

Recipient Rights New Hire Orientation Training Guide

YOUR RIGHTS OFFICE:

Berrien Mental Health Authority (BMHA)

Office of Recipient Rights

1485 M-139

PO Box 547

Benton Harbor, MI 49023

1-800-336-0341

Incident Reporting:

(email) Rights@riverwoodcenter.org

(Fax) 269-934-3440

The Rights Office provides prevention, monitoring/site visits, education/training, BTC, Technical Questions, Investigations and complaint resolution.

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RIGHTS IS EVERYBODY'S BUSINESS!

What are “Recipient Rights”?

*In addition to the [rights](#), benefits, and privileges guaranteed by other provisions of law, the state constitution of 1963, and the constitution of the United States, a recipient of Mental Health Services shall have the [rights](#) guaranteed by the **Mental Health Code**, unless otherwise restricted by law.*

This agency has a zero-tolerance policy regarding Abuse & Neglect.

TYPES OF ABUSE

Abuse Class I: means the non-accidental act or provocation of another 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: means any of the following

- a. The non-accidental act or provocation of another by an employee, volunteer, or agent of a provider that caused or contributed non-serious physical harm to a recipient.
- b. The use of unreasonable force on a recipient by an employee, volunteer, or agent of a provider with or without apparent harm.
- c. Any act or provocation of another to act employee, volunteer, or agent of a provider that caused or contributes to emotional harm to a recipient.
- d. An action taken by a provider who assumes the recipient is incompetent, despite the fact that a guardian had not been appointed, that results in substantial economic, material or emotional harm to the recipient.
- e. Exploitation of a recipient by an employee, volunteer, or agent of a provider involves the misappropriation or misuse of a recipient's property, funds for the benefit of an individual or individuals other than the recipient.

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

Threaten: means to tell someone that you will hurt them or cause problems if they do not do what you want.

Degrade- Treat humiliatingly: to cause somebody a humiliating loss of status or reputation or cause somebody a humiliating loss of self-esteem; make worthless; to cause a person to feel that they or other people are worthless and do not have the respect or good opinion of others. (syn) degrade, debase, demean, humble, humiliate. -These verbs mean to deprive of self-esteem or self-worth; to shame or disgrace. (b) Degrading behavior shall be further defined as any language or epithets that insult the person's heritage, mental status, race, sexual orientation, gender, intelligence, etc.

TYPES OF NEGLECT:

Neglect Class I: means either of the following...

- a. 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.
- b. The failure to report apparent or suspected Abuse Class I or Neglect Class I of a recipient.

Neglect Class II: means either of the following...

- a. 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.
- b. The failure to report apparent or suspected Abuse Class II or Neglect Class II of a recipient.

Neglect Class III: means either of the following...

- a. 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.
- b. The failure to report apparent or suspected Abuse Class III or Neglect Class III of a recipient.

Failure to Report is failing to report to any and all of the necessary reporting agencies as required. Just telling your supervisor is not enough!

OFFICE OF RECIPIENT RIGHTS MHC 330.1706, 330.1776, 330.1778, 330.1784

The Office of Recipient Rights provides and coordinates rights protections for recipients receiving directly operated or contracted mental health services through Berrien Mental Health Authority/Riverwood Center.

Required Notice of Rights: Your Rights when receiving Mental Health Services in Michigan. Must be given to all people receiving Mental Health Services. Located on the website; www.michigan.gov/recipientrights; click on Your Rights when receiving Mental Health Services.

Complaint Form: is a form that is used to detail and document suspected abuse, neglect or other violation of the mental health code by a contracted agency. The Rights Office must respond to a complaint within 5-business days of receipt. The complaint will contain the allegation(s) made against the employee, agent, volunteer and agency involved. Complaint forms are available wherever you receive services, from your local rights office or online at the Office of Recipient Rights and the Riverwood websites.

Location of Complaint Form on the Riverwood website:

Riverwoodcenter.org, click Resources, click Rights, click Recipient Rights Complaint Form.

Filing a complaint can be done anonymously, with your name, or confidentially:

- If anonymous: you are not protected by the Whistle-Blowers Protection Act, will not receive any copies of the updates or final report, and do not have appeal rights for the case.
- If known: you are protected by the Whistle-Blowers Protection Act, will receive updates and the final report and have the right of appeal if you are unsatisfied with the outcome.
- If reported confidentially: you are protected by the Whistle-Blowers Act, but will not receive any updates or final report, do have appeal rights but are ensuring you are not being cited for Failure to Report.

Decision: The first thing the Rights Office determines upon receiving a complaint is to determine if the allegation is about a **code protected right** from the **Mental Health Code**. It also determines if this office has jurisdiction, or another agency or office has jurisdiction. If that is determined, then the complaint is immediately referred to that outside office.

Intervention: If the allegation is Not Abuse, Not Neglect, or Not Retaliation/Harassment; and the facts are clear; the remedy is easily obtainable, and can be concluded in 30 days, an intervention can be done.

Investigation: Issues involving Abuse, Neglect, and Retaliation Harassment must have an investigation done. Other areas may be investigated as well, in cases where the fact or remedies are unclear, or where more than 30 days is required to conclude the investigation. Interventions that exceed 30 days are required to be converted to investigations:

Informal Inquires: These include calls and questions to the Rights Office about consumers concerns that do not meet the criteria for Investigations or Interventions. The Rights office keeps a record and corresponds as necessary.

Mandatory Reporting: requires reporting to the Office of Recipient Rights and any other agency that legally requires mandatory reporting (AFC licensing, APS/CPS, etc.)

What do I do?

1. Notify your ORR as soon as possible by phone.
2. Email/Fax a written report to ORR before the end of your shift.
3. Notify APS/CPS in cases of Abuse/Neglect at 855-444-3911
4. Notify LARA/Licensing for AFC violations at 866-856-0126, or via email complaint form.

Employee Responsibilities: As a service provider, you must ensure that the rights of people are protected at all times, that means you are responsible for:

- Your own actions, either intentional or accidental
- Your failure to act appropriately or quickly
- Reporting abusive actions of staff to supervisors and the Rights Office
- Reporting unsafe conditions or rights violations to appropriate agencies
- Intervening to stop abusive actions of other staff

The decision about what happens to a staff person who has violated a Recipient's rights; rests with the employer, not the Office of Recipient Rights.

Employee Rights: The Mental Health Code mandates that complainants, staff of the Office of Recipient Rights and any staff acting on behalf of a recipient will be protected from harassment or retaliation resulting from recipient rights activities and that appropriate action will be taken if there is evidence of these activities.

The **WHISTLEBLOWERS PROTECTION ACT** (PA 469 of 1980) protects employees who report rights violations. This law states it is illegal for employers in Michigan to discharge, threaten or otherwise discriminate against you regarding compensation, terms, conditions, locations or privileges of employment because you, or a person acting on your behalf, reports, or is about to report, a violation, or suspected violation.

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

The **BULLARD-PLAWECKI EMPLOYEE RIGHT TO KNOW ACT** (PA 397 of 1978) requires that you be provided written notice when your employer, or former employer, divulges a disciplinary report, letter of reprimand, or other disciplinary action given to you to someone outside your agency.

The **WEINGARTEN RIGHTS** (USCD 1975) if the employee reasonably believes that the examination may result in disciplinary action against the employee; and the employee requests representation; the employee may have union representation at a recipient rights interview.

Preponderance of the Evidence standard: Is the determining fact used in all Rights cases, and means that its version of facts, causes, damages, or fault is more likely than not the correct version. This standard applies to all civil cases unless otherwise provided by law. A standard of proof which is met when, based upon all of the available evidence, it is more likely that a right was violated than not; greater weight of evidence not as to quantity (number of witnesses), but as to quality (believability and greater weight of important facts).

Interference with a Rights Investigation:

According to the Mental Health Code the Office of Recipient Rights will have unimpeded access to all the following:

- a. All programs and services operated by or under contract with the community mental health services program or licensed hospital
- b. All staff employed by or under contract or under contract with the community mental health services program or licensed hospital.
- c. All evidence necessary to conduct a thorough investigation or to fulfill its monitoring functions.

Recipient Rights Advisory Committee (RRAC): Consists of at least 6 members, 2 of which are recipients/family of recipients, who meet regularly, to advise the Rights Office on actions, policies, budget and other needs of the office they also act as the first level of appeals for any rights case.

Appeal Process

Upon completion of an investigation and issuance of the summary report, the recipient (a legal representative of the recipient) and the person who made the complaint all have the right to appeal the decision of the report. This appeal can be made on the following reasons:

- a. The findings if the investigation are inconsistent with the law, facts, rules, policies, or guidelines;
- b. The actions, or plan of action, is inadequate; or
- c. The investigation was untimely.

If action of your local Rights Office does not solve the problem, you may contact the Michigan Department of Community Health Office of Recipient Rights at:

MDHHS- ORR Appeals Committee c/o Appeal Coordinator
320 South Walnut St. Lewis Case Building Garden Level
Lansing, MI 48933

CIVIL RIGHTS: MHC 330.1704 AR 330.7009

Code Language:

In addition to the rights, benefits, and privileges guaranteed by other provisions of law, the state constitution of 1963, and the Constitution of the United States, a recipient of mental health services shall have the rights guaranteed by this chapter unless otherwise restricted by law.

The Rights enumerated in this chapter shall not be construed to replace or limit any other rights, benefits, or privileges of a recipient of services including the right to treatment by spiritual means if requested by the recipient, parent of a minor, or guardian.

*The provider shall establish measures to present and correct a possible violation of civil rights related to the service provision. **A violation of civil rights shall be regarded as a violation of recipient rights and shall be subject to remedies established for recipient rights violations.***

A recipient shall be permitted, to the maximum extent feasible and in any legal manner to conduct personal and business affairs and otherwise exercise all rights, benefits, and privileges not divested or limited.

- ✓ A Recipient SHALL BE ASKED if they wish to participate in an official election and, if desired, shall be assisted in doing so.
- ✓ A Recipient shall be permitted to exercise the right to practice their religion.
- ✓ A Recipient shall have the right to NOT have a religion prescribed for them.
- ✓ A Recipient is presumed competent, unless a guardian has been appointed.
- ✓ A Recipient shall not be subjected to illegal search and seizure.
- ✓ A recipient shall be permitted, to the maximum extent feasible and in any legal manner, to conduct personal and business affairs and otherwise exercise all rights, benefits, and privileges not divested or limited.

A recipient's room maybe searched when they are present, but their person's shall not be searched

DIGNITY & RESPECT: MHC 330.1708 330.1711

Code Language: A recipient has the right to be treated with dignity & respect. Family members of recipients shall be treated with dignity and respect.

Dignity- to be treated with esteem, honor, politeness; to be addressed in a manner that is not patronizing or condescending or demeaning; to be treated as an equal; to be treated the way an individual would like to be treated.

Respect- to show 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:

- Calling a person by their preferred name
- Knocking on a closed doors before entering
- Using Positive language
- Encourage the person to make choices instead of making assumptions on their wants
- Taking person's opinion seriously.

Family Members: have the same rights as those specified to the recipients in the mental health code and they are to be treated with dignity and respect at all times as well, Family members shall be given the opportunity to provide information to treating professionals, Recipient of such information shall be handled as confidential information, under section 748 of the Mental Health Code, Family members should also be allowed to gain information and education about the nature of the disorder, side effects of medications, and available supports/advocacy agencies. **Family members are:** a parent, step-parent, spouse, sibling, child, grandparent of a primary recipient, or individual upon whom a primary recipient is dependent for at least 50% of his or her financial support.

Balancing the Rights to Information with the Right to Confidentiality

How does your agency handle family providing information? Where is that information?

CONSENT AND INFORMED CONSENT: MHC 330.1100, AR 330.1703

Code Language: Consent means a written agreement executed by a recipient, a minor recipient's parent, or a recipient's legal representative with authority to execute a consent, or a verbal agreement of a recipient that is witnessed and documented by an individual other than the individual providing treatment.

All of the following are elements of informed consent:

1. Legal Competency-

An individual shall be presumed to be legally competent. This presumption may be rebutted only by a court appointment of a guardian or exercise by a court of guardianship powers and only to the extent of the scope and duration of the guardianship. An individual shall be presumed legally competent regarding matters that are not within the scope and authority of the guardianship.

2. Knowledge-

To consent, a recipient or legal guardian must have basic information about the procedure, risks, other related consequences, and other relevant information. The standard governing required disclosures by a doctor is what a reasonable patient needs to know in order to make an informed decision. Other relevant information includes all of the following:

- (i) The purpose of the procedure
- (ii) A description of the attendant discomforts, risks, and benefits that can reasonably be expected.
- (iii) A discloser of appropriate alternatives advantageous to the recipient
- (iv) An offer to answer further inquiries.

3. **Comprehension-**

An individual must be able to understand what the implications of providing consent will be based upon the information under subsection (b)

4. **Voluntariness-**

There shall be free power of choice without intervention of any element of force, fraud, deceit, duress, over reaching, or other ulterior form of constraint or coercion, including promises or assurances of privileges or freedom. There shall be an instruction that an individual is free to withdraw consent and to discontinue participation or activity at any time without prejudice to the recipient.

CONFIDENTIALITY: MHC 330.1748

Code Language: Information in the record of a recipient, and other information acquired in the course of providing mental health services to a recipient, shall be kept confidential and shall not be open to public inspection.

If information made confidential by this section is disclosed, the identity of the individual of whom it pertains shall be protected and shall not be disclosed unless it is germane to authorized purpose for which disclosure was sought; and, when practicable, not other information shall be disclosed unless it is germane to the authorized purpose for which the disclosure was sought.

Individual receiving information made confidential by this section shall disclose in the information to others only to the extent consistent with the authorized purpose for which the information was obtained.

For case record entries made subsequent to March 28, 1996, information made confidential by this section shall be disclosed to an adult recipient, upon the recipient's request, if the recipient does not have a guardian and had been adjudicated legally incompetent.

Information may be shared as necessary for the treatment, coordination of care, or payment for the delivery of mental health services in accordance with the health insurance portability and accountability act (HIPPA) of 1996 (Public Law 104-91).

Records: Recipient who are adults and do not have a guardian are entitled to review their records without exception. For Recipient with a guardian and those under 18, information can be withheld determined by a physician to be detrimental.

Correction of Records: At any point if a recipient requests to see their records, and does not agree with something that is in the record, they are able to enter a note into the records, stating that they do not agree with this notation. Examples maybe of diagnosis, history, or family relations.

TYPES OF DISCLOSURES:

Mandatory Disclosures: When requested, confidential info must be disclosed in the following situations:

- Case records made after March 28, 1996 when requested by adult competent recipient (access to own record)
- Per order or subpoena of a court of record or subpoena of the legislature (MCR requires release in most subpoena situations)
- To prosecuting attorney in order to participate in proceedings governed by the Mental Health Code (e.g. civil commitment, IST proceedings) Law Enforcement Inquiries

- To an attorney for the recipient with consent of the recipient, guardian authorized to consent or parent/legal guardian of a minor recipient
- If necessary to comply with another provision of law
- To MDDHHS if necessary for it to discharge responsibility placed upon it by law
- To the Office of the Auditor General in order to discharge Constitutional responsibilities
- To a surviving spouse of the recipient, or if no spouse, to the individual most closely related to the recipient within 3rd level of consanguinity in order to apply for or receive benefits but only if that person has been appointed personal representative of the estate of the deceased recipient.

Discretionary Disclosure with consent: Except as indicated preceding, if consent is obtained from the recipient, guardian with authority to consent, parent with legal custody of a minor recipient, or court appointed representative or executor of the estate of a deceased recipient, information may be disclosed to:

- A mental health service provider for the recipient
- To the recipient or his/her guardian or parent of a minor recipient or another individual or agency... Unless in the written judgment of the holder of the record, the disclosure would be detrimental to the recipient or others

Discretionary Disclosure without consent: Information may be disclosed at the discretion of the holder without the consent of the recipient/guardian/parent under 1 or more of the following situations:

- As necessary for the recipient to apply for or receive benefits if the benefit would accrue to the provider for payment for services
- As necessary for outside research, evaluation, accreditation or statistical compilation (no identification, unless impracticable – in no case where recipient may be harmed)
- To provider of mental health or other health services or public agency, if compelling need for disclosure based upon substantial probability of harm to recipient or others.

Privileged communication: Communications made by a patient to a psychiatrist or psychologist in connection with the exam, diagnosis or treatment of a patient, or to another person while that person is participating in the exam, diagnosis or treatment, or communication made privileged under applicable state or federal laws:

- Licensed master’s level SW – client
- Licensed professional counselor – client
- Marriage and family therapist – client
- Other: Priest – penitent, Attorney - client

Duty to Warn: If a recipient communicates to a mental health professional who is treating him/her:

- (a) A threat of physical violence against a reasonably identifiable third person,
- (b) and the recipient has the apparent intent to harm,
- (c) and ability to carry out the threat in the foreseeable future.

The mental health professional has a duty to take action.

A mental health professional has discharged the duty to warn the third person if he/she does one or more of the following in a timely manner:

- Hospitalize the recipient or initiate proceedings to hospitalize.
- Make a reasonable attempt to communicate the threat to the third party and communicate the threat to the local police department or county sheriff for the area where the third party resides, or to the state police.
- If the 3rd party is a minor or incompetent (by other than age), do the above and also inform the County DHHS, where the 3rd party lives and the 3rd party’s custodial parent, non-custodial parent or legal guardian; whoever is appropriate in the best interest of the third party.

Michigan Protection & Advocacy Service, Inc. (MPAS): Is the independent, private, nonprofit organization designated by the governor of the State of Michigan to advocate and protect the legal rights of people with

disabilities in Michigan. MPAS services include information and referral, short-term assistance, selected individual and legal representation, systemic advocacy, monitoring, and training.

Michigan Protection & Advocacy Service has information about the laws and your rights. It also has the right to records, if they are conducting an investigation into the violations of an individual, Local Community Mental Health Service Programs (CMHSP) coordinates mental health services in Michigan. The contracts with over 46 CMHSP and 10 Prepaid Inpatient Health Plans to provide services. People with mental illness, addictive disorders and developmental disabilities receive community-based behavioral and mental health services and supports through their local Community Mental Health (CMH) programs. The Michigan Mental Health Code and the Michigan Public Health Code have requirements about the treatment of people receiving services from the CMH.

Substance Use Disorders and Confidentiality: 42 CFR Part 2: applies to any program that involves substance abuse education, treatment, or prevention and is regulated or assisted by the federal government.

What Information Is Protected?

42 CFR Part 2 applies to all records relating to the identity, diagnosis, prognosis, or treatment of any patient in a substance abuse program that is conducted, regulated, or directly or indirectly assisted by any department or agency of the United States.

Mandatory Disclosures:

42 CFR Part 2 allows for disclosure where the state mandates child-abuse-and neglect reporting when cause of death is being reported; or with the existence of a valid court order.

Permitted Disclosures

Programs are permitted to disclose patient-identifying information in cases of medical emergency; in reporting crimes that occur on program premises or against staff; to entities having administrative control; to qualified service organizations; and to outside auditors, evaluators, central registries, and researchers

How Can Protected SUD Information Be Shared?

Information can be shared if written consent is obtained. A written consent form requires ten elements:

1. names or general designations of the programs making the disclosure
2. name of the individual or organization that will receive the disclosure
3. name of the patient who is the subject of the disclosure
4. specific purpose or need for the disclosure
5. description of how much and what kind of information will be disclosed
6. patient's right to revoke the consent in writing and the exceptions to the right to revoke or, if the exceptions are included in the program's notice, a reference to the notice
7. program's ability to condition treatment, payment, enrollment, or eligibility of benefits on the patient agreeing to sign the consent, by stating 1) the program may not condition these services on the patient signing the consent, or 2) the consequences for the patient refusing to sign the consent
8. date, event, or condition upon which the consent expires if not previously revoked
9. signature of the patient (and/or other authorized person)
10. date on which the consent is assigned

When used in the criminal-justice setting, expiration of the consent may be conditioned upon the completion of, or termination from, a program instead of a date.

BMHA employees, contact the Director of Regulatory Compliance for a subpoena or court order.

Service Providers- Ask your agency how to handle subpoena, bench/arrest warrants and search warrants.

How to Answer the Phone: Confidentiality vs. Politeness vs. Need to Know

Code Language: Mental health services shall be offered in the least restrictive setting that is appropriate and available. The freedom of movement of a recipient shall not be restricted more than is necessary to provide the mental health services to him or her, to prevent injury to him or her or to others, or to prevent substantial property damage, except that security precautions appropriate to the condition and circumstances of an individual admitted by order of a criminal court or transferred as a sentence-serving convict from a penal institution may be taken.

House Rules may restrict freedom of movement only by general restrictions to:

- (a) Areas that could cause health or safety problems. (i.e., maintenance rooms, electric boxes, offices)
- (b) Temporary restrictions from areas for reasonable unforeseeable activities. (Including repair or maintenance).
- (c) For emergencies in case of fire, tornados, floods, etc.

There should not be any “House Rules” posted or used. The only rule that can be applied is for smoking and must be done in the person’s residential lease.

*** RESTRICTIONS OF MOVEMENT or limits to this right must be in the individual plan of service, justified as a restriction and approved by the Behavior Treatment Committee. ***

HCBS- HOME AND COMMUNITY BASED SERVICES FINAL RULE HIGHLIGHTS.

- ✓ House Rules are not allowed. Although house rules are optional under State of Michigan licensing rules for Adult Foster Care and Homes for the Aged, for the purposes of the HCBS Final Rule, house rules will not be permitted.
- ✓ Bedrooms must have keyed locks and only appropriate staff may have keys.
- ✓ Bathrooms must have locks (pop locks are allowable). A bathroom does not need a lock if it is within a single occupancy bedroom.
- ✓ Each individual who resides in a provider owned/operated setting must have a lease or a Resident Care Agreement AND a Summary of Resident Rights.
- ✓ Individuals sharing rooms must have a choice of roommate in that setting.
- ✓ Individuals are able to have visitors of their choosing at any time.
- ✓ Individuals have the freedom to furnish and decorate their room.
- ✓ Individuals must have access to food at any time. This does not mean the residential setting must be prepared to make a full meal at any time, but the individual must have access to some type of food when they choose. The type of food offered must be something that the individual likes to eat.
- ✓ Individuals have the freedom to control their schedules, activities and resources.
- ✓ If there is a documented health and safety concern, this must be individually addressed in the person-centered plan.
- ✓ In the event that another person in the home has a restriction that impacts an individual’s rights or freedoms, documentation must be present for how their rights or freedoms are impacted and restored. Their agreement with this plan must be documented.
- ✓ Skill-Building Assistance must provide opportunities for regular meaningful non-work activities in integrated community settings for the period of time desired by the individual.
- ✓ Supported Employment provides a combination of ongoing support and paid employment that enables the individual to work in the community.

Seclusion and Restraint are prohibited except in MDHHS operated or licensed hospital or child care institutes. Every patient in one of those settings has the right to not be secluded or restrained unless it is essential to prevent the patient from physically harming himself, herself or others.

Time Out- a VOLUNTARY response to a therapeutic suggestion to a recipient to remove himself or herself from a stressful situation to another area to regain control.

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 another. It can only be used:

- (a) Presenting an imminent risk of serious or non-serious physical harm to himself, herself or others.
- (b) Lesser restrictive interventions have been unsuccessful in reducing or eliminating an imminent risk of serious or non-serious physical harm.
- (c) Cannot be included as a part of a behavior treatment plan
- (d) Prone immobilization of a recipient is prohibited.

***SAFE, SANITARY AND HUMANE TREATMENT ENVIRONMENT 330.1708 AR
330.7171***

Code Language: Mental health services shall be provided in a safe, sanitary, and humane treatment environment.

Adult Foster Care Licensing Rules determine if the residential setting was safe, sanitary or humane:

- (a) Assured pressurized hot & cold water
- (b) Hot water temp no more than 105 to 120 degrees at the faucet.
- (c) Assure all sewage is disposed of in a public sewer system or as approved by the health department.
- (d) Maintain an insect, rodent or pest control program.
- (e) Store and safeguard poison, caustic and other dangerous materials in non-resident and non-food repair storage areas.
- (f) Assure adequate preparation and storage of food items.
- (g) Assure premises are constructed, arranged and maintained to adequately provide for health, safety and well-being of occupants.

Provide for 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. Provider must supply toilet articles, toothbrush and dental floss, opportunity to shower or bath at least once every 2 days, regular services of barber or beautician and the opportunity to shave daily for males.

ENTERTAINMENT MATERIALS, INFORMATION AND NEWS: AR 3307139

Every resident has the right to acquire entertainment materials, information and news at his or her own expense, to read written or printed materials and to view or listen to television, radio, recordings or movies made available at a facility.

A provider must never prevent a resident from exercising this right for reasons of, or similar to, censorship.

A provider must establish written policies and procedures that provide for all of the following:

Any general program restrictions on access to material for reading, listening or viewing (LPH/U only, AFC's cannot have general restrictions)

Determining a resident's interests in, and provide for, a daily newspaper.

Assure material not prohibited by law may be read or viewed by a minor unless there is an objection by the minor's parent or guardian.

Permit attempts by the staff person in charge of the minor's IPOS to persuade a parent or guardian of a minor to withdraw objections to material desired by the minor.

Provider may require that material acquired by the resident that are of sexual or violent nature be read or viewed in the privacy of the resident's room.

COMMUNICATION AND VISITS: MHC 330.1726

Code Language: Every resident is entitled to unimpeded, private and uncensored communication with others by mail, telephone and to visits with person of his/her choice. Each facility shall endeavor to implement the rights guaranteed by subsection (1) by making telephones reasonably accessible, be ensuring that correspondence can be conveniently and confidentially received and mailed, and by making space for visits available. Writing materials, telephone usage funds and postage shall be provided in reasonable amounts to residents who are unable to procure such items.

- ✓ Residents are allowed to use mail and telephone services. These communications must not be censored, staff should not open mail for residents without authorization.
- ✓ If necessary, funds must be provided (in reasonable amounts) for postage, stationary and telephone.
- ✓ Residents must be allowed access to computers to use for communication
- ✓ General Rules cannot limit the access to telephone calls, mail or visiting hours.
- ✓ Limitations can be made on these rights for individuals, but only as allowed in the IPOS, following a review by the Behavior Treatment Plan review Committee, and the consent of their legal representative.
- ✓ Communication/visits shall not be limited if the communication is between a resident and his/her attorney or a court, or between a resident any other individuals when the communication involves legal matters of may be the subject of legal inquiry.

FINGERPRINTS, PHOTGRAPHS, AUDIO/VIDEO RECORDING & 1-WAY GLASS: MHC 330.1724

Code Language: A recipient shall not be fingerprinted, photographed, audiotaped or viewed through one-way glass for purposes of identification, in order to provide services (including research) or for educational purposes without prior written consent.

- ✓ Prior written consent from the recipient, recipients guardian, parent with legal and physical custody of a minor must be obtained.
- ✓ Photographs include still or motion pictures and videotaping.
- ✓ The procedure shall only be utilized in order to provide services (including research) to identify recipient or for education and training purposes.
- ✓ Photographs may be taken for purely personal or social purposes and must be treated as a resident's personal property. Photographs must not be taken for this purpose if the recipient objects.
- ✓ Fingerprints, photographs and audio-recordings and any copies are to be made part of the recipient record and to be destroyed or returned to the recipient when no longer essential or upon discharge, whichever occurs first.
- ✓ If fingerprints, photographs or audio-recording are done and sent to others to help determine the name of the recipient, the individual receiving the items must be informed that return is required for inclusion in the recipient record
- ✓ Restrictions may be put in place if the recipient is receiving services pursuant to the criminal provisions of Chapter 10 of the Mental Health Code- Incompetent to Stand Trial, Not Guilty by reason of insanity, recipient of the Department of Corrections Mental Health Services Program.

Security Cameras not used for this purpose. They should only be in common areas, tapes stored securely and access granted to only responsible parties

INDIVIDUALIZED WRITTEN PLANS OF SERVICE: 330.1712, AR 330.7199

Code Language: The responsible mental health agency for each recipient shall ensure that a person-centered planning process is used to develop a written individual plan of services in partnership with the recipient. A preliminary plan shall be developed within 7 days of commencement of services or, is an individual is hospitalized for less than 7 days, before discharge or release.

The IPOS/Individual Plan of Service or PCP- Person Centered Plan shall consist of a treatment plan, a support plan, or both.

The treatment plan shall establish meaningful and measureable goals with the recipient.

The IPOS shall address, as either desired or required by the recipient, the recipient's need for:

- (a) Food
- (b) Shelter
- (c) Clothing
- (d) Health Care
- (e) Employment Opportunities
- (f) Educational Opportunities
- (g) Legal services
- (h) Transportation
- (i) Recreation

The plan shall be kept current and shall be modified when indicated. The individual in charge of implementing the plan of services shall be designated in the plan.

If a recipient is not satisfied with his or her IPOS, the recipient, the person authorized by the recipient to make decision regarding the IPOS, the guardian of the recipient, of the parent of a minor recipient may make a request for review to the designated individual in charge of implementing the plan. The review shall be completed within 30days and shall be carried out in a manner approved by the appropriate governing body.

An individual chosen or required by the recipient may be excluded from participation in the planning process only if inclusion of that individual would constitute a substantial risk of physical or emotional harm to the recipient or substantial disruption of the planning process. Justification for an individual's exclusion shall be documented in the case record.

SUITABLE SERVICES: MHC 330.1708, 330.1713, 330.1714, 330.1715, 330.1719, AR 330.7029

Mental Health Services Suited to Condition-

A Recipient shall receive mental health services suited to his or her condition

Number one violation every year...why

Notice of Clinical Status:

Code Language: A Recipient shall be informed orally and in writing of his or her clinical status and progress at reasonable intervals established in the individual plan of service in a manner appropriate to his or her clinical condition.

Services of Mental Health Professionals:

Code Language: If a resident is able to secure the services of a mental health professional, he or she shall be allowed to see the professional at any reasonable time.

Choices of Physician/Mental Health Professional-BMHA #01-04-08

Code Language: A Recipient shall be given the choice of physician or other mental health professional in accordance with the policies of the community mental health services program, licensed hospital, or service provider under contract with the community mental health services program, or licensed hospital providing services and within the limits of available staff in the community mental health services program, licensed hospital, or service provider under contract with the community mental health services program, or licensed hospital.

Family Planning: How is it addressed at your work location? BMHA #01-04-01

Code Language: The individual in charge of the recipient’s written plan of service shall provide recipients, their guardians, and parents of minor recipients with notice of the availability of family planning, and health information services and, upon request, provide referral assistance to providers of such services. The notice shall include a statement that receiving mental health services does not depend in any way requesting or not requesting family planning or health information services.

Treatment by Spiritual Means: BMHA #01-08-01

Code Language: A provider shall permit a recipient to have access to treatment by spiritual means upon the request of the recipient, a guardian if any, or a parent of a minor recipient.

Psychotropic Drug Treatment: BMHA #01-11-01

Code Language: Before initiating a course of psychotropic drug treatment for a recipient, the prescriber of a licensed health professional acting under the delegated authority of the prescriber shall do both of the following:

- (a) Explain the specific risks and the most common adverse effects that have been associated with that drug.*
- (b) Provide the individual with a written summary of the most common adverse effects associates with that drug*

INCIDENT REPORTS & COMPLAINTS

If it’s not documented, it didn’t happen

***Document

Document

Document***

What are Complaints - The written or oral allegation that a recipient of Mental Health Services protected rights, have been violated by a CMHSP employee, contract employee, volunteer, or agent of a provider. It should also include the outcome being sought as a resolution.

What are IR’s about?

IR vs. COMPLAINT

Reported & signed off by your Supervisor?

Sent to Case manager?

Goes directly to Recipient Rights?

Sent to Guardian?

Incident Reports: Staff who witness, discover or are notified of an unusual event will:

- Immediately take action to protect, comfort and assure treatment of the recipient.
- Notify designated supervisor ASAP for any injury
- In case of injury, death, suspected Abuse/Neglect, report **immediately to ORR**
- Report as required to APS/CPS, Licensing and/or police
- Write an incident report within the shift the incident occurred.
- Verbally report to oncoming staff.
- Answer questions from Supervisor, ORR, DHHS, APS/CPS, and police who may be doing an investigation.

Here are some helpful guidelines to effectively and efficiently report IRs:

- If 2 or more staff observes an incident they may both sign one IR, if they both agree. If documentation is not agreed upon, both must fill out a separate IRs.
- Staff should always write a separate IR for each recipient involved. Never use a recipient's full name on IRs of another recipient, rather use **first and last initials**.
- IRs must provide all pertinent information necessary so that a person not present can understand what happened. They must be **clear, complete and concise**.
- Staff should include all pertinent information, including what led up to the incident, whether or not an injury occurred, what interventions were tried by staff and the results before, during and after the incident.
- Staff should write in factual terms, avoid using judgments about what occurred.
- Use only common and accepted abbreviations.
- Supervisors should review the incident report and enter any other information needed, such as additional actions taken, appropriateness of actions taken by staff, or any remedial action that has been taken.
- Write legibly.
- Email the incident report to Rights@riverwoodcenter.org ORR and Licensing (if applicable).

Examples of Unusual Events:

- Death of a recipient
- Suspected Abuse or neglect
- Any Explained or Unexplained Injury of a Recipient
- Accidents that could have caused Injury including vehicle accidents
- Unusual or first time medically related occurrence (like seizures)
- Environmental Emergencies: Breaking things, Fires, attacking People
- Any use of Physical management
- Problem Behaviors not addressed in a behavior tracking form
- Inappropriate Sexual Acts
- Medication errors
- Suspected criminal offenses
- Involvement of other agencies: (Police, Licensing, APS/CPS, Probation)

EMAIL INCIDENT REPORTS TO:

Rights@riverwoodcenter.org

IR's CAN BE FAXED TO THE RIGHTS OFFICE IF EMAIL IS NOT AVAILABLE:

(Fax) 269-934-3440

OTHER TOPICS

Money & Financial Rights

Labor & Work

Personal Property

Sex/Sexual Relationships

Drinking – Alcohol/Pop

QUESTIONS??

DEFINITIONS:

Agents of a Provider-people who work for agencies that contract with the Department, a CMHSP or PIHP, or LHU/U.

Bodily Function- means the usual action of any region or organ of the body.

Degrade- Treat humiliatingly: to cause somebody a humiliating loss of status or reputation or cause somebody a humiliating loss of self-esteem; make worthless; to cause a person to feel that they or other people are worthless and do not have the respect or good opinion of others. (syn) degrade, debase, demean, humble, humiliate. -These verbs mean to deprive of self-esteem or self-worth; to shame or disgrace. (b) Degrading behavior shall be further defined as any language or epithets that insult the person's heritage, mental status, race, sexual orientation, gender, intelligence, etc.

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.

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

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

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 bodily functions, or caused the permanent disfigurement of a recipient.

Sexual Abuse-

Criminal Sexual conduct as defined by section 520b to 520e of the 1931 PA 318, MCL 750.520b to 750.520e involving an employee, volunteer or agent of a provider and a recipient.

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.

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 of the touching of the clothing covering the immediate are of the recipient's or employee's intimate parts, it that intentional touching can reasonably be construed as being for the purpose of sexual arousal or gratification, done for a sexual purpose of in a sexual manner for any of the following reasons: revenge; to inflict humiliation; or 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 towards a recipient.

Sexual Penetration- sexual intercourse, cunnilingus, fellatio, anal intercourse, or any intrusion, however slight, or any part of a person's body to any object in the genital or anal opening of another person's body, but emission of semen is not required.

Threaten: means to tell someone that you will hurt them or cause problems if they do not do what you want.

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:

There is no imminent risk of serious or non-serious physical harm to the recipient, staff or others.

The physical management used is not in compliance with techniques approved by the provider and the responsible mental health agency

The physical management used is not in compliance with the emergency interventions authorized by the recipient's indivial plan of service.

The physical management or force us used when other less restrictive measures were possible but not attempted immediately before the use of physical management or force.

Recipient: An individual who receives mental health services from the department, a community mental health services program, or a facility or from a provider that is under contract with the department or a community mental health services program.

Resident: An individual who receives services in either a state operated facility, a licensed psychiatric hospital or unit or an adult foster care facility.

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

-Nelson Mandela