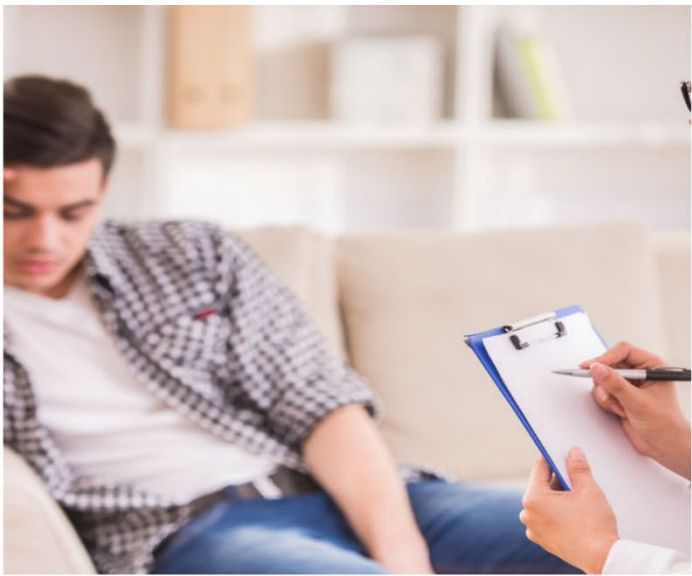


# YOUR RIGHTS

When Receiving Mental Health Services in Michigan



MDHHS 2023



*Office of Recipient Rights*

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# SECTION I: GENERAL INFORMATION ABOUT RIGHTS

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*When you receive mental health services your rights are protected by Michigan's Mental Health Code and by many Federal and State Laws. Staff are responsible to act in a manner that protects your rights when they provide services to you. If you do not understand your rights, or if you have questions about your treatment, you should ask staff. If you believe that your rights have been violated, you should tell the Rights Advisor/Officer at the location where you are receiving services. This booklet provides information about the rights granted to you by the Mental Health Code when you are receiving mental health services.*

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## Notice

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*Mental Health Code Sections 706, 706a*

When you make a request for, or begin to receive, mental health services, you are to be given information about the rights guaranteed in Chapters 7 and 7A of the Code. This booklet meets that requirement and provides you a summary of the information and rights contained in those chapters. A complete copy of Chapters 7 and 7A will be available for review at each service site.

If you receive services from a community mental health services program, you, or your family, should also be given a pamphlet containing information regarding available resources, advocacy and support groups, and other relevant information, including how to contact Disability Rights Michigan (DRM).

## Competency

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*Mental Health Code Section 702*

Just because you receive mental health treatment or services does not mean that you are incompetent. You still have the right to have a driver's license, marry and divorce, make a will, buy, and sell property, manage your own affairs, and decide most things about your life. You will be treated as competent unless a court has decided that you are legally incompetent and has appointed a guardian for you.

A guardian is authorized by a judge to make certain decisions for you. For some people, a guardian makes major decisions; for others, the guardian decides only those specific things listed in a court order. If you have a guardian and you think you should be able to make more decisions for yourself, or if you think you don't need a guardian, or that you need a different guardian, then you, or someone on your behalf, may go to the court and ask (petition) for a change of guardianship.

## Consent

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*Mental Health Code Section 100 a [17]; Administrative Rule 330.7003*

You must give **INFORMED CONSENT** in order to receive treatment or to have confidential information about you

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provided to others by the agency from which you are receiving services. In order to be able to give informed consent you must have:

- **COMPETENCY** (see pg. 2)
- **COMPREHENSION**  
You must be able to understand what the personal implications of providing consent will be based upon the information given to you.
- **KNOWLEDGE**  
You must be told about the risks, benefits, and available alternatives to a course of treatment or medication.
- **UNDERSTANDING**  
You must be able to reasonably understand the information you are given including the risks, benefits, available options or alternatives, or other consequences.

Your decision to provide consent must be **VOLUNTARY**. You should not be forced or pressured into a decision. Unless you are a minor or have a guardian, the choice you make should be your and yours only. This consent must either:

- Be in writing and signed by you, your legal representative, or
- Be your verbal agreement which is witnessed and documented in your record by someone who is not the person asking for your consent at the time. Only you (the recipient) can give verbal consent.

## Dignity and Respect

*Mental Health Code Section 704, 711*

The law requires all mental health service providers to assure that you are treated with dignity and respect. Examples of staff not showing respect include calling you names, making fun of you, teasing, or harassing you.

Your **FAMILY MEMBERS** also have the right to be treated with dignity and respect. In addition, they must be given:

- An opportunity to provide information about you to your treating professionals.
- An opportunity to request, and receive, general education information about the nature of mental disorders, medications, and their side effects, and information about available support services, advocacy groups, financial assistance, and coping strategies.



## Freedom from Abuse and Neglect

*Mental Health Code Section 722; Administrative Rule 330.7001, 7035*

**WHEN RECEIVING MENTAL HEALTH SERVICES YOU HAVE THE RIGHT NOT TO BE PHYSICALLY, SEXUALLY, OR OTHERWISE ABUSED AND YOU HAVE THE RIGHT NOT TO BE NEGLECTED.**

ABUSE AND NEGLECT MAY TAKE MANY FORMS. SOME EXAMPLES:RE

- IF A STAFF PERSON MAKES ANY PHYSICAL CONTACT WITH YOU FOR SEXUAL PURPOSES.

- IF YOU ARE SEXUALLY HARASSED.
- IF STAFF CAUSE YOU TO BE INJURED IN ANY WAY, OR USE UNREASONABLE FORCE IN A PHYSICAL MANAGEMENT SITUATION, OR CAUSE YOU EMOTIONAL HARM.
- IF YOUR FUNDS ARE MISUSED.
- IF YOUR FUNDS/POSSESSIONS ARE USED BY STAFF OR USED FOR SOMEONE ELSE.
- IF STAFF ARE VERBALLY ABUSIVE TO YOU.
- IF STAFF FAIL TO DO SOMETHING THEY ARE SUPPOSED TO DO WHEN THEY ARE CARING FOR YOU, OR IF THEY DO SOMETHING THEY SHOULDN'T DO AND IT RESULTS IN HARM TO YOU OR HAS THE POTENTIAL TO HARM YOU.

***IF YOU FEEL THAT YOU HAVE BEEN ABUSED OR NEGLECTED, OR IF YOU THINK ANOTHER RECIPIENT HAS BEEN SUBJECTED TO ABUSE OR NEGLECT, YOU SHOULD REPORT IT IMMEDIATELY TO THE RIGHTS OFFICE AND TO A STAFF PERSON.***

## **Fingerprints, Photographs, Audiotape, Videotape, and Use of One-Way Glass**

*Mental Health Code Section 724*

**You have the right not to be fingerprinted, photographed, recorded on audio or video, or viewed through a one-way glass unless you or your legal representative agree in writing.**

- If someone wants to photograph, or record (via video or audio) you for educational, informational, social or treatment purposes, that person must obtain your permission. If you object, it will not be done.
- When they are no longer needed, or upon discharge, any fingerprints, photographs, audio, or video recordings in your record must either be destroyed or given to you.
- Video surveillance may be conducted **in a psychiatric hospital** for purposes of safety, security, and quality improvement. Video surveillance may only be conducted in common areas such as hallways, nursing station areas, and social activity areas within the psychiatric unit. Video surveillance recordings taken in common areas shall not be used for treatment or therapeutic purposes. You be notified if surveillance is being used.

While doing an investigation to determine if your rights were violated, the Rights Officer/Advisor may need to take your picture. This will be kept in your confidential records maintained in the Rights Office.

## **Confidentiality**

*Mental Health Code Section 748, 946*

**You have the right to have information about your mental health treatment kept private.** Information about you and your treatment cannot be given to anyone except as required or allowed by law. Listed here are examples of when confidential information may be released:

- If a law or a court order requires your records be released.
- If you, or your legal representative, consents.
- If needed to get benefits for you, or to get reimbursement for cost of treatment.
- If you need follow up care, or in order to provide care to you
- If it is needed for research or statistical purposes, with certain safeguards regarding identification.

- If you die and your surviving spouse or other close relative needs the information to apply for and receive benefits.
- If you tell your mental health professional that you are going to harm another person, he/she may have to notify the police and the person who you threaten to harm.



## Access to Your Record

*Mental Health Code Section 748*

**You have the right to see your treatment record.** Upon request, you or your legal representative may read or get a copy of all or part of your record. There may be a charge for the cost of copying.

If you are an adult and the court has not judged you incompetent (appointed a guardian for you), information entered in your record may not be withheld from you *under any circumstances*.

If you are denied access to your record, you, or someone on your behalf, may appeal the decision to withhold information. Contact your rights officer/advisor for information about the agency's appeal process.

If you (or your legal representative) believe(s) your record contains incorrect information, you or they may place a statement in your record which corrects that information. You may not remove what is already in the record.

## Privileged Information

*Mental Health Code Section 750*

Information that is shared between you and a mental health professional (your psychiatrist, psychologist or social worker) cannot be shared in court, or any proceedings related to court, unless you indicate that it is okay, or if the mental health professional tells you in advance that the information could be used in court (i.e., for guardianship proceedings or for hearings related to involuntary treatment).

## Environmental Rights

*Mental Health Code Section 708*

**You have the right to treatment in a place which is clean and safe**

If you are receiving services from a residential program, the place where you live must have good lighting, enough heat, fresh air, hot and cold water, a bathroom with privacy, personal storage space. It should also be free from unpleasant smells.

## Civil Rights

*Mental Health Code Section 704; Administrative Rule 330.7009*

Your civil rights are protected even though you are receiving mental health services. You have the right to an education, the right register and to vote\*, and the right not to be discriminated against because of age, color, height, national origin, sex, religion, race, weight or due to a physical or mental disability. Michigan law prohibits discrimination: based on race, religion, color, national origin, age, sex, disability, genetic information, marital status, familial status, height, weight, and arrest record.





**\* If you are receiving treatment in an inpatient psychiatric facility, or are a resident of a group home, the staff must inquire if you wish to vote and, if you do, they must make arrangements for you to be transported to a voting location or make it possible for you to get an absentee ballot.**

If you believe that your civil rights have been violated during the course of your treatment, you can file a complaint with the Office of Recipient Rights. You may also file a complaint with the Michigan Department of Civil Rights. If you feel that any of your civil rights have been violated *by an employer, landlord, or business*, you may file a discrimination complaint with either the Michigan Department of Civil Rights, or the U.S. Office for Civil Rights. *Note: To file with either of these agencies you must write to them within 180 days of the time the alleged discrimination occurred. If you are still not satisfied, you may also sue in the State Circuit Court or Federal District Court.*

### Michigan Department of Civil Rights

Capital Tower Building 110 W. Michigan Avenue, Suite 800, Lansing, MI 48933 VOICE: 800-482-3604, FAX: 517-241-0546, TTY: 517-241-1965, or email: [MDCR-INFO@michigan.gov](mailto:MDCR-INFO@michigan.gov) To file a complaint online: <https://dtmb.state.mi.us/MDCRRequestforService/RequestComplaint>.

### Office for Civil Rights, U.S. Department of Health and Human Services

233 N. Michigan Ave., Suite 240, Chicago, IL 60601 Chicago, IL 60601 VOICE 800-368-1019, FAX 202-619-3818, TDD 800-537-7697 or email: [ocrmail@hhs.gov](mailto:ocrmail@hhs.gov) or file a complaint online: <https://ocrportal.hhs.gov/ocr/smartscreen/main.jsf>

*Note: To file with either of these agencies you must write to them within 180 days of the time the alleged discrimination occurred. If you are still not satisfied, you may also sue in the State Circuit Court or Federal District Court.*

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### FEDERAL LAWS

**As a person with a mental disability, you may have additional protections under the following laws:**

*Americans with Disabilities Act (ADA)  
Fair Housing Amendments Act  
Individuals with Disabilities Act (IDEA)  
Elliot Larsen Civil Rights Act*

*Civil Rights of Institutionalized Persons Act (CRIPA)  
Health Insurance Portability & Accountability Act (HIPAA)  
Section 504 of the Rehabilitation Act  
Michigan Disability Civil Rights Act*



**ADA Compliant**

#### **Title II of the Americans with Disabilities Act (ADA)**

Title II of the ADA prohibits discrimination on the basis of disability by public entities. It states that people with disabilities cannot be denied services or participation in programs or activities that are available to people without disabilities. If you feel your rights under Title II have been violated by state or local governmental agencies, you may file a complaint with the Department of Justice. This must be done within 180 days from the date of discrimination. For more information, or to file a complaint, contact the U.S. Department of Justice, Civil Rights Division, Disability Rights Section, 950 Pennsylvania Avenue, NW, 4CON 9<sup>th</sup> Floor, Washington, D.C. 20530. You may also call VOICE: 800-514-0301, TTY: 800-514-0383, or file a complaint online at <https://civilrights.justice.gov/report/>, or email: [ADA.complaint@usdoj.gov](mailto:ADA.complaint@usdoj.gov).

#### **Title III of the Americans with Disabilities Act (ADA)**

Title III of the ADA requires that public accommodations such as restaurants, hotels, grocery stores, retail stores, etc., as well as privately owned transportation systems, be accessible to individuals with disabilities. If

you feel your rights under Title II have been violated, you may file a complaint with the Department of Justice. In certain circumstances cases may be referred to a mediation program sponsored by the Department. See the address and phone numbers given above. Title III may also be enforced through a private lawsuit.

### ***Civil Rights of Institutionalized Persons Act***

Under the Civil Rights of Institutionalized Persons Act, the Attorney General may initiate a civil rights lawsuit when there is reasonable cause to believe that the conditions are significant enough to subject residents to serious harm and they are part of a pattern or practice of denying residents' constitutional or federal rights including Title II of the ADA and Section 504 of the Rehabilitation Act. To bring a matter to the attention of the Department of Justice, contact the U.S. Department of Justice, Civil Rights Division, 950 Pennsylvania Ave NW, Washington, D.C. 20530, VOICE: 877-218-5228 FAX: 202-514-0212, or email: [Special.Litigation@usdoj.gov](mailto:Special.Litigation@usdoj.gov)

### ***Fair Housing Amendments Act***

The Fair Housing Amendments Act prohibits discrimination by direct providers of housing, such as landlords and real estate companies as well as other entities, such as municipalities, banks or other lending institutions and homeowners' insurance companies. If you feel your rights under this Act have been violated, you may file a complaint with the U.S. Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity (FHEO). For more information on filing a complaint, contact the Office of Fair Housing and Equal Opportunity, Detroit Field Office, McNamara Federal Building, 477 Michigan Avenue, Detroit, Michigan 48226. VOICE: 313-226-5611, FAX: 313-226-5611, TTY: 313-226-6899, or file a complaint online:

<https://portalapps.hud.gov/FHEO903/Form903/Form903Start.action>



## **HIPAA**

### ***Health Insurance Portability & Accountability Act (HIPAA)***

The HIPAA Privacy Rule regulates the use and disclosure of the information your provider gathers and retains regarding your condition and treatment. Protected Health Information (PHI) is any information held by the provider that concerns health status, provision of health care, or payment for health care that can be linked to an individual. Providers must disclose PHI to the individual within 30 days upon request. They also must disclose PHI when required to do so by law such as reporting suspected child abuse to state child welfare agencies. A provider may disclose PHI to facilitate treatment, payment, or health care operations without a patient's expressed written authorization. Any other disclosures of PHI require the provider to obtain written authorization from the individual for the disclosure. In some instances, the mental health code is more protective of health information than HIPAA. Please see your Rights Advisor for more information.

If you feel that your HIPAA rights have been violated you may file a complaint with the U.S. Department of Health and Human Services by sending your complaint to: Centralized Case Management Operations, U.S. Department of Health and Human Services, 200 Independence Avenue, S.W., Room 509F HHH Bldg. Washington, D.C. 20201 or sending an email to: [OCRComplaint@hhs.gov](mailto:OCRComplaint@hhs.gov). You will need to submit a Health Information Privacy Complaint Form Package available online at: <https://www.hhs.gov/hipaa/filing-a-complaint/complaint-process/index.html>. You may also use the online complaint portal by going online to: <https://ocrportal.hhs.gov/ocr/smartscreen/main.jsf>



## **MICHIGAN LAWS**

### ***Individuals with Disabilities Education Act***

Under the Individuals with Disabilities Education Act, a parent who disagrees with the proposed IEP, can request a due process hearing from the Michigan Department of Education. To make this request contact the Michigan Department of Education, Office of Special Education, 608 West Allegan Street Lansing, Michigan 48933, VOICE: 517-241-7075, FAX: 517-241-7075, TTY: 517-241-7142 or email [mde-ose@michigan.gov](mailto:mde-ose@michigan.gov). Assistance with disputes about and IEP can also be obtained from the Michigan Department of Education Office of Special Education Mediation Services by calling 833-543-7178, by going online at [www.MIKIDS1st.org](http://www.MIKIDS1st.org) or email: [info@miKids1st.org](mailto:info@miKids1st.org). The state agency's decision can also be appealed to a state or federal court. For more information about this act and your rights, contact the Office of Special Education and Rehabilitative Services, U.S. Department of Education, 400 Maryland Ave., SW, Washington, DC 20202-7100, VOICE: 202-245-7459.

### ***Section 504 of the Rehabilitation Act***

Under Section 504 of the Rehabilitation Act, no qualified individual with a disability in the United States shall be excluded from, denied the benefits of, or be subject to discrimination under any program or activity that either receives federal financial assistance or is conducted by any executive agency or the U.S. Postal Service. If you feel that you have been discriminated against by an agency receiving federal money based on disability, you can file a 504 complaint with an appropriate agency by contacting the Office of Civil Rights, U.S. Department of Education, 400 Maryland Ave. SW, Washington, DC 20202-1100, VOICE: 800-421-3481, FAX: 202-245-8392, TDD: 800-877-8339, or email: [OCR@ed.gov](mailto:OCR@ed.gov). You may file a complaint online at <https://ocrcas.ed.gov/>. Additional information is available online at: [www.ed.gov/ocr](http://www.ed.gov/ocr).

### ***Elliott Larsen Civil Rights Act and Persons with Disabilities Civil Rights Act***

- If you are a recipient who believes that you have been discriminated against in your job because of your race, gender, marital status, etc., you are protected under Michigan's "Elliott Larsen Civil Rights Act".
- If you believe you have been discriminated against based upon disability, you are protected under Michigan's "Persons with Disabilities Civil Rights Act".

For information regarding either of these laws, or to file a complaint, contact the Michigan Department of Civil Rights, 110 W. Michigan Avenue, Suite 800, Lansing, Michigan 48933, VOICE: 1-800-482-3604, or email: [MDCR-INFO@michigan.gov](mailto:MDCR-INFO@michigan.gov). Online information is available at: [www.michigan.gov/mdcr](http://www.michigan.gov/mdcr).

## **SECTION II: TREATMENT RIGHTS IN ALL MENTAL HEALTH SETTINGS**

### **Treatment and Support**

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*Mental Health Code Section 705, 707- 719, 744; Administrative Rule 7029, 7135*

You have the right:

- To be told why you are being treated and what your treatment is.
- To participate in the development of your plan of service and to involve family members, friends, advocates, and professionals of your choice in the development process. Justification for the exclusion of a person of your choice must be documented in your case record.

- To have your plan of service developed within seven days of commencement of services or before discharge or release if you are hospitalized less than seven days.
  - To choose, within certain limitations, the physician or other mental health professionals to provide services for you, if you receive services from a community mental health services program or a licensed hospital.
  - To be informed of your progress, both orally and in writing, at reasonable intervals and in a manner appropriate to your condition.
  - To not have surgery unless consent is obtained from at least one of the following:
    - ▶ You, if you are over 18 years old and do not have a guardian for medical purposes,
    - ▶ If you are under 18 years of age, your parent with legal and physical custody,
    - ▶ Your guardian who has legal authority to consent to surgery,
    - ▶ A representative authorized to give consent under a durable power of attorney or another advance directive.
- OR*
- ▶ If your life is threatened and there is not time to obtain consent, surgery may be performed without consent after the medical necessity for the procedure has been documented and the documentation has been entered into your record.
  - ▶ Surgery is necessary, no appropriate person can be found to give consent, and the probate court consents to the surgery.
- To be given notice of available family planning and health information services and, if you ask, to have staff provide referral assistance to providers of these services. Your receipt of mental health services does not depend in any way on requesting or not requesting family planning or health information services.
  - To have staff help you get treatment by spiritual means if you request it.
  - To receive treatment in a place where you have as much freedom as your condition allows.
  - To not have electroconvulsive therapy (ECT) or other procedures intended to produce convulsions or coma, unless consent is obtained from:
    - ▶ You, if you are over 18 years old and do not have a guardian for medical purposes,
    - ▶ If you are under 18 years of age, your parent with legal and physical custody,
    - ▶ Your guardian who has legal authority to consent to ECT,
    - ▶ A representative specifically authorized to consent to ECT under a durable power of attorney or another advance directive.
  - To receive a second opinion if you have been denied services by making a request to the Executive Director of the Community Mental Health Services Program.



## Person-Centered Planning

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*Mental Health Code Section 712*

The Mental Health Code requires a person-centered approach to the planning, selection, and delivery of the supports, services, and/or treatment you receive from the public mental health system (community mental health programs, their service providers, and licensed psychiatric hospitals).

### **What is person-centered planning?**

Person-centered planning means the treatment you receive will be made up of activities which you think will help you, or which you assist in developing, and which meet your goals. This process will determine the supports you want or need to achieve your desired future. The staff involved in your treatment will encourage feedback from you about these supports, the progress you have made, and any changes you think would make your treatment more effective.

There are four basic parts in the person-centered process:

- **Identifying the future you desire.**

It is up to you to choose the individuals who will help identify your future and help you plan for it. You will be a part of deciding what information is, or is not, shared at the meeting. You will be able to choose, within reason, the times and place you want to have meetings to plan your treatment, to decide the content of the meetings and how long they will be.

- **Planning the future you desire.**

Meetings which are held to plan for your future will attempt to discover what is important to you, to share information about your abilities, strengths, and skills, to learn about your needs and to decide which of your desired goals will be achieved in the short term and which will need to be long-term. Then, you and the support team will determine the strategies for achieving these goals.

- **Finding the supports and services it will take to achieve your desired future.**

You will be able to use the resources in your network of family, friends, your community, and the public mental health system which might be available to assist in achieving your desired outcomes. You will be able to choose, from available resources, the supports and services to be delivered, and help decide who will do what, when, and how.

- **Getting regular feedback on your treatment.**

It is important for you to receive feedback on your progress. This should be done on a regular basis (weekly or monthly). Your case manager (supports coordinator) should review how services are being delivered, ask about your satisfaction with their delivery, and tell you about your progress toward your desired outcomes. The information you provide should be used to make any necessary changes in the supports and services you receive.

You should also have the opportunity to formally express your opinion about supports and services you receive so that improvements in service delivery can be made for everyone.

In addition, you always have the right to make formal complaints about how your supports and services were delivered or about any of the people who might have provided them. Contact your Rights Officer/Advisor if you would like to do this.



## Questions You May Want to Ask About Person-Centered Planning

*Who must attend the person-centered planning meeting?*

You, and your supports coordinator (case manager).

*Who also might be included?*

You may want to invite family members, co-workers, friends, a teacher, coach, staff, and other people who know you well and with whom you feel comfortable sharing personal information. Your supports coordinator (case manager) may also suggest inviting a nurse, physical therapist, or direct care staff, who has information to help in planning and decision making.

*What kinds of outcomes are discussed?*

"Outcomes" may include:

- Having positive relationships with family members,
- Participating in community activities and events,
- Doing what you find meaningful and productive with your day, (such as going to school, work, volunteering),
- Living in a place alone or having assistance from people you choose.

*Are there limits to person-centered planning?*

Person-centered planning does not guarantee that the supports, services, and/or treatment nor the amount of them you might like to have can be provided by the public mental health system. What is actually provided by the public mental health system will depend upon the available resources (such as funding and staffing), rules and regulations that govern the program or funding system, and/or the judgment of the program administrator(s) as to feasibility, appropriateness, and safety of such support, service, or treatment.



## Questions You May Want to Ask About Your Medication

If you are given medication by your doctor, you will need to take it according to his/her instructions. Listed below are some questions you may want to ask of the doctor or nurse so that you can have the information you need to make it as effective as possible.

- Why do I have to take this medicine?
- What will happen if I do not take it?
- Can I be treated without medication?
- Before I begin taking any medicine or even if I am not taking medicine, can I have a second opinion?
- What is the name of the medicine prescribed for me?

- How is it supposed to make me feel? What are the side effects of the medicine? Will it affect any other medical or physical problems I have?
- Are there side effects I should report immediately?
- Is it similar to or different from the medicine I was taking before this?
- How much should I take? How many times a day? What time of day? Before or after meals?
- What would happen if I took too much?
- Is it all right if I drink alcohol or beer when taking this medicine? Is there any food or drink I should avoid?
- Are there other medicines I should avoid when taking this medicine?
- Will this medicine affect my interest and/or my ability to participate in sex?
- How long will I need to take this medicine?
- If I take this medicine for a long time, what can it do to me?
- What is tardive dyskinesia (TD)? Can I get TD from taking this medicine? Can something be done to avoid this?

**For women in childbearing years:**

- Will this affect my menstrual periods?
- Should I take birth control pills while taking this medicine?
- If I get pregnant while taking this medicine, could it have any effect on my baby?
- Should I take it while nursing?
- Should I drive or operate machinery while taking this medicine?
- Is there anything else I should know about this medicine?
- How often will you review with me what the medicine is doing?
- How soon will I need to take this medicine?

## **Mediation** (This section applies only to persons receiving services from a CMH)

*Mental Health Code Section 1206a*

If you have a dispute related to your service planning or the services provided by a Community Mental Health Services Program (CMHSP) or a contracted service provider of a CMHSP, you have the right to mediation.

- You have the right to request mediation at any time.
- You or your individual representative must be notified of your right to request and access mediation at the time services or supports are initiated and at least annually after that.
- If you have requested a local dispute resolution, a local appeal, or a state Medicaid fair hearing, you also have the right to request mediation at the same time.
- Mediation is handled by a mediation agency, not the CMHSP.
- The CMHSP and its contracted service providers are required to participate in mediation.

## **SECTION III: YOUR RIGHTS WHEN YOU ARE BEING ADMITTED OR DISCHARGED FROM A PSYCHIATRIC HOSPITAL OR UNIT**

### **Admission Process**

If you are admitted to a psychiatric hospital or unit, **you have the right:**

- To make at least two phone calls.

- To have a physical and mental examination within 24 hours after you are admitted, and again at least once a year.

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**VOLUNTARY:** *Mental Health Code Sections 410-420*

If you present yourself at a place for screening, the staff of that unit must complete their examination of you within two (2) hours unless there is a documented medical reason for the delay. If the screening unit denies your request for hospitalization, you may request a second opinion from the community mental health services program.

If you are admitted to a psychiatric hospital or unit on a **VOLUNTARY BASIS** (you admit yourself), or you are admitted by application of your guardian (if they have been granted that authority and with your agreement) you have the right:

- To have all of your rights verbally explained, including the right to object to treatment and to have a copy of your application for hospitalization.
- To give written notice of your intent to leave the hospital.  
After you put your request in writing, you must be discharged within three (3) days (excluding Sunday and holidays). However, if the hospital director determines you require treatment and petitions the court for your involuntary admission you must remain in the hospital until a determination is made about your treatment by the court.
- To be discharged when treatment is complete or when you no longer need the services.

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**INVOLUNTARY:** *Mental Health Code Sections 423-450; 498*

*If the police take you into protective custody and bring you to a place for screening or if you present yourself, the staff of that unit must complete their examination of you within two (2) hours unless there is a documented medical reason for the delay. If the screening unit denies the request, you may request a second opinion from the community mental health services program.*

Once you are brought to the hospital, you have the following rights:

- To be asked if you wish to be admitted as a voluntary patient.
- To a copy of the petition saying you require treatment and to copies of reports by the doctors who examine you.
- To a written statement explaining that you will be examined by a psychiatrist within 24 hours after you are admitted and explaining all of your rights, including the right to:
  - > A full court hearing.
  - > Be represented by an attorney.
  - > Be present at the hearing.
  - > A jury trials.
  - > An independent clinical examination.
- To have staff, if you wish, notify your family of your admission to the hospital.
- To be examined by a psychiatrist who will determine whether you need to remain hospitalized. (Second certification).



- To refuse medication before your court hearing unless a physician decides you are in immediate risk of harming yourself or others. If you agree to medication or treatment before the court hearing, this does not mean that you are agreeing to the hospitalization.

Within 72 hours (this does not include Sundays and holidays) after a petition and clinical certification have been filed with the court, you have:

- The right to a deferral conference with the following:
  - > your appointed legal counsel,
  - > a treatment team member assigned by the hospital director,
  - > a designated community mental health worker,
  - > an individual of your choice.

This conference will be scheduled by the hospital. At this conference, the team (some members may participate remotely) will share the plan, including:

- The proposed plan of service in the hospital.
- The proposed plan of service in the community.
- The nature and possible consequences of the involuntary hospitalization process.
- The right to request that your court hearing be “deferred” (delayed) temporarily for 60 or 180 days. You will be treated as a voluntary patient during this time; however, you have the right to demand a hearing at any time during the “deferral” period.
- If you are brought back to the hospital during the deferral period, you *will not* be offered a voluntary application upon arrival at the hospital. A demand for hearing will be filed with the court.

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**COURT HEARINGS:** *Mental Health Code Sections 452; 463*

**If you are the subject of a petition, you have the following rights regarding court hearings:**

- To have your court hearing promptly, but not more than seven days (this does not include Sundays or holidays) after the court receives the petition and two certifications.
- To be present at all court hearings. During this hearing, you have the right to be represented by an attorney. If you cannot afford an attorney, the court will appoint one for you. Your attorney must consult with you, in person, at least 24 hours before the time set for your court hearing. (You may choose to waive the right to attend your hearing by signing a waiver witnessed by your legal counsel and filed with the court.)
- To have the hearing held at the hospital whenever possible, rather than court (*Sec. 456*)
- To demand a jury trial.
- To present documents and witnesses and to cross examine witnesses.
- To obtain, at public expense, if necessary, an independent clinical evaluation by a physician, psychiatrist, or licensed psychologist of your choice. (You must request this before the first scheduled hearing or at the first scheduled hearing before the first witness’s has been sworn.)
- To a copy of the court order.

As a court-ordered recipient, **YOU DO NOT HAVE THE RIGHT TO REFUSE TREATMENT**. However, you do have the right to ask questions about your treatment, participate in the development of your plan of service, and discuss it with your doctor or other mental health professionals. If you think your treatment is not helping, you may ask for a review of your treatment plan.

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**PERIODIC REVIEW:** *Mental Health Code Sections 482; 485a*

If you have a court order for continuing involuntary treatment, whether in a hospital or as an outpatient, you have the right to regular, adequate, and prompt reviews of your status. These reviews must be done six (6) months from the date of the court order and every six (6) months from there on. Results of these reviews must be provided to you within five days from the time they are made part of your record and you must be informed of your right to petition for discharge.

If you object to the conclusions of the periodic review, you have the right to a hearing. In addition to that hearing, you may petition the court for discharge from the program once within each 12-month period from the date of the original order. If, after any of these hearings, the court determines that you no longer require treatment, you will be discharged.

## Rights of Minors

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*Mental Health Code Section 498m*

If you are a minor, between 14 and 17, you have the right to ask for, and receive, outpatient mental health services (not including psychotropic medication or pregnancy termination referral services) without the consent or knowledge of your parent or guardian. These services are limited to 12 sessions or 4 months for each request.

If you are a minor between 14 and 17, you may write to the court within 30 days of your admission to object to your being hospitalized. You may do so again within 30 days from the time you receive a written review from the clinical staff regarding your need for continued hospitalization.

If you are a minor of any age and have been hospitalized for more than 7 days, you may inform a hospital staff person of your desire to object to your hospitalization. Staff are required to assist you in properly filing your objection to the hospitalization. If no one does this, then ask to see the Rights Advisor who will help get someone to assist you. If you are re-hospitalized for longer than 10 days under a combined hospitalization/alternative treatment order, you must be notified of your right to file an objection to your hospitalization. If you do object, the court must schedule a hearing to determine whether you continue to require treatment.

### LIMITATIONS

The Mental Health Code guarantees that persons receiving services in a hospital or residential setting shall be assured that some basic rights will be protected. These rights may be limited due to the nature of your treatment. If limitations are imposed, you (or your legal representative) must agree to them as part of your plan of service. General restrictions (visiting hours, telephone usage, access to property) can be established for inpatient settings. Revised HCBS rules do not allow restrictions to be enforced in residential settings.

## SECTION IV: ACCESS RIGHTS

### Mail

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*Mental Health Code Section 726*

**You have the right to receive and send mail without anyone else opening or reading it.** If you have no income, and if you ask, you will be given writing materials and a reasonable number of stamps.

### Telephone

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*Mental Health Code Section 726*

**You have the right to talk on the phone in private.** If you have no income, a reasonable amount of funds will be provided so that you can use the telephone.

### Visitors

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*Mental Health Code Section 715, 726, 748; Administrative Rule 7135*

**You have the right to see visitors of your choice.** You can ask to see your own doctor (if you have one) or visit with your minister, priest, rabbi, or spiritual counselor at reasonable times. You have the right to talk with your attorney, a court, or others, about legal matters without any limitations and at any time.

### Entertainment Materials, Information and News

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*Mental Health Code Section 704; Administrative Rule 7139*

**You have the right** to watch television, have a newspaper provided, buy magazines, and books of your own choice, unless limited by your plan of service or as generally restricted by program rules.

### Religion

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*Mental Health Code Section 704*

**You have the right to practice your religion or faith.** You cannot be forced to go to a religious event if you do not want to, nor can you be required to listen to or watch religious programs on radio or TV.

### Personal Property

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*Mental Health Code Section 728; Administrative Rule 7009*

You have the right to:

- Wear your own clothes and keep your own things.
- Inspect your personal property at reasonable times.
- Have a receipt given to you, and to a person you designate, for your property held by the facility. Unless it is illegal, this property must be returned to you when you are discharged.
- Have a reasonable amount of space to store your personal belongings.

- Not have your belongings searched unless this is part of your plan of service or unless there is a good reason; to watch if your belongings are searched; and to have the reason for the search written in your record.

Your plan of service may further limit this right for the following reasons:

- To protect property, you may have brought with you from theft, loss, or destruction.
- To prevent you from physically hurting yourself or others.

You (and your legal representative) should be given the reason for the limitation and the date it expires.

## Labor

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*Mental Health Code Section 736*

You have the right to:

- Be paid for work you agree to do if you are offered work. However, you will not be paid for personal housekeeping chores (such as making your own bed) or work which is part of a small group living arrangement.
- Not have more than half of any money you earn used to pay for your treatment.

These rights may be limited:

- If the U.S. government says you need someone to handle money you receive from Social Security and has assigned you a representative payee, or
- If you have a conservator or guardian who has the authority to limit how you spend your money.

## Freedom of Movement

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*Mental Health Code Sections 740, 742, 744*

Freedom of movement is a right, not a privilege. This right cannot be limited or restricted more than is necessary to provide mental health services to you, to prevent you from injuring yourself or others, or to prevent substantial property damage. If you are admitted by order of a criminal court or are transferred from a jail or prison, appropriate security precautions may be taken. If there are limitations on your freedom of movement, the expected length and the reasons for them must be written into your record. The limitations must be removed when the reasons for them no longer exist.

If you are in a psychiatric hospital or licensed child caring institution, you may only be put in a locked room (seclusion) to keep you from physically hurting others. If you are a resident in an inpatient or residential setting, you may only be physically restrained if facility licensure rules allow in order to keep you from physically hurting yourself or others.

## SECTION V: THE RECIPIENT RIGHTS COMPLAINT AND APPEAL PROCESS

### Filing a Recipient Rights Complaint

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*Mental Health Code Section 776*

If you believe that **any right listed in this booklet has been violated**, you, or someone on your behalf, should file a recipient rights complaint. You may do this by calling or visiting the Rights Office, or by completing a recipient rights complaint form and returning it to the Rights Office. Copies of the rights complaint form are available wherever you receive services, from your local rights office, or online at the Office of Recipient Rights website: [www.michigan.gov/recipientrights](http://www.michigan.gov/recipientrights); click on the link "Recipient Rights Complaint Form". The name and telephone number of the Rights Officer/Advisor for this agency can be found on the back of this booklet and on the ORR website. This information must also be clearly posted in the place you are receiving treatment.

If you need help writing your complaint your Rights Officer/Advisor can assist you; however, you may also contact one of the advocacy organizations listed in Section VI of this book for assistance. Staff at the place where you receive service may assist you.

### Investigating Your Complaint

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*Mental Health Code Section 776*

Within five (5) business days after receiving your complaint, the Rights Office will send you a letter indicating that your complaint was received and providing a copy of the complaint. This letter will also tell you what the Rights Office will do with your complaint.

If the Rights Office investigates your complaint, a decision will be made whether your rights have been violated and, recommendations will be given as to appropriate action the Agency/Hospital should take to correct the violation. This process should take no longer than 90 days after your complaint was received. You will get a written status report every 30 days until completion of the investigation. When the investigation is complete, the Rights Office will submit a Report of Investigative Findings to the Agency/Hospital Director. Within 10 business days after receiving this report, the Director must provide you with a written Summary Report.

The Summary Report will tell you about the investigation, let you know if the Rights Office determined your rights were violated, and tell you about any recommendations made by the Rights Office. If it is determined that there was a rights violation, this report will also tell you what action the Director has taken, or will take, to resolve your complaint. It will also provide you with information regarding the appeal process. If the action has not been completed when you receive the Summary Report, a follow-up letter will be provided indicating either the action was completed or that a different action was taken.

### Appeal Rights

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*Mental Health Code Sections 784-786*

#### Local Appeals Committee Review

Upon receipt of the Summary Report, you may file an appeal if:

- You are not satisfied with the **findings of the Rights Office**
- You disagree with the **action taken or proposed by the provider**.
- You think the Rights Office **did not start or finish** the investigation in a **timely** manner.

Your appeal must be in writing and received by the local appeals committee within 45 days from the time you receive the Summary Report. Information on how to file your appeal will be given to you in the Summary Report. If you want help writing your appeal, your Rights Officer/Advisor can assist you; you may also contact one of the advocacy organizations listed in Section VII of this book for assistance. Within five (5) business days after receiving your appeal, the appeals committee will review it to see if it meets the requirements, and will notify you, in writing, whether or not your appeal was accepted. This committee then has 25 days to review the case file provided by the Rights Office and make a decision on your appeal. You will receive their written decision no later than ten days after their meeting.

### **Second Level Appeal - Findings**

If your appeal was based upon your belief that the investigative findings of the Rights Office were not consistent with the facts or relevant laws, rules, policies, or guidelines, and you are not satisfied with the decision of the local appeals committee, you have 45 more days to file a written appeal to the next level. This should be sent to: MDHHS -Level 2 Appeal, DHHS-Appeals, PO Box 30807, Lansing, MI 48909. Information on this process will be provided in the response from the local appeals committee. If you are not satisfied with the answer from the Level 2 Appeal, you may file an appeal with the Circuit Court in the county where you live (or with the Ingham County Circuit Court). You only have 21 days to do this and may need to hire an attorney to help you. Your appeal to the Circuit Court will be based on the entire record of your appeal which was put together by the Second Level Appeal reviewer.

### **Second Level Appeal – Action Taken**

## **SECTION VI: ADVISORY ORGANIZATIONS THAT CAN ASSIST YOU**

There is no second level of appeal if your appeal to the local committee had to do with the action taken, or not taken, as a result of your complaint. In this case, if you are not satisfied with the decision of the local appeals committee, you may file a new complaint against the person who issued the Summary Report.

The following organizations are available to assist you in protecting your rights as a recipient of mental health services:



**Michigan Disability Rights Coalition** <https://mymdrc.org/>

3498 East Lake Lansing Road, Suite #100,  
East Lansing, MI 48823

VOICE: 800-578-1269 or 517-333-2477 FAX: 517-333-2677 email: [info@mymdrc.org](mailto:info@mymdrc.org)



**Disability Rights Michigan** (formerly Michigan Protection & Advocacy Service) [www.drnich.org](http://www.drnich.org)

4095 Legacy Parkway  
Lansing, MI 48911

VOICE: 800-288-5923 or 517-487-1755 FAX: 517-487-0827 TTY: 517-374-4687



**Deaf C.A.N. (Deaf Community Advocacy Network)** [www.deafcan.org](http://www.deafcan.org)

2111 Orchard Lake Road, #101  
Sylvan Lake, MI. 48320

VOICE: 248-332-3331 FAX: 248-332-7334 TTY: 248-332-3323



## SECTION VII: INFORMATION FOR PERSONS RECEIVING TREATMENT UNDER THE FORENSIC PROVISIONS OF THE MENTAL HEALTH CODE.

### ***Incompetent to Stand Trial (IST)***

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Mental Health Code Sections 2020 -2044

If you are admitted to a hospital on an IST (Incompetent to Stand Trial) Order you are under the jurisdiction of the criminal court, not the probate court system. The IST order means that the court has determined that, due to your mental condition, you are unable to understand the nature and object of the proceedings against you or of assisting in your defense in a rational manner. This order may be valid for up to 15 months during which time you will receive psychiatric treatment. Reevaluation of your competence will be done by your treating psychiatrist every 90 days and a report will be submitted to the criminal court.

### ***Not Guilty by Reason of Insanity (NGRI)***

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Mental Health Code Section 2050

If you are found to be not guilty of a criminal charge due to reasons of insanity (Not Guilty by Reason of Insanity (NGRI), you will be sent to the Center for Forensic Psychiatry, for a period of not more than 60 days, so that you can be evaluated, and a determination made as to whether you are a person who requires mental health treatment. If the Center determines that you do require mental health treatment, the court may direct the prosecutor to file a petition for involuntary hospitalization. If this occurs, you will have a hearing in a probate court to determine if you will be involuntarily hospitalized (See Section III of this book). You will have to stay at the Forensic Center until the probate court hearing. If a petition for involuntary hospitalization is not filed, the prosecutor will notify the Center and you shall be discharged.

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*To deny people their rights is to challenge their very humanity.*

*Nelson Mandela*

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**TO LEARN MORE ABOUT YOUR RIGHTS  
ASK YOUR RIGHTS ADVISOR:**

**Network** 

**Office of Recipient Rights**

**orr@network180.org**

**616.336.3909**

**790 Fuller Ave NE**

**Grand Rapids MI 49503**



Michigan Department of Health & Human Services

***Office of Recipient Rights***

*Michigan Department Health and Human Services  
Office of Recipient Rights  
Grand Tower Building  
Lansing, MI. 48909  
Authorized by: P.A. 258 of 1974, as amended*