

<b>COMMUNITY MENTAL HEALTH PARTNERSHIP OF SOUTHEASTERN MICHIGAN</b>		<i><b>Policy and Procedure</b></i>	
Department: Recipient Rights Author: E. Rostash & N. LaBrie		<i><b>Consent to Treatment and Services</b></i>	
		<b>Local Policy Number (if used)</b>	
<b>Revision Date</b>	<b>Approval Date</b>	<b>Implementation Date</b>	
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**I. PURPOSE**

To establish guidelines which assure that recipients of services within the Community Mental Health Partnership of Southeast Michigan (CMHPSM) receive notification of rights and that written consent for receiving services is obtained

**II. POLICY**

It is the policy of the CMHPSM that written informed consent shall be obtained from each applicant for, or recipient of, services, parent or empowered guardian as appropriate, prior to receiving services.

**III. APPLICATION**

This policy applies to the Comprehensive Specialty Services Networks (CSSN's), the Comprehensive Specialty Services Network (CSSN) look-alike and the Prepaid Inpatient Health Plan (PIHP) within the Community Mental Health Partnership of Southeast Michigan (CMHPSM) for internal mental health and co-occurring services.

Contracted providers of Substance Abuse Services within the CMHPSM shall maintain their own policies on consent to services in compliance with Code of Federal Regulations 42 and Michigan Substance Abuse Licensing regulations.

**IV. DEFINITIONS**

Comprehension - the individual must be able to understand what the personal implications of providing consent will be based upon the basic information that has been provided.

Consent - A written agreement signed by the recipient, guardian, or legal custodial guardian of a minor who assumes legal competency, knowledge, comprehension and voluntariness.

Knowledge - the individual has received basic information one would need to make a decision, including what is being proposed, the risks, benefits, and other consequences of making a decision to consent or not consent.

Legal Competency - the individual has the ability to understand the risks, benefits and other consequences of the decision. An adult recipient shall be considered and treated as competent in all areas unless a court has determined that the person is not competent or is legally incapacitated and has appointed a guardian. If a guardian has been appointed, the individual shall be presumed legally competent regarding matters that are not within the scope and authority of the guardianship.

Rights - As used here, rights refers to the rights of recipients of mental health services as protected under state and federal laws and agency policy.

Voluntariness - the individual chooses freely to consent or not consent without force, fraud, deceit, duress or coercion, and is informed that consent, if given, can be verbally withdrawn at any time without prejudice to the recipient.

Written - a consent which must be an agreement in writing, signed by the appropriate individual(s), and includes the basic elements of Consent.

## **V. STANDARDS**

- A. All applicants, and in the case of minors, their parent or guardian, shall be notified of their rights as recipients of Mental Health Services. This shall be accomplished by annually providing each applicant or recipient with a copy of the Your Rights brochure, the Bill of Rights and Responsibilities brochure, the HIPAA Privacy Notice, and the Person Centered Planning brochure, and by having a complete copy of Chapter 7, Recipient Rights, of the Michigan Mental Health Code available at each site for review by applicants and recipients.
- B. Written informed consent shall be obtained from each applicant for, or recipient of, services, parent or empowered guardian as appropriate, prior to:
  - 1. Receiving mental health services.
  - 2. Receiving a prescription for psychotropic medication. (See Psychotropic Medication Orders and Consents policy)
  - 3. The disclosure of confidential information which requires consent. (See Confidentiality and Access to Clinical Records policy)
  - 4. Audio/videotaping, photographing, filming, fingerprinting, or use of a one-way mirror for observation of a recipient. (See Audio/videotaping, etc. policy)
- C. Written informed consent for continued participation in services being provided shall be obtained annually from each recipient, empowered guardian, or parent of a minor as appropriate, or sooner if changes in circumstances substantially change the risks, other consequences, or benefits that were previously expected.
- D. Exceptions to this policy are:
  - 1. Civil Commitment Assessments
  - 2. Court ordered treatment
  - 3. Emergency Services Procedures

- E. Applicants for, or recipients of, the above services shall be informed regarding the services to be provided, but written informed consent is not required.
- F. Applicants shall be given the following information at the time of the request to consent for service participation:
  1. A description of services and their purpose.
  2. Risks, benefits, and other consequences reasonably to be expected.
  3. A disclosure of appropriate alternatives advantageous to the recipient.
  4. An offer to answer further questions.
- G. Consent to service participation is voluntary. All recipients, empowered guardians, or parents of a minor shall be made aware that they are free to withdraw their consent and to discontinue participation in services at any time without prejudice to the recipient by verbally informing any staff member.
- H. The ability of each applicant or recipient to give informed consent shall be evaluated and shall precede any guardianship proceedings.
- I. A minor who is fourteen years of age or older may request and receive mental health services, and a mental health professional may provide such services on an outpatient basis, excluding pregnancy termination referral services and the use of psychotropic drugs, without the consent or knowledge of the minor's parent, guardian or person in loco parentis unless there is a compelling need for disclosure based on a substantial probability of harm to the minor or another individual, and if the minor is notified of the mental health professional's intent to disclose. These outpatient sessions shall be limited to not more than twelve sessions or four months for each request for services. After that time, the mental health professional shall terminate the services or, with the consent of the minor, shall notify the parent, guardian or person in loco parentis to obtain consent to provide further outpatient services.

**VI. EXHIBITS**

None

**VII. REFERENCES**

<b>Reference:</b>	<b>Check if applies:</b>	<b>Standard Numbers:</b>
Michigan Mental Health Code, Public Act 258 of 1974, as amended	x	330.1100a (15); 330.1706, 330.1707
DCH Administrative Rules	x	330.7003; 330.7011
CMHPSM Psychotropic Medication Orders and Consents Policy	x	
CMHPSM Confidentiality and Access to Clinical Records Policy	x	

CMHPSM Audio/videotaping, Photography, Filming, Fingerprinting and Use of One-Way Glass policy	x	
CMHPSM Bill of Rights and Responsibilities Policy	x	
CMHPSM Services Suited to Condition Policy	x	

## VIII. PROCEDURES

### WHO

### DOES WHAT

Service Provider

1. Gives the applicant (and parent or guardian if appropriate) a copy of the Your Rights brochure and the Bill of Rights and Responsibilities brochure and the Person Centered Planning brochure and HIPAA Privacy Notice at the initial interview.
2. Provides a brief verbal explanation of the brochures as well as a description of the Rights procedures.
3. Asks the applicant to review the Your Rights brochure at that time.
4. Reiterates the content of the brochure in accordance with the applicant's ability to comprehend, if the applicant is or appears to be:
  - a) Illiterate
  - b) Have a developmental disability
  - c) Non-English speaking (verbal explanation should be in a language that the applicant understands and may be delayed until a translator is available).
  - d) Blind (the brochure shall be read to the applicant).
  - e) Hearing impaired (the explanation shall be communicated by means that are understandable to the applicant or may be delayed until a qualified translator is available).
  - f) Emotionally upset (the verbal explanation may be delayed until a more clinically suitable time, if, because of emotional status, the applicant is unable to comprehend or is non-receptive to the explanation. The delay should be for a period of no more than two (2) weeks from acceptance for services).
5. Makes a notation in the clinical record if an applicant is assisted in reading or understanding the brochure.

**A. Notification of Rights**

- Assigned Program Staff
1. One year after the initial interview, and annually thereafter, gives the recipient, empowered guardian, or parent of a minor if appropriate, a copy of the Your Rights, Bill of Rights and Responsibilities and Person Centered Planning brochures, describing any changes, answering questions and providing explanations as indicated. This shall be documented in the clinical file.

**B. Informed Consent To Services**

- Assigned Program Staff
1. Provides a verbal explanation of services, risks, benefits, other consequences, and provides other relevant information to the applicant (and parent/guardian when applicable).
  2. Evaluates the applicant's ability to give informed consent based on his/ her ability to understand the explanation of services, risks, benefits, other consequences, and other relevant information. Informs supervisor or Program Manager if applicant appears to lack the ability to give informed consent. If further evaluation confirms an inability to make a decision or to rationally understand a situation, as required for an informed consent, the Program Manager will take administrative action to insure the applicant's rights are protected and appropriate services are made available. This shall include a determination as to whether guardianship proceedings should be considered.
  3. Assists applicant (or parent/guardian) to complete the Service Participation Consent form at the initial interview, prior to the implementation of the service plan.
  4. Notes each service agreed upon with the applicant on the Service Participation Consent form. Possible services are:
    - a. Evaluation Services
    - b. Supports Coordination
    - c. Habilitation Services
    - d. Counseling Services
    - e. Community Living Services
    - f. Medication Services
    - g. Inpatient Services
  5. One year after the initial interview, and annually

thereafter, obtains written informed consent for continued participation in services from recipient or parent/guardian as appropriate.

6. Provides a verbal explanation of services, risks, benefits, other consequences and other relevant information, and evaluates recipient's ability to give informed consent.
7. Assists recipient or parent/guardian to complete the Service Participation Consent Form.

Applicant

1. Signs the Service Participation Consent form.

Assigned Program Staff

1. Gives applicant and parent/guardian, if applicable, a copy of the Service Participation Consent form.

NOTE: Minors and persons who have guardians shall be informed regarding services to be provided with documentation of this occurrence in the clinical record.

One Other Staff

1. Obtains verbal consent from applicant to participate in services. Signs in appropriate place on Service Participation Consent form as staff.
2. Signs in appropriate places on Service Participation Consent form as witness to applicant's verbal consent.

Assigned Program Staff

1. Consults with his/her supervisor and attempts to develop and present to the applicant a mutually agreed upon services plan.
2. Assesses applicant for possible health and safety issues and shall follow-up with appropriate outside entities as needed. (i.e. law enforcement, Probate Court, Psychiatric Emergency Services.
3. If no risk to applicant health and safety is found:
  - a. Does not provide services
  - b. Notifies Supervisor
  - c. Gives appropriate referral and follow-up information.