

Rights of Recipients of Mental Health Services

1. When a person receives mental health services, Michigan's Mental Health Code and other state and federal laws safeguard their rights. As staff you are responsible to protect these rights.
2. Michigan's Mental Health Code is state law.
3. A "Right" is something that is defined in law and protected by law.
4. People receiving services have the same the civil rights we all enjoy under the United States Constitution.
5. A recipient is considered competent in handling his/her own affairs unless a court has decided that they are legally incompetent and has appointed a guardian for them. A court appointed guardian is authorized by the judge to make certain decisions on behalf of the recipient.
6. People have the right to the appropriate services for their needs. They have the right to participate in planning for their future, identifying the services necessary to help make that happen and to identify who they would like to have participate with them in that planning.
7. People receiving services have the right to get a second opinion if services are denied.
8. People have the right to send and receive mail, talk on the telephone, have visitors, watch television, read newspapers/magazines/books without restrictions designed for censorship.
9. People have the right to have possession of their personal property or knowledge of its storage within safety parameters.
10. Freedom of movement cannot be limited or restricted more than is necessary to provide services or prevent injury.
11. Limitations or restrictions on code protected rights requires a written plan be submitted to and approved by the Behavior Treatment Committee.
12. People receiving services have the right to be treated with dignity and respect. This right extends to family members of people receiving services. Family members have the right to provide information, get general education information about a diagnosis, treatments, and support services available.

Many times respect is shown through the speaker's words, tone, posture, etc. Respect is also demonstrated by encouraging a person to make choices in what he or she wants or does not want to do and honoring such choices.

13. Confidentiality. A recipient has the right to have personal information and information about his/her services kept private. There are situations where the sharing of personal or service information may be allowed or even required.

HIPAA is a federal law that protects *health information*. In many cases it would allow information to be shared that the more protective Michigan Mental Health Code will not allow.

Michigan's Mental Health Code has generally stricter guidelines about what information may be given out. If these two laws (HIPAA and the Mental Health

Code) are conflicting, the more protective (of a recipient's privacy) law (usually the Mental Health Code) rules.

42 CFR part 2 is a federal law that protects *patient identifying information*. Of the confidentiality laws, 42 CFR part 2 is the STRICTEST at protecting privacy. This law applies to people and the substance abuse services they are receiving. This is followed relative to people receiving services for substance abuse or co-occurring disorders. IF someone is receiving services for a co-occurring disorder and either or both HIPAA or Michigan's Mental Health Code allow a disclosure but 42 CFR part 2 prohibits the disclosure, it is likely the information CANNOT be shared.

Consent to share information is normally given through a Release of Information form. In order for a person to be legally able to sign a release, they must give *Informed Consent*. Informed consent requires a) Legal competency – not have an appointed guardian; b) Knowledge – have been provided basic information on the subject; c) Comprehension – the ability to understand the implications of giving consent; d) Voluntariness – free choice without coercion, force, deceit, etc.

Other circumstances can exist under each of these laws that will either allow or require disclosure of private information. These circumstances may vary dependent on the law and situation.

GENERAL RULE: Be protective of the personal information of our recipients!

14. Recipients have the right to be free from Abuse and Neglect.

Abuse is a non-accidental act and the result determines which class of abuse is identified. Results of abuse include: death, sexual assault, serious physical harm, non serious physical harm, having caused pain, using force (even without injury) in the absence of imminent risk or harm to someone, exploitation, sexual harassment, AND using words or other actions to threaten or degrade a recipient.

Neglect involves NOT doing something or doing something incorrectly and again the result determines which class of neglect is identified. Results of neglect include: death, sexual assault, serious physical harm, non serious physical harm, having caused pain, AND when the result **PLACED** or **COULD HAVE PLACED** the recipient at risk of physical injury or sexual abuse.

FAILURE TO REPORT APPARENT OR SUSPECTED Abuse or Neglect IS NEGLECT!!

COMPLETE AN INCIDENT REPORT:

A recipient of mental health services:

- Is injured and requires **first aid**.
- Is injured and taken to the **Emergency Room**, or **hospitalized**.
- **Chokes**
- **Falls** and
 - is injured
 - an injury is likely to show up later.
- Is involved in a **traffic accident**
- Is suspected of committing a **criminal offense**, is **arrested**, or is **convicted**.
- Displays **unusual behavior**.
- **Dies** or is **seriously injured**.

- **Refuses** or spits out **medications**, and **does not ultimately take them**

An employee responsible for administering medications:

Willfully disregards or changes a physician's order, documents falsely, or alters documentation.

- **Misses or delays** passing a medication, and **no protocol** instructs the employee how to proceed.
- **Misses or delays passing** a medication due to **circumstances beyond the employee's control**, and **no protocol** instructs the employee how to proceed.
- Fails to follow the Five Rights of Medications (**wrong person, wrong dosage, wrong route, wrong time, wrong medication**).
- **Fails to follow a medical protocol** (e.g. makes a charting error or administers medications but fails to document).

A recipient **refuses** (or spits out) **medications**, and **does not ultimately take them**.

A recipient is suspected of committing a **criminal offense**, is arrested or convicted.

A recipient displays **unusual challenging behavior**.

Emergency physical intervention is used.

A recipient **dies** or is **seriously injured**.

You suspect or are told that a recipient has been **abused** or **neglected***, or any other **rights violation** has occurred.

You suspect/are told that a recipient has been **exploited by sexual acts**.

***Allegations or suspicion of abuse or neglect and serious injuries shall be immediately verbally reported to the guardian, and to the CMHCM Rights Office, after you assure the recipient's safety (as needed).**

How to construct an incident report

- In the upper right hand corner, fill in the recipient's first and last name, his/her case number, age, birth date, and sex.
- Fill in the report date (the day you wrote the report) and time.
- Fill in the name of the person you work for.
- Fill in the name of your worksite.
- Fill in the date and time when you discovered the incident, when it happened, and where it happened (be specific).
- Fill in the first and last initials of other recipients involved or present. Alternatively, you can use other recipients' first names or first name and last initial.
- Use the full names of any employees involved and/or present.

When describing the incident, explain in simple terms what happened. Be clear and specific. If other recipients were involved in the situation you are describing, use only their initials or first names.

Action taken by staff: Describe what you did in response to the incident. Describe what you did to prevent another, similar incident from occurring. Check "yes" or "no" to indicate whether signs of an injury were present.

Sign and date the report.

I have read and understand the training regarding Recipient Rights.

Signed: _____

Date: _____

My employer is: _____