;

6.9.2. Contain written, functional objectives, methods for achieving them, and expected achievement dates;

6.9.3. Describe treatment, services, activities, therapies, and programs to be accessed and provided;

6.9.4. Identify who is responsible for implementing the specific treatment services, activities, therapies, and programs;

6.9.5. Indicate the frequency and duration of treatment, services, activities, therapies and programs;

6.9.6. Delineate the specific criteria to be met for termination of treatment or programming;

6.9.7. Indicate the extent of patient and family participation in planning; and

6.9.8. Document by name and role all participants in developing the plan.

6.10. Review of Plan. The treatment plan must be reviewed at least every ninety (90) days to determine the need for continued institutionalization, if applicable, and to determine the success of the plan or need for revisions in the treatment plan. In the event the individual is being treated on an outpatient basis, the plan must also be reviewed every ninety (90) days to determine its success or need for revisions. Revisions shall include a description of needed services.

6.11. Right to Ongoing Participation in Treatment Planning. Every individual in or being served by a mental health facility shall be entitled to participate in the development and periodic revision of his or her individual treatment plan and shall be notified of its content as well as of all proposed changes in that plan, including but not limited to, plans for continued institutionalization, discharge, transfer to another facility or ward, changes in the therapy program and changes in medication. The patient shall be provided with a reasonable explanation in plain and understandable language of all aspects of his or her condition, assessment and treatment.

6.12. Treatment Team Members. Participation in the patient's program planning process must include representatives of each discipline relevant to the patient's needs and the patient. The makeup of the interdisciplinary team shall be sufficiently broad so that each and every habilitation and treatment need of a patient can be professionally assessed and appropriate remedial recommendations made. The patient's case manager shall be a professional member of the treatment team. The list of possible participants could include the patient's physician, representatives of social work, nursing, psychology, activity staff, psychiatric aides, rehabilitation counselors, and community representatives. Signatures and titles and dates of all staff and family participating in the program planning process must be recorded. Treatment plans must be signed and dated by the patient.

6.13. Evidence of Treatment. Evidence must be documented that some of the recognized procedures applicable to treatment of mental illness have been administered to the patient in accordance with his or her treatment plan, including but not limited to individual psychotherapy, group therapy, family therapy, physical therapy, appropriate physical fitness routines, chemotherapy, planned occupational therapy, and recreational therapy.

6.14. Accepted Standards. Every individual admitted to a mental health facility shall be entitled to care and treatment in accordance with accepted mental health and medical practice

standards. If any of the rights set forth in this rule related to treatment is not afforded, then the reasons for such restriction must be specified in the patient's treatment plan in the patient's clinical record.

**§64-59-7. Medical and Dental Care, Other Therapies and Informed Consent.**

7.1. Physical Examination. All individuals in a mental health facility shall have a physical health examination at least every twelve (12) months and shall have the right to receive prompt and adequate treatment for episodes of physical illness.

7.2. Freedom from Unnecessary or Excessive Medication. All individuals in or being served by mental health facilities shall have a right to be free of unnecessary or excessive medication.

7.3. Limits on Use of Medication. A medication shall not be used as punishment, for the convenience of staff, or as a substitute for a program of treatment, or in quantities that interfere with the patient's treatment program.

7.4. Medication Explained to Patient. The use of medication must be fully explained to patients and documentation of these explanations made part of the treatment team documentation and progress notes.

7.5. Dental Care. Dental care including screening and treatment shall be provided for all long-term patients in residential settings and when identified as a need by the treatment team.

7.6. Speech Pathology, Audiology, Language Therapy. Speech, language and audiology screening, evaluation and therapy services shall be conducted and provided by qualified clinicians when identified as needed by the treatment team.

7.7. Physical and Occupational Therapy. Physical and occupational therapy screening, evaluation and therapy services shall be conducted and provided by qualified clinicians when identified as needed by the treatment team.

7.8. Voluntary Patients and Non-Committed Patients Consent to Treatment. No treatment can be given to any voluntary patient who has not been formally committed by final proceedings pursuant to W. Va. Code §27-5-4, §27-6A-2(b) or §27-6A-3 without his or her written consent. Such consents are obtained as a part of the admission package. If no informed consent is documented in the chart, the physician or person prescribing treatment must provide information before treatment is begun.

7.9. Consent to Treatment When Admitted for Examination. Except with respect to psychiatric emergencies, a person has a right to refuse treatment. Individuals are sometimes admitted to

a mental health facility under "custody for examination" procedures for whom treatment could be provided with minimal risk, but who, because of their mental condition do not refuse treatment but are not able to give informed consent to such treatment. In some cases conditions exist which, if not treated, reasonably can be expected to cause permanent damage or severe pain. When considering whether to proceed with treatment in such instances, a decision must be made in accordance with clear and objective criteria.

7.9.1. There is no statutory authority to provide treatment prior to actual commitment in the absence of informed consent. The procedures outlined herein are provided for use only in this context; (1) when treatment is not refused, (2) when no informed consent is forthcoming, (3) but the risk of harm from failure to treat is demonstrably greater than the risks from treatment and when the individual is unable to make any judgment to consent or refuse treatment.

7.9.2. When an individual is admitted to a mental health facility under "custody for examination," such individual is to be evaluated without the use of medication. If, as the result of examination, it is determined that the individual does exhibit signs and symptoms of psychiatric or other illnesses for which a recognized, commonly accepted course of treatment can be prescribed, the following procedures will be followed:

7.9.2.a. Determine whether the individual is clinically competent to understand the nature and purpose of the proposed treatment, as well as its prospective benefits and possible side effects. Both the examining physician and the patient advocate, at a minimum, must agree to the individual's competence.

7.9.2.b. If the individual is determined to be able to make an informed decision relative to treatment, the proposed treatment will be explained in detail and written consent to treatment will be requested. No individual will be asked to sign consent to treatment until such individual's competence to give consent has been determined. Treatment may be initiated if the individual gives consent, but a refusal to consent shall be honored and no treatment shall thereafter be forced upon the individual prior to receiving a written commitment order from the circuit court pursuant to a commitment hearing.

7.9.2.c. If it is determined that the individual is not capable of giving informed consent to treatment, the physician shall determine whether there is a significant likelihood that the symptoms for which the treatment is proposed are likely to become either more severe or long-lasting or both if treatment is withheld, and whether the proposed treatment is likely to produce side effects which may be harm to the individual. Proposed treatments must be those which are commonly accepted and recognized as appropriate for the condition being treated. In every instance, the more conservative of the available treatment options shall be

chosen.

7.9.2.d. If the physician determines that there is risk of serious deterioration in the absence of treatment and that the proposed treatment carries relatively little risk to the patient, the physician will present to the clinical director the facts upon which these conclusions were based.

7.9.2.e. If the clinical director agrees with the recommendations, an independent evaluation by another physician qualified in psychiatry or other appropriate medical specialty will be provided.

7.9.2.f. All steps in this procedure, as well as all of the facts on which treatment decisions are based, shall be carefully documented in the medical record and signed by the attending physician.

The procedures outlined in this section are not intended to apply to those individuals who are in need of life-saving medication for chronic medical conditions (such as diabetes, heart disease), have been taking such medications prior to admission, and who are not actively refusing to continue such medication, notwithstanding that they may not currently be able to give consent.

7.10. Informed Consent. Consent is not valid unless it is informed consent. To assure informed consent, the admitting physician shall explain and discuss the following with each patient:

7.10.1. The nature of the patient's mental condition;

7.10.2. The reasons for taking any proposed medication, including the likelihood of improving or not improving without the proposed medication;

7.10.3. That consent, once given, may be withdrawn at any time by stating such intention to any member of the treating staff;

7.10.4. The reasonable alternative treatments available, if any;

7.10.5. The type, range of frequency and amount (including use of PRN orders), method (oral or injection), and duration of taking the proposed medication;

7.10.6. The probable side effects of these drugs known to commonly occur, and any particular side effects likely to occur with the particular patient;

7.10.7. The possible additional side effects of medications which may occur to patients taking such medication beyond three months. The patient shall be advised that such side effects may

include persistent involuntary movement of the face or mouth and might at times include similar movement of the hands and feet, and that these symptoms of tardive dyskinesia are potentially irreversible and may appear after medication has been discontinued; and

7.10.8. His or her rights under these procedures.

7.10.9. This explanation and discussion must be documented and signed by physician and patient.

7.11. Requirement for Consent. Antipsychotic medication may be administered to an adult patient only after the patient has given informed, voluntary consent in writing, except as otherwise provided in these procedures. The procedures are as follows:

7.11.1. Consent shall be considered to be informed only after the patient has been provided with the above information by the physician prescribing the medication.

7.11.2. The patient shall be asked to sign the consent form utilized in obtaining informed consent from voluntary patients, and this signed consent form shall be included in the legal section of his or her chart. In the event that the patient has been shown the form and communicates consent but does not wish to sign the written consent form, it shall be sufficient for the physician to place the unsigned form in the patient's record together with the notation that while the patient understands the nature and effect of antipsychotic medication and consents to the administration of such medication, the patient does not want to sign a written consent form which is appropriately witnessed.

7.11.3. Consent shall be effective for the duration of the patient's stay in the facility, unless it is revoked by the patient.

7.12. Revocation of Consent. A patient who has consented to medication may refuse a specific medication at any time, by stating or writing that he or she does not wish to take the medication. Medication may not then be given to such a patient, orally or by injection, except as authorized in a psychiatric emergency. A revocation of consent shall be documented on the consent form by the treating physician and shall then render the previously given consent void.

**§64-59-8. Right to Refuse Treatment.**

8.1. General. As a participant in the program planning process, the patient has an opportunity to exercise a voice in his or her program plan and to object to or refuse aspects of the plan.

8.2. Use of Internal Discussion, Negotiation and Grievance Procedure. The right to object to or refuse treatment is recognized as legitimate and shall be responded to in accordance with

the provisions of the patient grievance procedure if informal discussion and negotiation do not resolve differences.

8.3. Alternatives Offered and Provided. The treatment team for any individual who has refused psychotropic medications or other recommended therapy must meet and work to ensure that an agreed-upon effective alternative treatment is offered and provided.

8.4. Oral Refusal Overrides Prior Written Consent. An individual patient's oral refusal to accept medication or other treatment shall always override prior written consent except in emergency situations as defined in this rule.

8.5. Last Resort Procedure When Patient Refuses Treatment. In those instances when an involuntarily committed patient rejects any proposed treatment and all attempts at negotiating an acceptable alternative have failed, then the most conservative, least intrusive treatment approach which is recognized as usual and customary for the diagnosed condition and which produces minimal potential side effects may be imposed over the objections of the patient if all the following conditions are documented in the record:

8.5.1. The patient's refusal is a product of his or her illness;

8.5.2. The proposed treatment is recognized as appropriate, effective and within accepted standards of practice;

8.5.3. The proposed treatment is approved by the clinical director;

8.5.4. The opinion of a second qualified practitioner not regularly associated with the mental health facility concurs with the proposed treatment; and

8.5.5. Any patient advocate is provided an opportunity to raise legitimate concerns on the part of the patient.

**§64-59-9. Research and Experimental Treatment.**

All research, studies, and investigations conducted in mental health facilities in West Virginia, using facility staff, records or patients must be approved in writing in advance by the Research Committee of the Department of Health and Human Resources. This advance approval is required whether the research, study or investigation is conducted by Department of Health and Human Resources staff or by others. The federal regulations **Protection of Human Subjects, 45 C.F.R. Part 46**, are hereby adopted by reference, and all research, studies, or investigations conducted in mental health facilities shall comply with these regulations.

**§64-59-10. Seclusion and Restraints.**

10.1. General. Patients have the right to freedom from seclusion or mechanical or chemical restraints. Seclusion and restraint shall only be used where there is imminent danger that the individual will injure himself or herself or others and when all other less restrictive measures have been exhausted.

10.2. Seclusion. "Seclusion" is the placement of any patient alone in a room or enclosed space with closed doors which the individual cannot open from inside.

10.3. Seclusion Prohibited for Developmentally Disabled Individuals. Seclusion for developmentally disabled patients is strictly prohibited. Only the "Time-Out" procedure developed specifically for each individual in his or her program plan in accordance with Standards of the Accreditation Council on Services for People with Disabilities may be used for the developmentally disabled patient.

10.4. Emergency Measure Only. Seclusion is an emergency control measure only and may be used only as a last resort to control imminent destructive behavior that is a threat to self or others, and that has not responded to less restrictive measures. It may be used only as long as is necessary for the patient to regain self-control. Under no circumstances may it be used as a preventive measure or for punishment.

10.5. Psychiatric Emergency. Seclusion is a severely restrictive form of intervention. The steps and procedures outlined under psychiatric emergencies must be followed prior to its use.

10.6. Examination by Physician. No patient may be placed in seclusion until examined by the attending physician, and a discussion held with available interdisciplinary team members which must include the patient's case manager if on duty. In the event that an attending physician is not immediately available the registered nurse in charge must discuss the situation with the interdisciplinary team members and obtain a telephone order from the physician if he or she concurs that seclusion is required.

10.7. Telephone Orders. A telephone order for seclusion is valid for a maximum of sixty (60) minutes. If the physician has not examined the patient within sixty (60) minutes, he or she must be released from the seclusion room. It is the responsibility of the registered nurse to see that a patient not examined by a physician is released at the appropriate time.

10.8. Time. The time spent in seclusion must be the shortest time required for the patient to regain his/her self-control.

10.9. Seclusion Inappropriate for Suicidal Individual.

Seclusion is not to be used for a patient who is actively suicidal or for a patient for whom constant observation has been ordered. If the physician determines that seclusion is necessary, special documentation and one-on-one observation are required.

10.10. Seclusion Orders Valid Only for Three (3) Hours. No seclusion order is valid for more than three (3) hours. Any patient requiring seclusion beyond three (3) hours must have his status reviewed by his or her treatment team and a written plan developed for responding to the patient's crisis. If the three (3) hour period ends during an evening or night shift, available staff may make a temporary plan until the treatment team can meet the next day. Continued seclusion requires an examination and written order by a physician after every three (3) hour period in addition to the treatment team conference and plan. PRN orders for seclusion are not permissible.

10.11. Items Entitled During Seclusion. A patient who is placed in seclusion is entitled to clothing, bed, mattress, and bedding, reading matter, stationery, and similar items. Only when it is determined that a specific item may be harmful to the patient may such items be withheld. The order for seclusion shall specify those items which are to be removed and the reasons therefore.

10.12. Seclusion Room Supervision. The registered nurse in charge of the unit, or shift, shall be responsible for assuring that the following seclusion room checks are carried out:

10.12.1. Any room used for seclusion shall be in an area that permits constant supervision by staff;

10.12.2. Each patient in seclusion shall be checked no less frequently than each five (5) minutes and the seclusion room "check sheet" updated, to assure the presence and safety of the patient in the seclusion room.

10.12.3. The patient must have access to fluids and to the toilet hourly. Meals are to be delivered at regular meal times. Compliance with these requirements is to be documented on the check sheet.

10.12.4. The case manager (when available) or the RN supervisor must talk directly with the patient and assess the need for continued seclusion at least once every hour.

10.13. Mechanical Restraints. Mechanical Restraints means the use of handcuffs, straight-jackets or "sleeves", or other restraining devices or variation of such devices which are designed and are applied for the purpose of preventing the individual from engaging in assaultive or self-abuse behavior.

10.14. Mechanical Restraints As Emergency Measure. The use of mechanical restraints is an emergency control measure only and

may be used only as a last resort to control imminent destructive behavior that is a threat to self or others and that has not responded to less restrictive measures.

10.15. Mechanical Restraints Prohibited for Developmentally Disabled Individuals. In no case may Mechanical Restraints as described in this section be used for the developmentally disabled patient, only procedures developed in accordance with standards of the Accreditation Council on Services for People with Disabilities such as "Time-Out" may be used for the developmentally disabled patient.

10.16. Examination by Physician. No patient may be placed in mechanical restraints until examined by the attending physician and a discussion with available treatment team members held. In the event of an emergency situation in which the attending physician is not immediately available, the registered nurse in charge shall confer with the treatment team members and secure a telephone order for mechanical restraint if he or she concurs that this is required.

10.17. Mechanical Restraint Order Valid Only for Three (3) Hours. No mechanical restraint order is valid for more than three (3) hours. Any patient requiring restraint beyond three (3) hours must have his status reviewed by his or her treatment team and a written plan developed responding to the patient's crisis. If the three (3) hour period ends during an evening or night shift, available staff may draw up a temporary plan until the treatment team can meet the next day. Continued use of mechanical restraints requires an examination and written order by the physician after every three (3) hour period in addition to the treatment team conference and plan. PRN orders for mechanical restraint are not permissible.

10.18. Supervision of Mechanical Restraints. Supervision of patients in restraint shall be on a one-to-one basis for the duration of the time the restraints are in place. The procedure for the application of mechanical restraints is to be followed to assure that no restraint is applied in such a manner as to produce physical pain or damage to the patient. Opportunity for motion and exercise shall be provided for a period of not less than ten (10) minutes during each two (2) hours in which restraint is employed.

10.19. Metal Handcuffs Unacceptable. Metal handcuffs are not considered an acceptable form of restraint for patients and will not be used for that purpose. Handcuffs may be retained for use when necessary in transporting patients to and from a Forensic Unit upon written authorization of the physician. Under no circumstances is their use for any other purpose acceptable or permitted.

10.20. Continued Hourly Assessment. The case manager (when available) or the RN supervisor must talk directly with the patient and assess the need for continuing restraint at least once every

hour.

10.21. Punishment or Convenience. Mechanical Restraints shall not be used as punishment or for the convenience of staff.

10.22. Chemical Restraints. Chemical restraint is the use of drugs or medication as a behavior control mechanism to substitute for seclusion or mechanical restraint.

10.23. Limitation on Use of Chemical Restraint. Drugs or medications shall not be used as punishment, for the convenience of staff, as a substitute for adequate staffing, or as a substitute for a treatment plan. Drugs and medication may only be administered pursuant to informed consent in the absence of a psychiatric emergency.

10.24. Documentation. In every instance in which Emergency Control Measures are used for any length of time; and each time the patient is reexamined and a new order written [every three (3) hours], a full report shall be made by the attending physician, describing in detail the rationale for the decision of the treatment team and the failure of less restrictive measures to resolve the crisis.

10.25. Copies. Copies of the physician's report are to be sent to the clinical director, patient advocate, and attached to the patient's medical record.

10.26. Minimum Required Documentation. The following minimum required documentation is necessary for seclusion or restraint:

10.26.1. The attending physician's written order for seclusion or restraint must be placed on the Doctor's Order Sheet in the patient's ward chart. The registered nurse who secures a verbal order must document date, time, physician called and reason for order;

10.26.2. Nurses' notes will state the time that the patient was placed in seclusion or restraint, the time the physician examined the patient, and the time the patient was released;

10.26.3. The ward staff using emergency control measures must make a full report of each and every incident in which they are used, describing the situation, other measures taken, failure of less restrictive measures and rationale for seclusion. The registered nurse responsible for the unit or shift must see that this report is completed and sent to appropriate parties;

10.26.4. Copies of the ward staff report are to be sent to the clinical director, Patient Advocate and attached to the patient's medical record;

10.26.5. The patient's program plan should reflect the

decision of the treatment team for handling the crisis;

10.26.6. An incident report must be completed;

10.26.7. Note on twenty-four (24) hour report;

10.26.8. Five (5) minute check sheet for use of seclusion;

10.26.9. Progress notes from other disciplines if applicable;

10.26.10. Hourly assessment of continued need for seclusion or restraints by case manager or RN supervisor.

10.27. Trial Release Procedure for Seclusion and Restraint. Seclusion and restraint are intended to provide external controls for the protection of the patient or to prevent the patient from injuring others. Continued use of such controls behind the time when they are needed is inappropriate, regardless of the maximum period of three (3) hours allowed. It is the responsibility of the nurse to assure that such measures are stopped when the behavior of the patient makes their continued use unnecessary.

10.27.1. When it is clear that the patient has regained self-control the registered nurse on duty shall authorize, in writing, release for a trial period prior to the expiration of the three (3) hour period allowed. Under such circumstances, staff should continue close observation of the patient. Should it be necessary to place the patient in seclusion or restraint as the result of further dangerous behavior, the behavior, circumstances and time must be fully documented in the ward chart. This procedure will in no way permit holding the patient in seclusion or restraint after the expiration of the physician's original order, unless the patient has been re-examined by the physician and a new order has been written. Nursing staff are to record in the nursing notes the time the trial release was started, and if it is necessary to restrain the patient, the time that this was done and the behavior of the patient which made it necessary.

**§64-59-11. Confidentiality and Records.**

11.1. Confidential Information

11.1.1. Communications and information obtained in the course of treatment or evaluation of any patient shall be deemed to be "confidential information" and shall include the fact that a person is or has been a patient, information transmitted by a patient or family thereof for purposes relating to diagnosis or treatment, information transmitted by persons participating in the accomplishment of the objectives of diagnosis or treatment, all diagnoses or opinions formed regarding a patient's physical, mental or emotional condition; any advice, instructions or prescriptions issued in the course of diagnosis or treatment, and any record or characterization of the matters hereinbefore described. It does not include

information which does not identify a patient, information from which a person acquainted with a patient would not recognize such patient, and encoded information from which there is no possible means to identify a patient.

11.1.2. In order to protect the patient from demeaning remarks about his or her condition, medical and mental health care professionals, staff and other employees shall not discuss a patient's assessment, diagnosis, treatment, or any other aspects of his or her condition among themselves unless this discussion directly relates to the patient's treatment.

11.2. Disclosure of Confidential Information

11.2.1. Confidential information may be disclosed:

11.2.1.a. In a proceeding under W. Va. Code §27-5-4 to disclose the results of an involuntary examination made pursuant to W. Va. Code §27-5-2 or 27-5-3;

11.2.1.b. In a proceeding under article W. Va. Code §27-6A-1 et seq. to disclose the results of an involuntary examination made pursuant thereto;

11.2.1.c. Pursuant to an order of any court based upon a finding that said information is sufficiently relevant to a proceeding before the court to outweigh the importance of maintaining the confidentiality established by this section; Once a subpoena is received it is the duty of the custodian of the records to request a determination from the court having jurisdiction to make this finding before the records are provided;

11.2.1.d. To protect against a clear and substantial danger of imminent injury by a patient to himself or another; and

11.2.1.e. For treatment or internal review purposes, to staff of the mental health facility where the patient is being cared for or to other health professionals involved in treatment of the patient.

11.2.2. Patients shall be informed upon the commencement of any contact with medical or mental health professional that their rights to confidentiality are limited in the ways set forth in this rule.

11.3. Authorization for Disclosure

11.3.1. All consents for the transmission or disclosure of confidential information shall be in writing and signed by the patient or by his or her legal guardian. Every person signing an authorization shall be given a copy.

11.3.2. Every person requesting such authorization shall

inform the patient or authorized representative that refusal to give such authorization will in no way jeopardize his right to obtain present or future treatment except where and to the extent disclosure is necessary for treatment of said patient or for the substantiation of a claim for payment from a person other than the patient.

11.4. Clinical Records

11.4.1. A clinical record shall be maintained at a mental health facility for each patient treated by the facility. The record shall contain all matters relating to the administration, legal status, treatment of the patient and shall all pertinent documents relating to the patient, including detailed results of: (1) periodic examinations; (2) individualized treatment programs, including the written, dated, individualized plan of care stating the specific outcome of treatment goals and the progress made towards realizing those goals; any change of outcome or treatment goals or plan of care shall be noted and dated in the clinical record; (3) evaluations and re-evaluations; (4) orders for treatment; and (5) orders for application of mechanical or chemical restraints or seclusion.

11.4.2. Records. A facility shall maintain a written patient record on each patient, which shall include the following:

11.4.2.a. All information contained in the pre-admission data package, the post-admission data base, and the discharge records, plus the patient's sex, race, ethnic origin, next of kin, and type and place of employment;

11.4.2.b. A description of the patient's physical and mental status at the time of admission, a record of each physical examination, psychological report, or any other evaluations, including all those required by this plan, and including reports of laboratory, roentgenographic, or other diagnostic procedures, and reports of medical and surgical services when performed;

11.4.2.c. Physical and emotional diagnoses that have been made using a recognized diagnostic system;

11.4.2.d. A copy of the individual's IPP and any modifications and evaluations thereof, with an appropriate summary to guide direct care staff in implementing such plan;

11.4.2.e. The findings made in periodic (at least quarterly) review of the individual's response to his IPP with directions as to modifications, prepared by a professional involved in the resident's program;

11.4.2.f. A copy of the post-institutionalization plan and any modifications thereof, a summary of the steps that have been taken to implement that plan, and all social service reports;

11.4.2.g. A medication history and status, as required by this plan;

11.4.2.h. A signed order by authorized personnel for every occasion on which seclusion, mechanical restraints, or chemical restraints were used;

11.4.2.i. A description of any extraordinary incident or accident involving the resident, to be entered by a staff member noting personal knowledge of the incident or accident or other source of information, including all reports of investigations of resident mistreatment, as required by this plan;

11.4.2.j. Documentation of the consent of the patient, appropriate guardians for admission, treatment;

11.4.2.k. Correspondence concerning the patient's treatment or habilitation, signed and dated notations of telephone calls concerning the patient's treatment or habilitation;

11.4.2.l. Documentation of the patient's and, as appropriate, family members' involvement in the patient's individualized program plan;

11.4.2.m. A summary of the extent and nature of any work activities and the effect of such activity upon the resident's progress;

11.4.2.n. All interdisciplinary team meeting minutes relating to the resident;

11.4.2.o. All other orders and certifications specifically required by this plan;

11.4.2.p. A discharge summary, which shall be entered in the patient's record within a reasonable period of time, not to exceed thirty (30) days, following discharge;

11.4.2.q. A plan for aftercare.

11.4.3. Each resident's records shall be readily available to all professional staff. Appropriate records shall be maintained on a residential unit, and direct care staff involved with a particular resident shall have access to those portions of an individual's records relevant to treatment and habilitation.

11.4.4. When a patient dies, a summation statement shall be entered in the record in the form of a discharge summary.

11.4.4.a. The summation statement shall include the circumstances leading to death and shall be signed by a physician;

11.4.4.b. An autopsy shall be performed whenever possible.

11.4.5. The patient records department shall maintain, control, and supervise the patient records, and shall be responsible for maintaining their quality.

11.4.5.a. A qualified medical records individual who is employed on at least a part-time basis, consistent with the needs of the facility and the professional staff, shall be responsible for the patient records department;

11.4.5.b. When it can be demonstrated that the size, location, or needs of the facility do not justify employment of a qualified individual, the facility must secure the consultative assistance of a qualified records administrator or accredited records technician on at least an annual basis to assure that the patient record department is adequate to meet the needs of the facility.

11.4.6. Written policies and procedures shall govern the compilation, storage, dissemination, and accessibility of patient records. The policies and procedures shall be designed to assure that the facility fulfills its responsibility to safeguard and protect the patient records against loss, unauthorized alteration, or disclosure of information. The policies and procedures shall require entries in patient records to be dated and signed.

11.4.7. The facility shall provide adequate facilities for the storage, processing, and handling of patient records, including suitably locked and secured rooms and files. When a facility stores patient data on magnetic tape, computer files, or other types of automated information systems, adequate security measures shall prevent inadvertent or unauthorized access to such data.

11.4.8. A written policy shall govern the disposal of patient records and shall be designed to assure the confidentiality of information in records. Patient records shall be maintained as required by State law and rules.

11.4.9. Patient records shall comply with all applicable federal, state and local laws, rules and regulations.

11.5. Disclosure of Records. Records shall only be disclosed:

11.5.1. Upon written consent of the patient pursuant to Section 11.3 of this rule to any person or entity;

11.5.2. Upon the grounds set forth in Section 11.2 of this rule;

11.5.3. To the attorney of the individual whether or not in conjunction with pending proceedings; In the interests of economy, the patient's attorney may be requested, but not required, to review the record to determine what portions of the record he or

she wishes to have copied. If the attorney does not agree to such a request, however, the entire record must be provided. The facility is entitled to charge for the actual cost of copying any voluminous documents required where the patient has funds to pay.

11.5.4. To providers of health, social, or welfare services involved in caring for or rehabilitating the patient, such information to be kept confidential and used solely for the benefit of the patient. No written consent is necessary for employees of the department, comprehensive mental health centers serving the patient, or advocates under contract with the department.

11.5.5. With the consent of the individual or a person authorized to act for the individual and the consent of the Director of Health, clinical records may be released to:

11.5.5.a. Persons or agencies which require the information in order to provide continuing service to the individual;

11.5.5.b. Insurers or other third-party payers may be provided only such information as is necessary to permit such payment;

11.5.6. There is an obligation on the part of the facility staff to assure that a patient is provided access to the record in a clinically responsible manner. For those individuals currently in treatment who ask to see records, a qualified clinical staff member should review the record with the patient providing such interpretation and clarification as may be needed to assure that the patient has an accurate understanding of the content. Copies of any part of the record may be provided to the individual if requested and if, in the judgment of the interdisciplinary team and the physician, it would not be clinically inadvisable. Any discussion with the patient regarding the clinical record shall be documented in the record. When a former patient demands access to records, the same process shall be followed as described above. If the request is made by mail and the patient indicates an inability to visit the facility for records review, arrangements shall be made through the behavioral health center serving the county of the individual's residence for review of the record with a clinical staff member of the behavioral health center, following the process outlined above.

**§64-59-12. Right to Unrestricted Communication.**

12.1. Generally. Every patient shall have the right to unimpeded and private communication with whomever the patient chooses by mail, telephone, visits, or otherwise.

12.2. Written Correspondence.

12.2.1. Every patient shall be entitled to communicate by sealed mail, or otherwise, with any persons, including official

agencies inside, or outside, the facility. This right may not be denied, restricted, or infringed in any manner.

12.2.2. The facility shall provide a return address to patients that does not identify the institution. Unless the patient requests that the return address be withheld, it shall be the responsibility of the facility to ensure that the name and return address are inscribed legibly on all outgoing patient mail without identification of the institutional nature of the facility.

12.2.3. Written correspondence shall not be opened or read by staff. Mail returned by recipients to a patient marked "REFUSED" shall be returned, unopened, to the patient.

12.2.4. Indigent patients shall be provided letter writing materials, including stamps.

12.2.5. There shall be no delay in transmission of outgoing or incoming mail.

12.3. Telephone

12.3.1. Patients shall have the unimpeded and uncensored right to access to a public telephone for the purpose of calling whomever they wish. If it is necessary for a patient to be accompanied to the public telephone by a staff members, or the assistance of a staff member is needed in making a call, the necessary arrangements shall be made by the staff and the confidentiality of the patient's conversation shall be fully protected by the staff member assisting.

12.3.2. Regular coin phones affording privacy shall be available on all residential units. Collect-only phones are prohibited. In addition, patients shall have access to a free phone for local phone calls, and involuntary patients not having resources shall have reasonable access to long distance calls. Phones shall be available for patients to receive regular incoming calls.

12.3.2.a. Phone areas shall afford reasonable privacy and comfort.

12.4. Restrictions. Any deviation from the telephone and mail rights afforded by this section can only be authorized by the interdisciplinary team or the physician for a time specified by the team but to expire automatically after seven (7) days.

12.5. Visitors.

12.5.1. Every patient shall have the unimpeded right to refuse or receive (during all reasonable hours) visitors. Visitation shall accommodate the working schedules of visitors. Visitors may take patients off grounds. The mental health facility

shall provide privacy for these visits.

12.5.2. Right to visitation can only be limited by the treatment team, for critical clinical reasons. A complete report relative to the restriction of visitation rights and the reasons therefor shall be made a part of the patient's medical record, signed and dated by the patient's attending physician, and reflected in the patient's nursing care plan, and shall expire in three days unless reviewed.

12.5.3. All visits shall be contact visits and facilities should be provided for privacy with no monitoring of conversations.

**§64-59-13. Personal Clothing and Possessions.**

13.1. Every patient shall be entitled to the possession and wearing of his or her own personal clothing, dentures, eyeglasses, hearing aid, and orthopedic appliances.

13.2. Possessions. Every patient shall be entitled to constant access to personal possessions such as diaries, Bibles, or other books, not withheld for safekeeping by the mental health facility or patient's family.

13.3. Restrictions. The patient's attending physician or mental health care professional must justify, in writing, withholding aforementioned articles in the patient's medical or mental health care record; such statement to be dated, signed, and reviewed monthly, showing dates and signatures of such reviews, to show that possession of such personal effects would be harmful to him- or herself or others.

**§64-59-14. Outdoor Exercise and Other Recreational Programming.**

14.1. Outdoor Exercise. Every patient in an inpatient or residential facility shall have the right to the opportunity for a minimum of one hour of outdoor access and exercise on a daily basis seven days per week. This shall be scheduled and afforded at the time during the day when the weather and temperature are most appropriate, depending on the season.

14.2. Outdoor activity and exercise shall be a part of every inpatient's treatment plan.

14.3. Activity and Recreational Programs

14.3.1. Individual programs shall provide a balance of active and passive activities, as well as opportunities for daily exercise and outdoor activities to the extent that the patient is clinically and medically able to participate.

14.3.2. While individual activities are scheduled to meet specific therapeutic goals, each patient should have an opportunity

to participate in social recreation programs of choice.

14.3.3. Social activities should be planned at several levels: small, unit group activities such as games, music and exercises; individual activities such as magazines, puzzles, books and drawing materials; larger off-unit programs such as dances, walks and sports; community-based activities utilizing existing community resources such as movies, sightseeing, entertainment, sports, bowling, camping, hiking, picnics, etc.

14.3.4. The range of social activities can be divided into passive, moderate, and vigorous categories. Passive activities include activities which are predominantly social rather than physical, e.g., games (such as cards, bingo, puzzles, checkers, domino) and spectator events (such as musical plays and sporting events; circuses, festivals and carnivals; movies; historic, amusement and commercial sites). Moderate activities include activities requiring less arduous but active participation, such as sports (including shuffleboard, horseshoes, croquet, pocket billiards or pool, archery, fishing, ring toss), the arts (vocal music, instrumental music, talent shows, skits, festivals), camping (nature trails, tent camping), picnics, parties (resident birthdays, church and service club sponsored, facility-sponsored Christmas, Thanksgiving, Easter, etc.). Vigorous activities include activities which improve circulatory, respiratory and muscular functioning, e.g., physical fitness (President's Council on Physical Fitness Program, weight training, bicycling, including stationary, rowing machine, tumbling, balance beam, chinning bar, rope climb, punching bag), individual and team sports (relays, hiking, dodge ball, tug-of-war, swimming, tag games, square and social dancing, roller skating, circle games, volley ball, soft ball, basketball, tetherball, whiffle ball, table tennis-ping pong, bowling, hockey - floor and box, ring toss). There should be ample opportunity for each patient to participate at his or her level of ability and experience in both facility and community programs as well as to select from a variety of activities those which he or she finds interesting. Those activities designed to meet specific treatment goals should be planned and scheduled with the patient's agreement and understanding of their purpose.

14.4. Community Integration. Unless specifically contraindicated by a resident's interdisciplinary program plan or physician, each resident, other than acute psychiatric and out-of-contact geriatric patients, shall be provided the opportunity:

14.4.1. To shop in the community at least monthly;

14.4.2. To eat in a public place in the community at least monthly;

14.4.3. To participate in a major recreational activity in the community at least monthly;

14.4.4. To attend a public event in the community at least four times annually;

14.4.5. To worship in the community on a regular basis; and

14.4.6. To visit the local public library on a regular basis.

14.5. Interdisciplinary Program Plan (IPP).

14.5.1. Activity staff shall serve as members of each patient's interdisciplinary team when appropriate. Activity staff are responsible for recreational and activity assessment on each patient, which shall indicate the level of appropriate recreational and social activities for patient and areas of strengths as well as limitations. Based on the assessment, the activity staff work with the patient and other members of the interdisciplinary team to develop a recreational and activity program that meets the identified needs of each patient. Activity staff shall provide ongoing documentation of the patient's response to the implementation of the program.

14.5.2. Implementation of community integration (12.3) and participation in recreational activities (12.2) shall be documented in each resident's record.

**§64-59-15. Physical Environment.**

15.1. Mental Health Facilities Generally

15.1.1. Facilities shall provide an environment that respects the human dignity of the patients. Grounds of the facilities shall have adequate space for the facility to carry out its stated goals. All facilities shall be accessible to handicapped individuals. When planning and maintaining the physical environment of each facility, patient input shall be solicited and followed whenever possible.

15.1.2. Mental health facilities shall provide facilities which afford patients privacy, dignity, comfort, safety, and sanitation.

15.1.3. There shall be appropriate and sufficient lighting in each facility, and whenever possible, the lighting shall be controlled by patients.

15.1.4. Whenever possible, the environment shall provide views of the outdoors.

15.1.5. All rooms shall provide adequate ventilation and comfortable temperatures. Direct outside air ventilation shall be provided to each patient's room or operable windows. Ventilation shall be sufficient to remove all undesirable odors.

15.1.6. Every room shall be kept clean, odorless, and insect free.

15.1.7. Areas with the following characteristics shall be available to meet the needs of patients:

15.1.7.a. Areas that accommodate a full range of social activities, from two (2) person conversations to group activities;

15.1.7.b. Attractively furnished areas in which a patient can be alone, when appropriate, including an adequate number of comfortable chairs for all residents who wish them may have access to one; and

15.1.7.c. Attractively furnished areas for private conversations with other occupants, family, or friends.

15.1.8. Residential life shall be structured so that it is possible for residents to wear and use glasses, hearing aids, crutches, braces, rolling walkers, and similar aids in their living units.

15.1.9. The use and location of noise-producing equipment and appliances, such as televisions, radios, and record players, shall not interfere with other therapeutic activities.

15.1.10. A place and equipment shall be provided for table games and individual hobbies. Equipment and games shall be stored on shelves that are accessible to patients as appropriate. An adequate budget for such materials and equipment shall be maintained so that items which are lost, broken, or stolen can be replaced.

15.1.11. Unless contraindicated by the resident's IPP, male and female patients shall be housed on the same residential units and in a manner that allows interaction and as closely resembles noninstitutional living as possible.

15.1.12. Facilities that routinely serve non-ambulatory patients or medically fragile patients shall also comply with the following requirements:

15.1.12.a. Each resident's bed must have a call signal that registers at the nursing station;

15.1.12.b. Beds shall be placed so that residents are not exposed to temperatures outside of normal comfort range; and

15.1.12.c. The facility shall establish a program for identifying, investigating, preventing, and controlling infections; monitoring the health status of employees; provision for aseptic procedures and isolation techniques.

15.2. Bedrooms in Inpatient and Residential Facilities.

15.2.1. Each facility shall provide furnishings and equipment which are clean and in good condition, and appropriate to the age and physical conditions of the patients. Every resident shall be provided with a normalized, comfortable and attractive living space.

15.2.2. An individual bed shall be provided for each patient.

15.2.3. No person shall be housed in a bedroom with more than one (1) other person. Sleeping areas shall be assigned based on the patient's need for group support, privacy and independence.

15.2.4. Each bedroom shall provide a minimum of one hundred (100) square feet per resident, excluding closets.

15.2.5. All bedrooms shall have outside windows, be above ground level, and provide adequate space for resident privacy.

15.2.6. Ample closet and drawer space shall be provided for storing clothes, personal hygiene articles, and other personal property or property provided for patients' use.

15.2.7. Bathrooms and bedrooms shall have doors and other barriers suitable to provide privacy.

15.2.8. Unless impracticable for structural or safety reasons, the walls of bedrooms shall extend from floor to ceiling, and where this is impracticable, walls must be at least six and one-half feet high. All newly constructed walls must be of a permanent nature (studded and insulated, concrete stock or comparable construction).

15.2.9. All mattresses shall be fire and urine resistant and without appreciable sag. All reasonable requests by patients for new mattresses shall be honored.

15.2.10. Blankets with holes or stains shall be cleaned and repaired or replaced.

15.2.11. Patients shall be allowed to keep and display personal belongings and to add personal touches to the decoration of their rooms.

15.2.12. Articles for grooming and personal hygiene shall be readily available in a space reserved near the patients' sleeping area.

15.2.13. Residents shall have ready access to the grounds and to their bedrooms unless contraindicated by their interdisciplinary program plan or physician.

15.2.14. All windows in bedrooms shall have curtains or blinds and all beds shall have bedspreads.

15.3. Bathrooms, etc. in Inpatient and Residential Facilities.

15.3.1. Toilets, water fountains, bathing and hand washing facilities that are accessible, private and easily usable, including special equipment for the handicapped. All toilets shall have toilet seats and all toilet stalls shall have doors or promote privacy.

15.3.2. There shall be easily accessible and adequate toilet paper, bath towels, soap, linen, bedding, etc. Clean towels and bed linens shall be provided at least twice weekly.

15.3.3. All sinks, showers, and bathtubs used by residents will dispense hot and cold water and be provided with hot and cold water at all times. All showers shall have doors or curtains and all bathtubs shall be screened for privacy.

15.4. Other Areas

15.4.1. Bathrooms are to be cleaned as often as necessary every day, and bathtubs shall be cleaned after the bath of each resident. The smell of harsh disinfectants shall be eliminated.

15.4.2. There shall be separate clean and dirty linen storage areas.

15.4.3. Patients' personal laundry shall be done at least two times per week. Patients' rooms and common areas shall be thoroughly cleaned at least two times per week.

15.4.4. Sufficient comfortable chairs appropriate to patients shall be provided in living areas so that every resident desiring to do so shall be able to sit in one.

15.4.5. An adequate number of lamps shall be provided in every living area.

15.4.6. Clocks and calendars shall be provided in at least major use areas.

15.4.7. Mirrors shall be placed at reasonable heights in appropriate places to aid in patients' grooming.

15.4.8. Books, magazines, and arts and crafts materials shall be available in accordance with patients' backgrounds and needs. An adequate library shall be maintained at each facility.

15.4.9. Living, programming, and working areas shall be quiet, appropriately designed and conducive to programming.

Acoustical ceiling tiles shall be installed wherever noise levels remain high.

**§64-59-16. Food.**

16.1. Meals Generally

16.1.1. Food shall be served in an appetizing and attractive manner, at planned, realistic mealtimes, and in a congenial, leisurely, attractive, and relaxed atmosphere.

16.1.2. The meals shall be adapted to meet the demands of the varieties of patient eating habits, including cultural, religious, and ethnic factors. Appropriate foods shall be available for patients with special or limited dietary needs.

16.1.3. Patients shall have access to nutritional snacks.

16.1.4. Patients who require extra food shall be provided with it.

16.1.5. The menus shall be responsive to patient food preferences.

16.1.6. There shall be sufficient dishes and standard eating utensils for all residents, which shall be thoroughly cleaned between uses. Plastic eating utensils shall not be used except on outings, or if the facility is temporarily low on supplies and is in the process of acquiring dishes or standard utensils.

16.2. Meal Schedules

16.2.1. Meal schedules shall correspond to normal community standards, with no less than thirty minutes allowed for each resident's meal, with no more than thirteen hours between the end of the evening meal and the beginning of breakfast.

16.3. Nutrition

16.3.1. The current Recommended Dietary Allowances of the Food and Nutrition Board, National Academy of Sciences - National Research Council shall be used as the standard for ensuring that residents receive a well-balanced and nutritional diet.

16.3.2. At least one serving of fresh or frozen fruit plus one serving of a fresh or frozen vegetable shall be provided to each resident each day. Every effort shall be made to provide fresh fruits and vegetables on a daily basis.

16.3.3. Patients shall be offered at least one (1) glass of one hundred percent (100%) fruit juice or milk at each meal.

16.3.4. Food shall be prepared by methods that preserve

nutritive value, flavor, and appearance and shall be served at normal temperatures.

16.3.5. Denials of a nutritionally adequate diet shall not be used as punishment or as part of a behavior modification program.

16.4. Dining Areas

16.4.1. Dining areas shall be comfortable, attractive and conducive to pleasant living.

16.4.2. Dining tables should seat small groups of patients, unless other arrangements are justified on the basis of individual patient needs. Meals should be served family style except for those whose interdisciplinary program plan suggests it would not be appropriate.

16.4.3. When staff members do not eat with the patients, the dining rooms shall be adequate supervised and staffed to provide assistance to patients when needed and to assure that each patient receives an adequate amount and variety of food.

16.4.4. Residents who need assistance with washing before and after meals shall be assisted as needed or desired.

16.5. Supervision

16.5.1. A full-time dietetic service supervisor must supervise the overall operation of food service. If this person is not a qualified dietitian, he or she must receive consultation from a qualified dietitian for at least sixteen (16) hours a month.

16.5.2. The dietitian has the responsibility to assure that his or her dietetic instructions are carried out and, on occasion, to supervise the serving of meals.

16.5.3. Dietetic personnel shall conduct periodic food acceptance surveys among patients and should encourage them to participate in menu planning. These results will be reflected in future menus.

16.5.4. The supervisor shall prepare facility menus at least one week in advance and menus shall not repeat in less than three week intervals. All menus shall be approved by a qualified dietitian.

16.5.5. Dietetic service personnel shall be trained in the behavioral and therapeutic needs of patients and in the effects of psychotherapeutic drugs on nutritional requirements, and in the effect of various foods on behavioral conditions.

16.5.6. The dietetic service shall have policies governing the sanitary handling and preparing of foods provided by the

supervisor. Dining areas and food storage, preparation, and distribution areas shall be in compliance with sanitation requirements of the United States Public Health Service and the State of West Virginia.

**§64-59-17. Patients' Labor, Earnings and Funds.**

17.1. Patient Labor Generally

17.1.1. No patient may be required to perform labor which involves the operation and maintenance of the mental health facility. Privileges or release from the facility shall not be conditional upon the performance of labor governed by this policy.

17.1.2. Patients may voluntarily engage in such labor if the labor is compensated in accordance with the requirements of the Fair Labor Standards Act.

17.1.2.a. Patients who are employed to perform work of economic benefit to the employer shall be paid wages which are commensurate with those paid non-handicapped workers for essentially the same type, quality and quantity of work.

17.1.2.b. The facility shall maintain for each patient who is employed, and have available for inspection, records of: the prevailing wages paid non-handicapped workers in similar jobs; production standards for average non-handicapped workers performing similar jobs; and the productivity of each patient, to be reviewed at least quarterly.

17.1.2.c. Patients may not be regularly involved in the care, feeding, clothing, training or supervision of other patients.

17.2. Vocational Training. Patients may be required to perform vocational training tasks which do not involve the operation and maintenance of the institution, so long as an assignment lasts no longer than four months and is: (a) an integrated part of the patient's interdisciplinary program plan; (b) has been approved as a program activity by the professional responsible for the vocational training program, and (c) is supervised by a staff member.

17.3. Personal Housekeeping. Patients may be required to perform personal housekeeping tasks, such as making their bed, tidying their room, doing their laundry, etc.

17.4. Work Training - Industrial Therapy Program.

17.4.1. Before beginning any work training or Industrial Therapy Program, there must be a written plan outlining goals, activities and job responsibilities within the program.

17.4.1.a. Work Activity Center: The entire facility, or any

part thereof, may be designated a work activities center so long as no patient participating in work activities is capable of more than twenty-five percent (25%) productivity. This requirements means that every patient involved in the program must be evaluated in terms of his level of productivity, but this evaluation must be reviewed and documented no less than every three months. Individual exception may be made when an individual patient is unable to meet the productivity level of the rest of the group. For such individuals, minimum wages below that paid to other workers may be permitted.

17.4.1.b. Sheltered Workshops: A sheltered workshop may be obtained for a specific workshop program and instructions for such a program will be provided separately.

17.4.1.c. Training and Evaluation Program: A certificate can be obtained for programs which provide competent instruction and supervision and are designed to determine a working patient's potential and to teach adjustment to a work environment or the skills related to one or more types of work. The duration of the evaluation and training depends upon the total facts of the situation, but in no case shall exceed twelve (12) months. Time spent in an employment relationship in the institution, prior to the effective date, shall be counted in determining the duration of the work evaluation and training. It is not permissible to place in a work and training evaluation without pay a patient who has been involved in any work situation within the mental health facility for more than twelve (12) months.

17.5. Access to Personal Funds.

17.5.1. There shall be procedures, in writing, to ensure patient's reasonable access to his or her personal funds.

17.5.2. Patients not adjudicated incompetent shall have access to their funds whenever and in any amount they so wish unless their use of funds prove detrimental to course of treatment. In such cases, patient's treatment teams shall document in the patient's medical record the withholding of funds for a limited period of time.

17.5.3. Patients adjudicated incompetent and appointed a conservator shall have the same access to their funds as above, subject to reasonable limitations by their conservator. In such cases, patient's medical record shall document such withholding of, or limitations set, for access to their funds.

17.5.4. A patient or relative may be required to pay for care and treatment in a mental health facility according to the ability to pay; however, no patient shall be denied treatment because they are not able to pay.

17.6. Notification: All patients assigned to a work

situation shall be informed of the rights provided by this rule. Such information may be provided by:

17.6.1. The patient workers and their responsible relative to guardian may be notified in writing of such rights;

17.6.2. The written notification of rights under this rule shall be posted in every living unit; and

17.6.3. Efforts shall be made to notify all patients orally by group meeting or other direct oral notice.

**§64-59-18. Employee Responsibilities.**

18.1. Duty of All Employees. Every employee has the responsibility to assure that all rights afforded to patients by law and regulation, including this rule, are protected and provided.

18.2. Abuse and Neglect. No employee shall verbally abuse, physically abuse, or neglect any resident or patient.

18.2.1. Verbal abuse is the use of language, tone or inflection of voice that would likely be construed by an impartial observer as a threat, harassment, derogation or humiliation of a patient. Verbal abuse includes, but is not limited to: use of a threatening or abusive tone or manner in speaking to a patient; use of derogatory, vulgar, profane, abusive or threatening language; verbal threats; teasing, pestering, deriding, harassing, mimicking or humiliating a patient; derogatory remarks about the patient, his or her family or associates; sexual innuendo, sexually provocative language or verbal suggestion (See also West Virginia Code, §27-12-3).

18.2.2. Physical abuse is the use of physical force, body posture or gesture or body movement that inflicts or threatens to inflict pain on a patient. Physical abuse includes, but is not limited to: unnecessary use of physical restraint; use of unnecessary force in holding or restraining a patient (see procedure on patient management); improper use of physical or mechanical restraints; use of seclusion without proper orders or cause; slapping, kicking, hitting, pushing, shoving, choking, hail pulling, biting, etc.); inappropriate horseplay; raising hand, shaking fist, crowding a person, moving into their personal space; intentional inflicting of pain; punitive measures of any kind, including corporal punishment, withholding of meals for punitive reasons, inappropriate removal from treatment programs, restricting of communication, withdrawal of rights or privileges; sexual abuse, i.e., any physical or provocative advance such as caressing, fondling, sexual intercourse, etc. (see also West Virginia Code, §27-12-3).

18.2.3. Neglect is any negligent, reckless or intentional

failure to meet the needs of a resident or patient, or the requirements of law or regulation. It includes but is not limited to lack of needed supervision, nutritional deprivation, or failure to implement or update a treatment plan.

18.3. Sexual Harassment. Employees shall not engage in sexual harassment. Sexual harassment is physical advances or nonverbal conduct that is sexual in nature that is either: (1) unwelcome, offensive, or creates a hostile environment; and the employee knows or is told this; or (2) is sufficiently severe or intense to be abusive to a reasonable person in that context.

18.4. Mandatory reporting. Every employee has a duty to report any incident of actual or suspected abuse or neglect to the chief administrator and to the adult protective services workers.

18.5. Training of Employees. The chief administrator of each facility shall have the duty to train and educate all new employees and all current employees on a periodic and consistent basis on the content of this rule to the extent that all employees are thoroughly familiar with it.

**§64-59-19. Juveniles' Additional Rights.**

19.1. Separation. No child [under eighteen (18) years of age] shall be housed in any area also occupied by any patient over eighteen (18) years of age in a mental health facility.

19.2. Education. An individual under eighteen (18) years of age who has not completed high school shall be provided an Individual Education Program in conformity with State and federal law.

19.2.1. No juvenile patient shall be deprived of the right to attend school in the regular public school system unless the interdisciplinary team determines the individual is incapable of coping with the public school situation (including the special education classes offered in the locality) and such determination is concurred in by the chief medical officer. Such a determination shall be entered upon the individual's clinical record and shall be valid for a period of ninety (90) days.

19.3. Family Contact. Arrangements for weekly contact between the facility and the family of the patient shall be made and recorded in each juvenile patient's clinical record.

19.4. Discipline

19.4.1. No child shall be subjected to cruel, harsh, humiliating, petty, severe, or provocative treatment, or corporal punishment inflicted in any manner upon the body.

19.4.2. No child shall be subjected to verbal abuse, threat

or derogatory remarks about him or her or his or her family.

19.4.3. No child shall be deprived of meals as punishment.

19.4.4. The facility shall establish simple and understandable rules for both children and staff that set the limits of behavior required for the protection of the group and individuals within the group.

19.4.5. No child shall be withdrawn from any therapy program as a disciplinary measure.

**§64-59-20. Patient Advocacy and Grievance Procedure.**

20.1. Patient Advocacy. There shall be persons designated as patient advocates who are independent of the facility management in every mental health facility.

20.2. Right to File A Grievance. A grievance may be initiated by a patient, advocate, member of a patient's family, facility employee or other complainant on behalf of any individual residing in or being served by a mental health facility. The grievance may involve any aspect of a patient's care, treatment, housing, services, accommodations, etc. and are not restricted to alleged violations of patients' rights or abuse.

20.2.1. Filing of A Grievance. A grievance may be registered by a patient or someone on behalf of the patient, orally or in writing, to any facility staff member or advocate.

20.2.2. Oral Grievance. When a grievance is orally registered by a patient to a staff member or advocate, the staff member or advocate shall promptly assist the patient in reducing the grievance to writing on the standard grievance form.

20.2.3. A supply of grievance forms shall be maintained in the administrative offices and on all units or offices of mental health facilities at all times for continuous access by the patients. Each mental health facility must make patients aware of their rights and ensure access to this grievance procedure.

20.2.4. Filing The Grievance. All grievances shall be reduced to writing as outlined above and promptly delivered by the staff to the facility administrator or the administrator's designee and the patient advocate.

20.2.5. Response of The Administrator. The administrator or designee, after reviewing the grievance, shall respond to the complaining party by the next work day following receipt of the grievance, unless the grievance is of abuse or neglect, in which case the grievance will be referred to an advocate for investigation within one (1) hour of receipt by the administrator or his or her designee if the facility advocate was not involved in the

preparation of the abuse-neglect grievance, in which case the grievance shall be answered the next work day following receipt of the report of the facility advocate.

20.2.6. The response shall be in writing by the administrator or designee on the grievance form and a copy shall be delivered to the complainant and advocate. The advocate is responsible for keeping an accurate record of all grievances, of actions taken, and their resolution.

20.2.7. All parties must seek to resolve grievances as expeditiously as possible either by providing the relief requested or utilizing internal administrative mechanisms, treatment teams, etc. Living units operated by mental health facilities are expected to have mechanisms in place to facilitate communication and resolution of problems such as environmental and interpersonal conflicts experienced by patients.

20.2.8. Action on Grievances. The administrator shall immediately initiate appropriate action to correct meritorious grievances.

20.2.9. Abuse/Neglect Investigation. All grievances of abuse and/or neglect shall be investigated by the facility advocate or the catchment area advocate as appropriate. Upon receipt of an abuse/neglect grievance, the advocate shall immediately interview the patient and review the situation. Within the next eight (8) regular working hours the advocate shall make a written report to the facility administrator. As part of the investigative process the advocate shall have access to all staff members, pertinent records and documents and shall interview witnesses and take statements as appropriate. The advocate shall not have access to employee personnel records; all investigations must be based on evidence related to the episode under investigation only.

20.2.10. Reporting Abuse And/Or Neglect. W. Va. Code §9-6-9, the West Virginia Adult Protective Services Act, requires that any and all mental health professionals must immediately report all actual or suspected cases of abuse or neglect of incapacitated adults to the Department of Health and Human Resources local Adult Protective Services (APS) office. If the report is made by telephone the APS requires a written report within forty-eight (48) hours.

20.2.11. When a facility employee or the advocate becomes aware or is notified of a grievance of abuse or neglect, he or she shall immediately notify the advocate, immediately notify the local adult protective services agency directly or by phone, immediately notify his or her supervisor and the administrator, and document the incident. Initiation of this procedure in no way abrogates the duty to respond to the grievance filed.

20.2.12. Initiating an Appeal of A Grievance Determination.

In the event that the complaining party is not satisfied with the determination by the administrator, the complaining party may appeal the determination by submitting a copy of the original grievance form and determination to the Director of the Office of Behavioral Health Services, together with such additional request or explanation deemed appropriate.

20.2.13. Response of The Director of The Office of Behavioral Health Services. The director of the Office of Behavioral Health shall respond to the grievance appeal within seventy-two (72) hours of receipt. After review, the Director shall affirm, modify or refer the appeal. If deemed necessary for resolution, the Director may appoint a committee, which may consist of staff from other mental health facilities, Office of Behavioral Health Services staff and advocate, to conduct such further inquiry/investigation as deemed necessary by the committee. The committee shall conclude its work and make a recommendation to the Director within ten (10) working days of receipt of the appeal.

20.2.14. No Waiver. Nothing in this Policy is intended to serve as a precondition to or supplant any other remedial initiatives that a patient may wish to pursue relative to a claim. Nothing herein nor any action by the administrator interferes with or supplants a state employee's rights pursuant to W. Va. Code §29-6A-1 et seq. or application of the grievance procedure for state employees, nor should it be deemed to change or waive the employee grievance timelines for filing a grievance.

20.2.15. Confidentiality/Protection. Procedures and investigations carried out hereunder are to be conducted with due regard for the confidentiality, rights and dignity of all parties. The facility may not discharge or in any manner discriminate against any patient, employee or other party because of involvement in the grievance or appeal process.

20.2.16. Responsibilities of Parties. The responsibilities of the parties are set forth below:

20.2.16.a. Employees. To be aware of patient rights, know the facility's procedures for reporting and filing grievances, report infractions of patient rights, assist patients to access the facility advocate, to resolve grievances and assist in investigations of infractions of patient rights.

20.2.16.b. Advocates. To assist patients in registering and/or filing grievances, to acknowledge grievances, to conduct investigations of grievances, to notify the administrator of results of grievance investigations, to assure that abuse/neglect grievances have been reported to Adult Protective Services, to educate staff regarding patient rights and maintain accurate documentation of all grievances and investigations.

20.2.16.c. Administrator and Deputies. To file responses

within established time frames, assure patient protection by appropriate staff disciplinary actions, to deal promptly and effectively with acts of discrimination or reprisal against staff or patients regarding patient rights and supporting staff development efforts toward educating all staff regarding patient rights.

20.2.16.d. Staff Development Officers. Assure that all staff are made aware of patient rights, of facility procedures for reporting and resolving grievances, of grievance procedures, of personnel policies regarding reporting of violations of patient rights, of staff grievance procedures and of facility policies to protect staff from harassment and retaliation and threats for reporting rights violations.

20.2.16.e. Director of the Office of Behavioral Health Services. To render decisions on appeals, and act on recommendations within established time frames.

**§64-59-21. Severability.**

The provisions of this rule are severable. If any portion of this rule is held invalid, the remaining provisions remain in effect.

FOOD AND NUTRITION BOARD, NATIONAL ACADEMY OF SCIENCES—NATIONAL RESEARCH COUNCIL
RECOMMENDED DIETARY ALLOWANCES,[a] Revised 1989
*Designed for the maintenance of good nutrition of practically all healthy people in the United States*

| Category | Age (years) or Condition | Weight[b] (kg) | Weight[b] (lb) | Height[b] (cm) | Height[b] (in) | Protein (g) | Fat-Soluble Vitamins: Vitamin A (μg RE)[c] | Vitamin D (μg)[d] | Vitamin E (mg α-TE)[e] | Vitamin K (μg) | Water-Soluble Vitamins: Vitamin C (mg) | Thiamin (mg) | Riboflavin (mg) | Niacin (mg NE)[f] | Vitamin $B_6$ (mg) | Folate (μg) | Vitamin $B_{12}$ (μg) | Minerals: Calcium (mg) | Phosphorus (mg) | Magnesium (mg) | Iron (mg) | Zinc (mg) | Iodine (μg) | Selenium (μg) |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Infants | 0.0–0.5 | 6 | 13 | 60 | 24 | 13 | 375 | 7.5 | 3 | 5 | 30 | 0.3 | 0.4 | 5 | 0.3 | 25 | 0.3 | 400 | 300 | 40 | 6 | 5 | 40 | 10 |
| | 0.5–1.0 | 9 | 20 | 71 | 28 | 14 | 375 | 10 | 4 | 10 | 35 | 0.4 | 0.5 | 6 | 0.6 | 35 | 0.5 | 600 | 500 | 60 | 10 | 5 | 50 | 15 |
| Children | 1–3 | 13 | 29 | 90 | 35 | 16 | 400 | 10 | 6 | 15 | 40 | 0.7 | 0.8 | 9 | 1.0 | 50 | 0.7 | 800 | 800 | 80 | 10 | 10 | 70 | 20 |
| | 4–6 | 20 | 44 | 112 | 44 | 24 | 500 | 10 | 7 | 20 | 45 | 0.9 | 1.1 | 12 | 1.1 | 75 | 1.0 | 800 | 800 | 120 | 10 | 10 | 90 | 20 |
| | 7–10 | 28 | 62 | 132 | 52 | 28 | 700 | 10 | 7 | 30 | 45 | 1.0 | 1.2 | 13 | 1.4 | 100 | 1.4 | 800 | 800 | 170 | 10 | 10 | 120 | 30 |
| Males | 11–14 | 45 | 99 | 157 | 62 | 45 | 1,000 | 10 | 10 | 45 | 50 | 1.3 | 1.5 | 17 | 1.7 | 150 | 2.0 | 1,200 | 1,200 | 270 | 12 | 15 | 150 | 40 |
| | 15–18 | 66 | 145 | 176 | 69 | 59 | 1,000 | 10 | 10 | 65 | 60 | 1.5 | 1.8 | 20 | 2.0 | 200 | 2.0 | 1,200 | 1,200 | 400 | 12 | 15 | 150 | 50 |
| | 19–24 | 72 | 160 | 177 | 70 | 58 | 1,000 | 10 | 10 | 70 | 60 | 1.5 | 1.7 | 19 | 2.0 | 200 | 2.0 | 1,200 | 1,200 | 350 | 10 | 15 | 150 | 70 |
| | 25–50 | 79 | 174 | 176 | 70 | 63 | 1,000 | 5 | 10 | 80 | 60 | 1.5 | 1.7 | 19 | 2.0 | 200 | 2.0 | 800 | 800 | 350 | 10 | 15 | 150 | 70 |
| | 51+ | 77 | 170 | 173 | 68 | 63 | 1,000 | 5 | 10 | 80 | 60 | 1.2 | 1.4 | 15 | 2.0 | 200 | 2.0 | 800 | 800 | 350 | 10 | 15 | 150 | 70 |
| Females | 11–14 | 46 | 101 | 157 | 62 | 46 | 800 | 10 | 8 | 45 | 50 | 1.1 | 1.3 | 15 | 1.4 | 150 | 2.0 | 1,200 | 1,200 | 280 | 15 | 12 | 150 | 45 |
| | 15–18 | 55 | 120 | 163 | 64 | 44 | 800 | 10 | 8 | 55 | 60 | 1.1 | 1.3 | 15 | 1.5 | 180 | 2.0 | 1,200 | 1,200 | 300 | 15 | 12 | 150 | 50 |
| | 19–24 | 58 | 128 | 164 | 65 | 46 | 800 | 10 | 8 | 60 | 60 | 1.1 | 1.3 | 15 | 1.6 | 180 | 2.0 | 1,200 | 1,200 | 280 | 15 | 12 | 150 | 55 |
| | 25–50 | 63 | 138 | 163 | 64 | 50 | 800 | 5 | 8 | 65 | 60 | 1.1 | 1.3 | 15 | 1.6 | 180 | 2.0 | 800 | 800 | 280 | 15 | 12 | 150 | 55 |
| | 51+ | 65 | 143 | 160 | 63 | 50 | 800 | 5 | 8 | 65 | 60 | 1.0 | 1.2 | 13 | 1.6 | 180 | 2.0 | 800 | 800 | 280 | 10 | 12 | 150 | 55 |
| Pregnant | | | | | | 60 | 800 | 10 | 10 | 65 | 70 | 1.5 | 1.6 | 17 | 2.2 | 400 | 2.2 | 1,200 | 1,200 | 320 | 30 | 15 | 175 | 65 |
| Lactating | 1st 6 months | | | | | 65 | 1,300 | 10 | 12 | 65 | 95 | 1.6 | 1.8 | 20 | 2.1 | 280 | 2.6 | 1,200 | 1,200 | 355 | 15 | 19 | 200 | 75 |
| | 2nd 6 months | | | | | 62 | 1,200 | 10 | 11 | 65 | 90 | 1.6 | 1.7 | 20 | 2.1 | 260 | 2.6 | 1,200 | 1,200 | 340 | 15 | 16 | 200 | 75 |

[a] The allowances, expressed as average daily intakes over time, are intended to provide for individual variations among most normal persons as they live in the United States under usual environmental stresses. Diets should be based on a variety of common foods in order to provide other nutrients for which human requirements have been less well defined. See text for detailed discussion of allowances and of nutrients not tabulated.

[b] Weights and heights of Reference Adults are actual medians for the U.S. population of the designated age, as reported by NHANES II. The median weights and heights of those under 19 years of age were taken from Hamill et al. (1979) (see pages 16–17). The use of these figures does not imply that the height-to-weight ratios are ideal.

[c] Retinol equivalents. 1 retinol equivalent = 1 μg retinol or 6 μg β-carotene. See text for calculation of vitamin A activity of diets as retinol equivalents.

[d] As cholecalciferol. 10 μg cholecalciferol = 400 IU of vitamin D.

[e] α-Tocopherol equivalents. 1 mg d-α tocopherol = 1 α-TE. See text for variation in allowances and calculation of vitamin E activity of the diet as α-tocopherol equivalents.

[f] 1 NE (niacin equivalent) is equal to 1 mg of niacin or 60 mg of dietary tryptophan.