CHAPTER: Five – Member Rights
PROCEDURE NAME: INFORMED CONSENT
SUPERCEDES: Recipient Rights Policy
EFFECTIVE DATE: October 1, 2010

PURPOSE
To establish guidelines for determining whether a recipient of, or applicant for, mental health services is capable of giving or refusing to give informed consent.

APPLICATION
All North Country Community Mental Health direct service programs and contracted direct service providers.

DEFINITION

Applicant: a person who has applied for, but is not yet accepted for, services from the agency.

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.

Knowledge: to consent, a recipient or legal representative must have basic information about the procedure, its risks, other related consequences, and other relevant information. The standard governing required disclosure by a doctor is what a reasonable recipient needs to know in order to make an informed decision. Other relevant information includes all of the following:
1. the purpose of the procedures
2. a description of the attendant discomforts, risks, and benefits that can reasonably be expected
3. a disclosure of appropriate alternatives advantageous to the recipient
4. an offer to answer further inquiries

Comprehension: an individual must be able to understand what the personal implications of providing consent will be based upon the information provided under Knowledge.

Voluntariness: an individual must have free choice without the intervention of any element of force, fraud, deceit, or other ulterior forms of constraint or coercion including promises or assurances of privileges or freedom. The recipient or recipient’s guardian will be told that consent may be withdrawn and participation or activity may be discontinued at any time without prejudice to the recipient.

Empowered Guardian: a person designated by the county probate court as a guardian with the specific authority to give consent.

Recipient: a person the agency has accepted for service.
PROCEDURE

1. EVALUATION
   At intake and/or subsequent to the review of past mental health records, the clinician, or treatment team shall make a determination of the capacity and competency of the individual receiving services. This evaluation shall be consistent with current medical and/or clinical standards. Any evaluation suggesting that the individual receiving services lacks competency shall cause the clinician and/or treatment team to request a full psychological exam which may lead to a petition of guardianship, or exploration of other methods of securing informed consent.

2. SERVICES TO MINORS
   A. A minor, 14 years of age or older, may request and receive mental health services and a mental health professional may provide such services on an out-patient basis without the consent or knowledge of the minor’s parents, guardian, or other person in loco parentis.
   B. The services provided to such a minor shall not include pregnancy termination referral nor the prescription, or administration, of psychotropic drugs.
   C. The minor’s parents, guardian, or other person in loco parentis shall not be informed of such services without the consent of the minor unless the treating professional determines (including documentation with justification) a compelling need for disclosure based upon the substantiated probability of harm to the minor recipient or another.
   D. Should such a disclosure as noted above be determined to be appropriate, the minor will be notified by the treating professional prior to disclosure.
   E. The services to a minor, 14 years of age or older, without the consent of parent, guardian, or other person in loco parentis, shall be limited to not more than 12 sessions or 4 months per request. After this period of time, the treating professional shall terminate services or, with the consent of the minor, notify the parent, guardian, or person in loco parentis of the minor’s desire to continue treatment and secure proper consent from that adult to provide further out-patient services.

REFERENCE:
- Michigan Mental Health Code 330.1707 Rights of Minor
- DCH Administrate Rule R330.7003 Informed Consent

REVISED: 5/31/07; September 20, 2010

APPROVED BY SIGNATURE:

Alexis Kaczynski 9/24/2010
Director

Mary Hall 9/27/2010
Recipient Rights