



Recipient Rights New Hire Training Handouts

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www.network180.org/en/recipient-rights/about

What Is a Right?

- That which a person is entitled to have, to do, or to receive from others, within the limits prescribed by law
- Entitlements that cannot be taken away
- All rights fall into one of three categories:
 - Something an individual can do by law
 - Something an individual can have or receive by law
 - A protection under law

Federal Rights Statutes

- The US Constitution
- The Healthcare Insurance Portability and Accountability Act (HIPAA)
- 42 CFR Part 2 (Substance Use Disorder)
- The Americans with Disabilities Act (ADA)

The US Constitution

- Freely exercise religious beliefs and convictions
- Communicate freely with others by telephone and mail
- If necessary, funds must be provided (in reasonable amounts) for postage, stationary, telephone
- Privacy
- Due process
- Vote
- Protection from unlawful search and seizure
- Recipients shall be allowed to conduct business affairs to maximum extent possible

A violation of a recipient's civil rights are a violation of their recipient rights

The HIPAA

- Establishes a federal baseline for the protection of personal health information
- The MHC is more restrictive in many areas of overlap and must be followed over HIPAA
- Requires the secure electronic transmission of confidential information

42CFR Part 2

- Prohibits disclosure of Substance Use Disorder (SUD) information
- Can only be released with special consent
- Can subject the violator to criminal penalties

The ADA

- Prohibits discrimination based on disability
- Requires employers to provide reasonable accommodations to qualified applicants
- Requires businesses to make their programs, services and activities accessible to individuals with disabilities

The Mental Health Code

Recipients of Community Mental Health Services have additional rights the general public does not have

Services Suited to Condition

- Plans must be developed using a Person-Centered process
- Plans must be timely, implemented, and reviewed according to what the plan states
- Plans can be revised at any time
- Plans are voluntary (for the recipient)
- Staff must be familiar with each recipient's treatment needs and goals
- Failing to know and follow a plan is a rights violation
- A preliminary plan shall be developed within 7 days of the commencement of services
- The individual plan of services shall consist of a treatment plan, a support plan, or both
- Services must be provided in a safe, sanitary, and humane environment

Required Elements of a Plan

- Meaningful, measurable goals
- Need for food, shelter, transportation, and other basic needs
- When and how services will be provided
- Any limitations to rights
- Recipients may have people of their choosing at their planning meeting

Monitoring a Plan

- Treatment plans must be reviewed at least annually
- Need to inform recipient of their progress at the interval stated in the plan
- If something isn't working, do something about it!
- Plans may be revised at any time if the recipient or legal representative requests an amendment

Limitations

Personal Property

- Staff cannot take away personal items under most circumstances
- Searches must be done according to policy requirements
- Applies to both adults and children
- Refer to agency policy for specific instruction on how to do either

Rights Limitations

- Rights can never be taken away, however, the Mental Health Code allows some rights to be limited for treatment reasons
- Individual rights may only be limited by a behavior treatment plan
- Communications of a legal nature cannot be limited

House Rules in Residential Settings

- A provider may establish house rules establishing restrictions on access to entertainment materials according to the MHC, but Federal rules place additional restrictions on a licensed provider's ability to establish rules
- A provider must determine a resident's interest in, and provide for, a daily newspaper
- Must be posted in an area accessible by residents and visitors

Seclusion/Freedom of Movement

Staff may not restrict entry or exit by:

- Locks
- Staff presence

- Timeframes or qualifiers

Staff may not force a recipient to take a time out

- Time out is always voluntary
- Should be in a behavior plan

Restraint

Restraints may never be used!

- The use of clothing, ropes or other material.
- Restricting wheelchairs or mobility aids (crutches, walkers, etc.)
- Using safety devices (helmets, wheelchair belts) incorrectly
- Forcing medication

Confidentiality

Disclosing Information

You can typically give information to:

- The recipient
- Cannot withhold information based upon detriment from a competent adult
- Guardians/Parents of a minor
- Supervisors, co-workers, clinical staff
- As necessary to coordinate care
- Office of Recipient Rights
- Disability Rights Michigan
- Child Protective Services
- Adult Protective Services
- Licensing and Regulatory Affairs (AFC Home licensing)

You may also give confidential info to:

- ER physicians, EMTs, the police during
 - Medical or psychiatric emergencies
 - Other incidents where harm may result

Never give information to anyone unless you are sure!

Informed Consent Needed

You need prior consent before giving information to:

- Police (warrants, subpoenas, etc.)
- Other family members
- Lawyers
- Teachers

Elements of Consent

- Only from the legally competent party
- The risks and benefits must be explained
- Must have the capacity to understand
- Must voluntarily agree

Valid Consent

- The recipient must be presumed competent unless deemed otherwise by court

- Time limited
- Can be withdrawn at anytime

When Consent Is Obtained

- At the start of services
- Person-Centered Plans/Other treatment plans
- Medications
- Requests for information
- Anything out of the ordinary or intrusive

Photos, Audio/Video Recording

- Prior written consent is required
- Can take photos for identification, or for social occasions
- Considered the recipient's personal property
- Photos for identification purposes are only in the clinical record and will be destroyed or given to the recipient when no longer needed

Importance of Confidentiality

- Builds trust between the recipient and staff
- Encourages people to seek treatment
- Protects the reputation, privacy and basic civil rights of the individual

Dignity and Respect

Employees are required to treat recipients and their family members with dignity and respect

Dignity

- Be treated with esteem, honor, politeness
- Be addressed in a manner that is not patronizing or condescending
- Be treated as an equal
- Be treated the way any other individual would like to be treated

Respect

- To show deferential regard for
- Be treated with concern, consideration or appreciation
- Have privacy
- Be sensitive to cultural differences
- Allow choices

Abuse

Non-Accidental Harm

- Physical
- Sexual
- Emotional
- Verbal
- Provoking someone else

Abuse Class I

- A non-accidental act that caused or contributed to the death, sexual abuse of, or serious physical harm to a recipient

Sexual Abuse

- Engaging in sexual activity with recipients

- Sexually touching a recipient (or allowing a recipient to touch you)
- Engaging in sexual acts with recipients is criminal sexual conduct

Abuse Class II

- A non-accidental act that caused or contributed to non-serious physical harm or emotional harm to a recipient. Includes causing pain to a recipient with or without apparent harm
- The misuse of a recipient's money or personal possessions
- The use of unreasonable force on a recipient with or without apparent harm

Abuse Class III

- The use of language or other means of communication to degrade, threaten, or sexually harass a recipient

Physical Management

- A technique used by staff as an emergency intervention to restrict the movement of a recipient by direct physical contact to prevent the recipient from harming himself, herself, or others

Physical Management May Only Be Used:

- When a recipient is presenting an imminent risk of harm
- When lesser restrictive interventions were tried but were unsuccessful
- Using approved techniques by trained staff

Neglect

Non-Compliance with a Standard

You are required to follow all:

- Laws and rules
- Policies and procedures
- Treatment plans

Not doing so may result in neglect!

Neglect Class I

- Not doing something that should have been done that caused or contributed to the death, sexual abuse of, or serious physical harm to a recipient

Neglect Class II

- Not doing something that should have been done that caused or contributed to non-serious physical harm or emotional harm to a recipient

Neglect Class III

- Not doing something that should have been done that either placed or could have placed a recipient at risk of physical harm or sexual abuse

Failure to report abuse or neglect is considered neglect

Reporting Requirements

What must be reported?

- Sexual, physical, emotional or verbal abuse
- Neglect
- Serious injury
- Death
- Retaliation or harassment

When do you have to report?

- If you witness a recipient being abused or neglected
- If you suspect a recipient has been abused or neglected
- Any allegations of abuse or neglect made by a recipient

You do not need to get proof

How do you report?

- Contact the CMH Recipient Rights Office
- Tell your supervisor
- Fill out an incident report and/or complaint

How long do you have?

- Verbal reports to ORR and your supervisor must be made immediately
- Do not wait until you have all information or until speak to your supervisor first
- The written report must be completed before you leave for the day

Is there a penalty for not reporting?

- Staff who fail to report abuse or neglect will be guilty of neglect
- All staff who commit abuse or neglect must be disciplined by their employer
- Could affect professional licensure
- You may be held civilly liable

Filing a Complaint

Rights Complaint Form

- Use forms found at your site
- Download pdf online
<http://www.network180.org/images/RecipientRights/RecipientRightsComplaintForm.pdf>
- Please assist recipients or refer them to ORR if they need help
- Make sure it gets to us! Email to orr@network180.org or fax to 616.336.8812

Harassment/Retaliation

- Will not be tolerated!
- Contact the ORR
- File a civil action in court
- File a complaint with the U.S. Equal Employment Opportunity Commission (EEOC)
<https://www.eeoc.gov/filing-charge-discrimination>

The Complaint Process

Not All Complaints are Investigated

Network180 may not have jurisdiction

- The accused must be a Network180 employee or an employee of a contracted provider
- The alleged violation must have occurred against a recipient of public mental health services

The allegation must be a Code-protected right

- Concerns that are not Code-protected rights can often be solved by Customer Services
- ORR can also help fix the problem

Formal Rights Investigation

- Staff must cooperate with investigations
- All available evidence is sought and evaluated

- We do not disclose who files a complaint
- Investigations are completed within 90 days
- The complainant and recipient receive a report

Downloading Your Certificate

- Go to <http://lakeshoretraining.org/default.aspx> to download
- Please keep a copy for yourself!

We do not keep copies of your certificate, you are responsible for maintaining your own training records

Other Rights Information

Correcting/Amending a Record

- A recipient does not have the right to demand you take something out of the clinical record
- They may submit an amendment to the record correcting what they feel is in error
- Must be made part of the clinical record

Privileged Communication

- Not subject to subpoena or disclose
- Refers only to personal clinical notes
- Consult agency policy on rules about keeping personal case notes

Family Rights

- Must be provided an opportunity to request and receive educational information
- Have the ability to provide and receive input into a recipient's treatment (within constraints of confidentiality)
- Refer to Network180 policy about specific requirements

Residential Settings

- Subject to LARA licensing rules
- Must provide resident health, hygiene and personal grooming including assistance and training in personal grooming practices, including bathing, tooth brushing, shampooing, hair grooming, shaving and care of nails
- Must supply toilet articles, toothbrush and dentifrice, opportunity to shower or bathe at least once every 2 days, regular services of a barber or beautician and the opportunity to shave daily (males)

Recipient Rights Advisory Committee

- A public committee
- Protects the ORR from pressures that could interfere with their duties
- Advises the ORR and Executive Director
- Serves as the Appeals Committee

Appeals

- Complainants, recipients and guardians have appeal rights after the conclusion of an investigation
- Appeal must meet certain criteria
- If accepted, reviewed by the Appeals Committee

Family Planning, Choice of Mental Health Professional, Psychotropic Drug Treatment, and other Rights Topics

- Refer to Network180 rights policy for more information:
<https://network180.sharepoint.com/:f:/r/sites/Policies/Policies/Recipient%20Rights?csf=1&web=1&e=z7WnQm>

Recipient Rights Definitions

Abuse Class I: A non-accidental act or provocation of another to act by an employee, volunteer, or agent of a provider that caused or contributed to the death, or sexual abuse of, or serious physical harm to a recipient.

Abuse Class II: (i) A non-accidental act or provocation of another to act by an employee, volunteer, or agent of a provider that caused or contributed to non-serious physical harm to a recipient. (ii) The use of unreasonable force on a recipient by an employee, volunteer, or agent of a provider with or without apparent harm. (iii) Any action or provocation of another to act by an employee, volunteer, or agent of a provider that causes or contributes to emotional harm to a recipient. (iv) An action taken on behalf of a recipient by a provider who assumes the recipient is incompetent, despite the fact that a guardian has not been appointed, that results in substantial economic, material, or emotional harm to the recipient. (v) Exploitation of a recipient by an employee, volunteer, or agent of a provider.

Abuse Class III: The use of language or other means of communication by an employee, volunteer, or agent of a provider to degrade, threaten, or sexually harass a recipient

Agent of a Provider: People who work for agencies that contract with the Department, a CMHSP or PIHP, or a LPH/U.

Degrade: (i) Treat humiliatingly: to cause somebody or something a humiliating loss of status or reputation, or cause somebody a humiliating loss of self-esteem; (ii) To make worthless: to cause people to feel that they or other people are worthless and do not have the respect or good opinion of others; (iii) Any language or epithets that insult the person's heritage, mental status, race, sexual orientation, gender, intelligence, etc.

Dignity: To be treated with esteem, honor, politeness; to be addressed in a manner that is not patronizing or condescending; to be treated as an equal; to be treated the way any other individual would like to be treated, to receive the type of treatment a reasonable person would expect under similar circumstances

Emotional Harm: Impaired psychological functioning, growth, or development of a significant nature as evidenced by observable physical symptomatology or as determined by a mental health professional.

Exploitation: An action by an employee, volunteer, or agent of a provider that involves the misappropriation or misuse of a recipient's property or funds for the benefit of an individual or individuals other than the recipient.

Neglect Class I: (i) Acts of commission or omission by an employee, volunteer, or agent of a provider that result from noncompliance with a standard of care or treatment required by law and/or rules, policies, guidelines, written directives, procedures, or individual plan of service

and causes or contributes to the death, or sexual abuse of, or serious physical harm to a recipient. (ii) The failure to report apparent or suspected abuse Class I or neglect Class I of a recipient.

Neglect Class II: (i) Acts of commission or omission by an employee, volunteer, or agent of a provider that result from noncompliance with a standard of care or treatment required by law, rules, policies, guidelines, written directives, procedures, or individual plan of service and that cause or contribute to non-serious physical harm or emotional harm to a recipient. (ii) The failure to report apparent or suspected abuse Class II or neglect Class II of a recipient.

Neglect Class III: (i) Acts of commission or omission by an employee, volunteer, or agent of a provider that result from noncompliance with a standard of care or treatment required by law and/or rules, policies, guidelines, written directives, procedures, or individual plan of service that either placed or could have placed a recipient at risk of physical harm or sexual abuse. (ii) The failure to report apparent or suspected abuse Class III or neglect Class III of a recipient.

Non-serious Physical Harm: Physical damage or what could reasonably be construed as pain suffered by a recipient that a physician or registered nurse determines could not have caused, or contributed to, the death of a recipient, the permanent disfigurement of a recipient, or an impairment of his or her bodily functions.

Person-Centered Planning: A process for planning and supporting the individual receiving services that builds upon the individual's capacity to engage in activities that promote community life and that honors the individual's preferences, choices, and abilities. The person-centered planning process involves families, friends, and professionals as the individual desires or requires.

Physical Management: A technique used by staff as an emergency intervention to restrict the movement of a recipient by direct physical contact in order to prevent the recipient from harming himself, herself, or others. Physical management must not be included as a component of a behavior treatment plan. Prone immobilization of a recipient for the purpose of behavioral control is prohibited.

Preponderance: It is more likely that a right was violated than it was not, based upon the greater weight of the evidence not as to the quantity (i.e. the number of witnesses) but as to the quality (i.e. believability of the witnesses).

Privileged Communication: Communication made to a psychiatrist or psychologist in connection with the examination, diagnosis, or treatment of a patient, or to another person while the other person is participating in the examination, diagnosis, or treatment or a communication made privileged under other applicable state or federal law.

Protective Device: A device or physical barrier to prevent the recipient from causing serious self-injury associated with documented and frequent incidents of the behavior. A protective

device as defined in this subdivision and incorporated in the written individual plan of service shall not be considered a restraint as defined below.

Respect: To show deferential regard for; to be treated with esteem, concern, consideration or appreciation; to protect the individual's privacy; to be sensitive to cultural differences; to allow an individual to make choices.

Restraint: The use of a physical device to restrict an individual's movement. Restraint does not include the use of a device primarily intended to provide anatomical support.

Seclusion: The temporary placement of a recipient in a room, alone, where egress is prevented by any means.

Serious Physical Harm: Physical damage suffered by a recipient that a physician or registered nurse determines caused or could have caused the death of a recipient, caused the impairment of his or her bodily functions, or caused the permanent disfigurement of a recipient.

Sexual Abuse: (i) Criminal sexual conduct as defined by section 520b to 520e of 1931 PA 318, being MCL 750.520b to MCL 750.520e involving an employee, volunteer, or agent of a provider and a recipient. (ii) Any sexual contact or sexual penetration involving an employee, volunteer, or agent of a department operated hospital or center, a facility licensed by the department under section 137 of the act or an adult foster care facility and a recipient. (iii) Any sexual contact or sexual penetration involving an employee, volunteer, or agent of a provider and a recipient for whom the employee, volunteer, or agent provides direct services.

Sexual Contact: The intentional touching of the recipient's or employee's intimate parts or the touching of the clothing covering the immediate area of the recipient's or employee's intimate parts, if that intentional touching can reasonably be construed as being for the purpose of sexual arousal or gratification, done for a sexual purpose, or in a sexual manner for any of the following: (i) Revenge. (ii) To inflict humiliation. (iii) Out of anger.

Sexual Harassment: Sexual advances to a recipient, requests for sexual favors from a recipient, or other conduct or communication of a sexual nature toward a recipient.

Sexual Penetration: Sexual intercourse, cunnilingus, fellatio, anal intercourse, or any other intrusion, however slight, of any part of a person's body or of any object into the genital or anal openings of another person's body, but emission of semen is not required.

Threaten: (i) To utter intentions of injury or punishment against; (ii) To express a deliberate intention to deny the well-being, safety, or happiness of somebody unless the person does what is being demanded.

Time Out: A voluntary response to the therapeutic suggestion to a recipient to remove himself or herself from a stressful situation in order to prevent a potentially hazardous outcome.

Unreasonable Force: Physical management or force that is applied by an employee, volunteer, or agent of a provider to a recipient in one or more of the following circumstances: (i) There is no imminent risk of serious or non-serious physical harm to the recipient, staff or others. (ii) The physical management used is not in compliance with techniques approved by the provider and the responsible mental health agency. (iii) The physical management used is not in compliance with the emergency interventions authorized in the recipient's individual plan of service. (iv) The physical management or force is used when other less restrictive measures were possible but not attempted immediately before the use of physical management or force.

RECIPIENT RIGHTS COMPLAINT
Michigan Department of Health and Human Services

Complaint Number

INSTRUCTIONS

If you believe that one of your rights has been violated, you (or someone on your behalf) may use this form to make a complaint. A rights officer will review the complaint and may conduct an investigation. Send this form to: **Network180 ORR, 3310 Eagle Park Dr NE, Ste 100, Grand Rapids MI 49525, email to orr@network180.org, or fax to 616.336.8812.**

If you send your complaint to Michigan Department of Health and Human Services, Office of Recipient Rights (MDHHS-ORR), it will be forwarded to the appropriate rights office. The MDHHS-ORR address is, Michigan Department of Health and Human Services, Office of Recipient Rights, Elliott-Larsen Building, 320 South Walnut Street, Lansing, MI 48933.

Complainant's Name	Recipient's Name (if different from complainant)
Complainant's Address	Where did it occur? (address of hospital/agency)?
Complainant's Telephone Number	When did the alleged violation occur?

What right was violated?

Describe what happened:

SAMPLE

What would you like to see happen in order to correct the violation?

Complainant's Signature	Date
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Name of person assisting complainant

The Michigan Department of Health and Human Services (MDHHS) does not discriminate against any individual or group because of race, religion, age, national origin, color, height, weight, marital status, genetic information, sex, sexual orientation, gender identity or expression, political beliefs or disability.

Authority: PA 258 of 1974 as amended.

Copy to complainant (with acknowledgement letter)

ATTENTION EMPLOYEES

The Michigan Whistleblower's Protection Act (469 PA 1980) creates certain protections and obligations for employees and employers under Michigan Law

PROTECTIONS:

It is illegal for employers in Michigan to discharge, threaten or otherwise discriminate against you regarding your compensation, terms, conditions, location or privileges of employment because you or a person acting on your behalf reports or is about to report a violation or a suspected violation of federal, state or local laws, rules or regulations to a public body.

It is illegal for employers in Michigan to discharge, threaten or otherwise discriminate against you regarding your compensation, terms, conditions, location or privileges of employment because you take part in a public hearing, investigation, inquiry or court action.

OBLIGATIONS:

The Act does not diminish or impair either your rights or the rights of your employer under any collective bargaining agreement.

The Act does not require your employer to compensate you for your participation in a public hearing, investigation, inquiry or court action.

The Act does not protect you from disciplinary action if you make a report to a public body that you know is false.

ENFORCEMENT:

If you believe that your employer has violated this Act you may bring a civil action in circuit court within 90 days of the alleged violation of the Act.

PENALTIES:

Persons found in violation of this Act may be subject to a civil fine of up to \$500.00.

If your employer has violated this Act the court can order you reinstatement, the payment of back wages, full reinstatement of fringe benefits and seniority rights, actual damages, or any combination of these remedies. The court may also award all or a portion of the costs of litigation, including reasonable attorney fees and witness fees to the complainant if the court believes such an award is appropriate.

Bullard-Plawecki Employee Right to Know Act

Who is covered by the law?

Under this law, any employee or former employee hired by any employer with four or more employees in either the private or public sector has the right to request a review of his or her personnel file.

How may an employee request to see his or her personnel file?

An employee who wishes to review his or her file must make a written request which describes the personnel file to the employer. This request should include as many identifying factors as possible in order to facilitate the employer's retrieval of the record. Information should include name, Social Security number, dates of employment, branch number or location of the facility.

How can an employee obtain a copy of his or her file?

After looking at the file, an employee may obtain a copy of any or all information contained in the file by simply requesting it from the employer. If the employee is unable to review his or her personnel record, he or she must demonstrate this inability to the employer, and then make a written request to the employer that a copy of the information in the personnel file be mailed to him or her.

Must an employer notify an employee when divulging personnel record information to a third party?

Normally, the employer does not have to notify the employee when transmitting personnel records to a third party who is not a part of the employer's organization or a member of a labor organization representing the employee. In the case of disciplinary reports, letters of reprimand or other reports of disciplinary action, however, an employer or former employer must give written notice to the employee when divulging the information to third parties.

What are the legal remedies for the violation of this Act?

If an employer fails or refuses to follow this Act, an employee may bring an action for compliance in a circuit court. The appropriate court would be the circuit court located in the county where the employee lives, works, or where the personnel file is maintained. The court can issue an order enjoining the employer to comply with the Act. In addition, the employer's penalty for violation of the Act is actual damages plus costs. For a willful and knowing violation of the Act, the penalty is \$200 minimum damages plus costs, reasonable attorney's fees and actual damage.

KNOW YOUR RIGHTS!

When you receive behavioral health services, you have rights protected by state and federal laws, including:

- ▶ The right to have services in a safe environment
- ▶ The right to be protected from abuse and neglect
- ▶ The right to privacy
- ▶ The right to own and use your own property
- ▶ The right to be treated with dignity and respect

If you would like these rights explained to you, and/or want to file a complaint contact us

Phone

616.336.3765
Toll-Free:
866.332.0002
(TTY/TTD dial 711)

Mail

Office of Recipient Rights
3310 Eagle Park Dr NE, Ste 100
Grand Rapids, MI 49525

Email

orr@network180.org

Fax


616.336.8812

The Network180 Office of Recipient Rights Staff:

Bob Patterson, Melissa Gekeler, Lori Boeskool, Deb Fawcett,
Michelle Richardson, Jill Gage, Edward Wilson



REQUIREMENTS FOR REPORTING ABUSE AND NEGLECT

	Section 723, Public Act 258 of 1974 as amended (Mental Health Code-Recipient Abuse)	Public Act 238 of 1975 (Child Protection Law)	Public Act 519 of 1982 (Adult Protective Services Law)	Section 723, Public Act 258 of 1974 as amended (Mental Health Code-Criminal Abuse)
WHERE is the report made?	To the OFFICE of RECIPIENT RIGHTS (ORR) at your Hospital or Community Mental Health Services Program (CMHSP) A list of local rights offices can be found at: http://tinyurl.com/orroffices	To the MDHHS Office of Childrens Protective Services (CPS)	To the MDHHS Office of Adult Protective Services (APS)	To the Michigan State Police (MSP) or Local Sheriff or Local Police Department
		ADULT OR CHILDRENS PROTECTIVE SERVICES HOTLINE 855-444-3911		MSP 517-332-2521
WHAT must be reported?	Sexual, Physical, Emotional or Verbal Abuse, Neglect, Serious Injury, Death, Retaliation or Harassment	Sexual, Physical or Mental Abuse, Neglect, Sexual Exploitation	Sexual, Physical or Mental Abuse, Neglect, Maltreatment, Exploitation	Assault (other than patient-patient assault/battery), Criminal Sexual Abuse, Homicide, Vulnerable Adult Abuse, Child Abuse
WHO is required to report?	All employees, contract employees, or volunteers of Michigan Department of Health and Human Services, Community Health Services Programs, Licensed Private Psychiatric Hospitals	Physicians, nurses, coroners, medical examiners, dentists, licensed emergency care personnel, audiologists, psychologists, social workers, school administrators, teachers, counselors, law enforcement officers, and child care providers.	Any person employed by an agency licensed to provide, anyone who is licensed, registered, or certified to provide health care, education, social, or other human services, law enforcement officers and child care providers.	All employees, contract employees of: Michigan Department of Health and Human Services, Community Mental Health Services Programs, Licensed Private Psychiatric Hospitals; All mental health professionals.
WHAT is the CRITERIA for reporting?	You must report if you: Suspect a recipient has been abused or neglected or any allegations of abuse or neglect made by a recipient.	You must report if you: Have reasonable cause to suspect a child has been abused, neglected, or sexually exploited.	You must report if you: Have reasonable cause to suspect or believe an adult has been abused, neglected, exploited or maltreated.	You must report if you: Suspect a recipient or vulnerable adult has been abused or neglected, sexually assaulted, or if you suspect a homicide has occurred. You do not have to report if the incident occurred more than one year before your knowledge of it.
WHEN must the report be made and in what format?	A verbal report must be made immediately. A written report on an incident report form must be made before the end of your shift.	A verbal report must be made immediately. A written report on DHS form 3200 must be made within 72 hours.	A verbal report must be made immediately. A written report at the discretion of the reporting person.	A verbal report must be made immediately. A written report must be made within 72 hours of the oral report
TO WHOM are reports made?	To your immediate supervisor and to the Recipient Rights Office at your agency or hospital	Report to Protective Services Reporting Hotline 855-444-3911	Report to Protective Services Reporting Hotline 855-444-3911	The law enforcement agency for the county or city in which the alleged violation occurred or the State Police. A copy of the written report goes to the chief administrator of the agency responsible for the recipient.
If there is more than one person with knowledge must all of them make a report?	Not necessarily. Reporting should comply with the policies and procedures set up by each agency.	Someone who has knowledge must report or cause a report to be made in the case of a school, hospital or agency, one report is adequate.	Everyone who has knowledge of a violation or an alleged violation must make a report. MDHHS has typically accepted one report from agencies.	Someone who has knowledge must report or cause a report to be made.
Is there a penalty for failure to report? YES	Disciplinary action may be taken and you may be held liable.	You may be held liable. Failure to report is also a criminal misdemeanor.	You may be held liable and have to pay a \$500 fine.	The law states that failure to report or false reporting is a criminal misdemeanor.
Is it necessary to report to more than one agency? YES	Each of these laws requires that the designated agency be contacted, if an allegation is suspected to have occurred, which falls under its specific jurisdiction. There are several references in each law indicating that reporting to one agency does not absolve the reporting person from the responsibility of having to report to other agencies, as statutorily required.			
Are there other agencies to which a report can be made? YES	<p>The Bureau of Community and Health Systems (LARA) is responsible for investigating abuse and neglect in Nursing Homes, Hospitals and Home Health Care. Call the NURSING HOME ABUSE HOTLINE 1-800-882-6006</p> <p>The Michigan Attorney General's Office has an Abuse Investigation Unit which may also investigate abuse in Nursing Homes. Call the ATTORNEY GENERAL HEALTH CARE FRAUD HOTLINE 1-800-24-ABUSE/ 1-800-242-2873</p> <p>The LARA Adult Foster Care (AFC) Division is responsible for investigating abuse or neglect in a licensed foster care home. Call The Bureau of Community and Health Systems COMPLAINT INTAKE UNIT 1-866-856-0126</p>			

YOUR RIGHTS

When Receiving Mental Health Services in Michigan



Office of
Recipient Rights
MDHHS
Michigan Department of Health & Human Services



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SECTION I: GENERAL INFORMATION ABOUT RIGHTS

When you receive mental health services your rights are protected by Michigan's Mental Health Code and many other 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 book provides information about the rights granted to you by the Mental Health Code when you are receiving mental health services.

Notice

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 (P&A).

Competency

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 continue to 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 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

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 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 p 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 put in writing by someone who is not treating you 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. 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:

- 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 after March 28, 1996 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 the you indicate that it is ok, or if the mental health professional tells you in advance that the information could be used in court (i.e. for guardianship proceedings, 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 in: 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 make arrangements to transport you to a voting location or provide 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: 313-456-3701, TTY: 877-878-8464, or email: MDCRServiceCenter@michigan.gov
To file a complaint online: <https://www.michigan.gov/mdcr/0,4613,7-138--272072--,00.html>

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

Kluczynski Federal Building, 230 South Dearborn St. Suite 2120 Chicago, IL 60604, VOICE 312-353-8311, TDD 312-353-8361 or email: ocrmail@hhs.gov. To file a complaint online: <https://civilrights.justice.gov>. For additional information see "How to File a Civil Rights Complaint" at: <https://www.hhs.gov/civil-rights/filing-a-complaint/complaint-process/index.html>

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



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 – 1425 NYAV, 950 Pennsylvania Avenue, NW, Washington, D.C. 20530. You may also call VOICE: 800-514-0301, TTY: 800-514-0383, online at www.ada.gov/complaint, or email: 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

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, Chicago Regional Office, Ralph Metcalfe Federal Building, 77 West Jackson Boulevard, Chicago, Illinois 60604, VOICE: 800-765-9372, FAX: 312-913-8293, TTY: 312-353-7143 or email: ComplaintsOffice05@hud.gov.



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. 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>

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: 517-373-8414, TTY: 517-241-7142, or email mde-ose@michigan.gov. Assistance with disputes about and IEP can also be obtained from the **Michigan Special Education Mediation Program (MSEMP)** by calling 833-543-7178, by going online at www.msemp.cenmi.org, or email: info@msemp.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: 202-245-7468.

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: 202-453-6012, TDD: 800-877-8339, or email: OCR@ed.gov. Online information is available at: 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, TTY 1-877-878-8464, or email: MDCR-INFO@michigan.gov. or online at www.michigan.gov/mdcr.

SECTION II: TREATMENT RIGHTS IN ALL MENTAL HEALTH SETTINGS

Treatment and Support

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 other 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 other 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

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

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.

VOLUNTARY: *Mental Health Code Sections 410-420*

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.

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 trial.
 - 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.

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.

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

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.

SECTION IV: ACCESS RIGHTS

Mail

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

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

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

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

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

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

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

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,

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 V: THE RECIPIENT RIGHTS COMPLAINT AND APPEAL PROCESS

you may only be physically restrained if facility licensure rules allow in order to keep you from physically hurting yourself or others.

Filing a Recipient Rights Complaint

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; 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 VII of this book for assistance. Staff at the place where you receive service may assist you.

Investigating Your Complaint

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.

Mediation

Mental Health Code Section 788

This process was removed by the Legislature effective 3/1/20. The mediation process was revised. See “Mediation” in the Treatment Rights section on p. 12.

Appeal Rights

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 organization 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

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.

SECTION VI: ADVISORY ORGANIZATIONS THAT CAN ASSIST YOU

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



Association for Children's Mental Health (ACMH) www.acmh-mi.org
6017 W. St. Joseph Hwy., Suite #200, Lansing, Michigan 48917
VOICE: 517-372-4016 FAX: 517-372-4032



The Arc - Michigan www.arcmi.org
1325 S. Washington Ave., Lansing, MI 48910-1652
VOICE: 800-292-7851 or 517-487-5426 FAX: 517-487-0303



Michigan Disability Rights Coalition www.copower.org
3498 East Lake Lansing Road, Suite #100, East Lansing, MI 48823
VOICE: 800-578-1269 or 517-333-2477 FAX: 517-333-2677



Disability Rights Michigan (formerly Michigan Protection & Advocacy Service) www.drnich.org
4095 Legacy Parkway, Suite #500, Lansing, MI 48911
VOICE: 800-288-5923 or 517-487-1755 FAX: (517) 487-0827 TTY: 517-374-4687



National Alliance on Mental Illness (NAMI) -Michigan www.namimi.org
401 S. Washington Suite 104
Lansing, MI 48933
VOICE: 517-485-4049



United Cerebral Palsy of Michigan www.ucpmichigan.org
1325 S. Washington Ave
Lansing, MI 48910
VOICE: 517-203-1200 FAX: 517.203.1203



Deaf C.A.N. (Deaf Community Advocacy Network) www.deafcan.org
2111 Orchard Lake Road, #101
Sylvan Lake, MI. 48320
VOICE: 248-332-3331 FAX: 248-332-7334 TTY: 248-332-3323

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

Nelson Mandela

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

Incompetent to Stand Trial (IST)

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)

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 or 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.