BERRIEN MENTAL HEALTH AUTHORITY
PROCEDURE

SUBJECT: CONSENT TO TREATMENT AND SERVICES	SECTION: 01-03-01 Page 1 of 4
APPLICATIONS: All Programs and Services EFFECTIVE DATE: 10/01/94 APPROVED BY: _____ Chief Executive Officer REVISED: 4/95, 11/98, 6/00, 3/02, 11/02, 1/05, 4/07, 6/08, 4/2020, 2/2023, 8/2023, 2/2025, 12/2025, 2/2026	REQUIRED BY: MHC 752, 1706 AR 7003

POLICY:
It is the policy of Berrien Mental Health Authority (BMHA) to provide mental health services to persons only after the consumer or parent/guardian has provided a written informed consent for service. Exceptions may occur when agency services will be provided to persons under the following conditions:

1) The consumer meets criteria for involuntary evaluation or treatment.
2) A minor 14 years of age or over requests outpatient service in accordance with Section 707 of the Mental Health Code.

It is also the policy of BMHA to assess the need for legal guardianship for consumers who: are unable to provide informed consent; are unable to care for themselves; have been adjudged to be incompetent; or, have a minor status and the parental rights have been severed or limited. In those cases where staff and processes determine there to be a need for some form of *guardianship*, they will pursue such action or assist as appropriate. Consent means a written agreement executed by a recipient, a minor recipient's parent, a recipient's legal representative with authority to execute a consent, or a full or limited guardian authorized under the estates and protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8206, with the authority to consent, or a verbal agreement of a recipient that is witnessed and documented by an individual other than the individual providing treatment.

PURPOSE:

1. To provide a process and documentation of informed consent for treatment.
2. To assure consent is informed.
3. To assure explanations and supporting materials have been provided to the consumer and documentation obtained including the Your Rights When Receiving Mental Health Services in Michigan booklet and the SWMBH Handbook.
4. Recipient Rights are explained to all recipients at intake and annually during the person-centered planning process.
5. The rights are explained in an understandable manner, including documentation of any alternative methods utilized and the name of the person wo provided the explanation, MHC 1755 (5); AR 7011.
6. SWMBH Handbook is given annually by the Reimbursement Office.

STANDARD:

1. Informed consent shall be obtained under all of the following conditions:
    a) Prior to initiating a preliminary plan.
    b) Whenever interim circumstances substantially affect the risks, benefits, alternative available procedures or other consequences of treatment procedures. They are offered an opportunity to ask and receive answers to questions.
    c) Whenever those treatment, services and/or interventions checked on the original consent are no longer applicable and/or additional treatment, services and/or interventions are added.
    d) Annually as part of the person-centered planning process.

2. The consumer, parent and/or guardian can withdraw informed consent at any time, without prejudice to the recipient, parent and/or guardian.

DEFINITIONS:

1. **Informed Consent** includes the following characteristics, which include the recipient's free power of choice with out force, fraud, deceit, duress, constraint or coercion.
    a. Comprehension—the individual has the ability to understand the risks, benefits, and other consequences of the decision. Individual has the legal authority to make the decision.
    b. Knowledge—the individual has received the information, which a reasonable person needs to make a decision, including what is being proposed, the risk, benefits, and other consequences of making a decision to consent or not consent.
    c. 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 withdrawn at any time and without prejudice to the recipient/guardian.
    d. Written— consent must be an agreement in writing which includes the basic elements of consent.

2. **Parent**, when used in these procedures refers to:
    a. A parent of a minor child
    b. A person with whom the child resides and from whom the child receives care and support, who has legal authority to make decisions on behalf of the child.
    c. A representative from the Juvenile Court, or Department of Health & Human Services, Protective Services, with proper court authority. (Parens Patriae)

3. **Person in loco parentis** means a person who is not the parent or guardian of a minor but has temporarily been delegated or assumed control over the routine care and basic control of the child. (E.g. shelter, safety, food, medical care, bathing, clothing, transportation, education, nurturing).

4. **Involuntary Recipient**: a recipient who has been ordered to receive services by a court order for involuntary treatment.

5. **Voluntary recipient**: a recipient or authorized party who is requesting mental health services of his/her own free will.

PROCEDURE:

1. Copies of all legal documents empowering an individual to provide consent for another (guardianship authority, divorce document, power of attorney, etc.) will be requested at intake and placed in the record.

2. Recipients of service, ordered by a court of law, to receive mental health services on an involuntary basis, represent a special classification. An informed consent for services need not be obtained prior to providing service, but efforts shall always be made to obtain written consent whenever possible before services are initiated. A copy of the court order will be requested and placed in the record.

3. The consumer (guardian or parent) shall sign the Person-Centered Plan (PCP) indicating their consent to the treatment including medical services described therein. This shall be done each time the PCP is changed. As part of the PCP process, the recipient/parent/guardian (person giving informed consent) is made aware that they may withdraw consent at any time, without prejudice to the recipient/parent/guardian.

4. A consumer (guardian or parent) may at any time request a review or modification of the PCP. These requests shall be directed to the clinician/case manager, who will schedule a meeting with the consumer (guardian or parent) to discuss the request.

5. If a consumer refuses to sign a consent for treatment
    a. The reason shall be documented on the PCP form, and
    b. The clinician/case manager shall consult with the program supervisor or his/her designee to determine the appropriate action to take.

6. Consumers who are minors 14 years of age or older may follow these procedures without the consent or knowledge of his/her parent, guardian, or person in loco parentis except that services must be limited to:
    a. Outpatient services, excluding psychotropic drugs, and pregnancy termination services.
    b. Twelve sessions or four months per request for services.
    c. Minors receiving services without the consent or knowledge of parent outlined above may consent to release of information consistent with guidelines for confidentiality and disclosure.

7. The minor's parent, guardian, or person in loco parentis is not informed of the services without the consent of the minor unless the treating mental health professional determines a compelling need for disclosure based upon substantiated probability of harm to minor or another and if the minor is notified of the treating professional's intent to inform.

8. Services provided to minors are limited to not more than 12 sessions or 4 months per request and after these expire, the mental health professional terminates the services or, with the consent of the minor, notifies the parent, guardian, or person in loco parentis to obtain consent to provide further outpatient services.

9. Services provided to a minor will; to the extent possible, promote the relationship between the parent, guardian or person in loco parentis and will not undermine the values they have sought to instill in the minor.

10. The minor's parent, guardian or person in loco parentis is not liable for the costs of services that are received by a minor.

11. If a consumer, his/her guardian, or parent of a minor child revokes consent, the responsible clinician/case manager shall request that it be in writing on the original consent form. This can be done at any time without prejudice to recipient/guardian. If the consumer, his/her guardian, or parent of a minor refuses to put the revocation in writing, the clinician/case manager shall document such on the original consent form.

12. During the course of treatment, the clinician shall determine if it becomes questionable whether the consumer is able to comprehend the nature of a procedure/service, potential risk, consequences and other relevant information concerning the proposed service.
    a. If it is determined that the consumer is unable to understand or is having difficulty comprehending the above areas, then the clinician shall take the necessary steps to secure a referral to the Informed Consent Board for review.
    b. The clinician may assist in the process to petition the court for guardianship only in those areas that the consumer needs assistance, as recommended by BMHA Informed Consent Board.

FORMS:

Formal Consent

Informed Consent Board referral

Related Procedures: 06-54-02 Informed Consent Board

Reviewer: Office of Recipient Rights

Reviewed: 3/08, 3/09, 3/10, 4/11, 5/12, 6/13, 3/14, 5/15, 4/16, 3/17, 3/18, 3/19, 4/20, 9/2021, 7/2022, 2/2023, 8/2023, 8/2024, 2/2025, 2/2026