BERRIEN MENTAL HEALTH AUTHORITY
PROCEDURE

SUBJECT: Fingerprinting, 1-Way Glass, Photographing, Audio taping or Videotaping of Recipients of Mental Health Services	SECTION: 01-05-01 Page 1 of 4
APPLICATIONS: All Programs and Services EFFECTIVE DATE: 10/01/94 APPROVED BY: Chief Executive Officer REVISED: 10/99; 3/02, 11/02,1/05, 4/07, 10/15, 7/2022, 2/2023, 4/2025, 2/2026	REQUIRED BY: MHC 724, 752; AR 7003

POLICY:
Berrien Mental Health Authority (BMHA) will set forth conditions under which audiovisual reproduction may be made and used by direct-operated and contractual programs to assure that proper notification is made, that consent is obtained prior to the photographing, audio taping, videotaping or transmitting of images/voices of consumers, or the use of one-way glass, and to specify the disposition of the audiovisual products. No consumer will be fingerprinted as part of any program.

PURPOSE:
To provide guidelines assuring the protection of the rights of consumers as specified in the Mental Health Code.

STANDARDS:
The use of audio taping, videotaping or transmitting of images/voices of recipients shall not be a part of routine clinical practice and should be the exception, not the rule. Such practices shall only be used as a tool in treatment following consultation and authorization by the Director of Services. The Office of Recipient Rights shall be notified when this practice is intended to be utilized with consumers.

DEFINITIONS:
1. **Photography**: includes the use of still pictures, motion pictures, and videotape cameras

2. **Public news media**:
    a. Publications including but not limited to newspapers, magazines, books, and other printed materials produced by the public press.
    b. Communications systems capable of transmitting photographs or sound via air or cable, e.g. television or radio.

3. **Agency-related media**: publications produced by business or industrial firms, non-profit associations, or public agencies.

4. Security systems: a network of electronic devices and practices designed to protect property and people from various threats, improving the overall security of the property and the safety of those that live there. These systems often involve but are not limited to cameras, motion sensors, and mobile applications/control panels that work together to detect and respond to security breaches.

PROCEDURE:

1. Photographs, video or audio tapes may be taken and 1-way glass may be used in order *to provide services, including research, to a recipient or in order to determine the name of the recipient* only when prior written consent is obtained from 1 of the following:
    a. Recipient if 18 years of age or over and competent to consent;
    b. The guardian if empowered;
    c. The parent with legal and physical custody if the recipient is less than 18 years of age.
2. Employees' personal devices shall not be used to take photographs, video, or audio recordings.
    a. This does not apply to a recipient using their personal devices.
    b. Employees should request an agency camera or device if photographs, video or audio recordings are needed.
    c. Employee must review chart for prior written consent.
    d. Employee is expected to ensure prior written consent covers the photographs, video or audio recording.

3. Photographs, video or audio tapes may be taken and 1-way glass may be used *for educational or training purposes* only when expressed written consent is obtained from 1 of the following:
    a. Recipient if 18 years of age or over and competent to consent;
    b. The guardian if empowered;
    c. The parent with legal and physical custody if the recipient is less than 18 years of age.

4. When photographs, video or audiotapes are taken for the purpose of identification, expressed prior written consent must be obtained and the photographs or audiotapes will be kept in the client record. If a photograph or audio tape is delivered to an individual who is not an employee of the CMHSP for the purpose of identifying a consumer, it is required that the photograph or audio tape be returned.

5. Photographs, video or audio taping by or on behalf of the public news media or agency-related media, including brochures and annual reports, may be taken only when prior written consent is obtained from one of the following:
    a. A consumer, if 18 years of age or older and competent to consent.
    b. The guardian of the consumer if legally empowered to execute such consent.
    c. A parent, if the consumer is less than 18 years of age.

6. A photograph, video or audiotape, or use of one-way glass with the consumer, shall not be taken or used if the consumer has indicated his/her objections, regardless of whether or not the consumer, parent or guardian has previously given written consent. **Consent may be withdrawn at any time.**

7. For personal or social purposes, audiovisual reproductions may be made and used unless the consumer or guardian indicated his/her objection when asked, prior to the event. Expressed prior written consent **is not required**. The photograph is maintained as the recipient's personal property. *For example: social or community events for consumers living in group homes or attending day programming.*

8. If photographs are required for gathering evidence in an allegation of abuse, consent is not required from the consumer, his/her parent or guardian, but may be taken at the direction of the Executive Director, CEO, or his designee or the Recipient Rights Officer.

9. All photographs, video and audiotapes taken for treatment purposes will become part of the clinical record, and as such are protected by confidentiality regulations. All such materials will be stored in a locked area in medical records under coordination with the Privacy Office and assessed every 30 days for continued retention. Supporting documentation must be provided monthly to medical records or the materials will be immediately destroyed or returned to the recipient – whichever was agreed upon and indicated in the PCP. If the clinician determines there is no longer a need to retain the materials they should facilitate their return or destruction.

10. All photographs, video and audiotapes must be given to the recipient or destroyed upon discharge of services.

11. Security systems may be used to help ensure the safety of staff and/or recipients from external parties. However, recipients must not be videotaped inside the home or in areas where privacy is reasonably expected. Acceptable security devices include Ring, Nest, ADT, Blink, Arlo doorbell cameras, or other outdoor security cameras, provided they are not used to monitor recipients.

12. Security systems must be properly safeguarded, with access limited to individuals who are authorized. Upon request from Riverwood Center, providers must be able to show documentation that recipients have been informed of the presence and location of any security system. Providers must also identify who is authorized to view recorded footage and under what circumstances viewing is permitted. While not required, it is strongly recommended that each provider establish a written policy outlining the use and management of security systems.

13. Video surveillance may be conducted in a psychiatric hospital (only) 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.

14. Before implementation of video surveillance, the psychiatric hospital shall establish written policies and procedures that address, at a minimum, all of the following:

(a) Identification of locations where video surveillance images will be recorded and saved.
(b) Mechanisms by which recipients and visitors will be advised of the video surveillance.
(c) Security provisions that assure that only authorized staff members have access to view recorded surveillance video.

The security provisions shall include all of the following:

a. Who may authorize viewing of recorded surveillance video.
b. Circumstances under which recorded surveillance video may be viewed.
c. Who may view recorded surveillance video with proper authorization.
d. Safeguards to prevent and detect unauthorized viewing of recorded surveillance video.
e. Circumstances under which recorded surveillance video may be duplicated and what steps will be taken to prevent unauthorized distribution of the duplicate.

(d) Documentation required to be maintained for each instance of authorized access, viewing duplication, or distribution of any recorded surveillance videos.

(e) Process to assure retrieval of distributed recorded surveillance video when the purpose for which the video was distributed no longer exists.

(f) Archived footage of video surveillance recordings for up to 30 days unless notice is received that an incident requires investigation by the department's office of recipient rights, the licensing division of the bureau of health systems, law enforcement, licensed psychiatric hospital or unit office of recipient rights, and the United States department of health and human services centers for Medicaid and Medicare services. In that case, archived footage of video surveillance recordings may be retained for the duration of the investigation.

(g) Recorded video surveillance images shall not be maintained as part of a recipient's clinical record. [MHC 1724(9)/RR Standard E9]

FORMS: Use standard BMHA Release of Information Form

Reviewer: Office of Recipient Rights
Reviewed: 3/08, 3/09, 3/10, 4/11, 5/12, 5/13, 3/14, 7/15, 7/16, 4/17, 3/18, 3/19, 4/2020, 9/2021, 7/2022, 2/2023, 8/2024, 4/2025, 2/2026