NORTH COUNTRY COMMUNITY MENTAL HEALTH
ADMINISTRATIVE MANUAL

CHAPTER FIVE – MEMBER RIGHTS

INDEX

CHAPTER: Five – Member Rights
POLICY NAME: ABUSE AND NEGLECT
EFFECTIVE DATE: September 1, 2019

PURPOSE

To establish a policy to safeguard recipients of mental health services from abuse, neglect or mistreatment, to promote the safety, security and well-being of recipients and to ensure protection of their person, rights and properties.

APPLICATION

All North Country Community Mental Health service programs and contract providers.

DEFINITIONS

Abuse means non-accidental physical or emotional harm to a recipient, or sexual contact with or sexual penetration of a recipient as those terms are defined in Section 520a of the Michigan Penal Code, 1931 PA 328, MCL 750.520a, that is committed by an employee or volunteer of the department, a community mental health services program, or a licensed hospital or by an employee or volunteer of a service provider under contract with the department, community mental health services program, or licensed hospital.

- **Class I Abuse** means a non-accidental act or provocation of another to act by an employee, volunteer, or agent or a provider that caused or contributed to the death, or sexual abuse of, or serious physical harm to a recipient.
- **Class II Abuse** means any of the following:
    - A non-accidental act or provocation of another to act by an employee, volunteer, or agent of a provider that caused or contributed to non-serious physical harm to a recipient.
    - The use of unreasonable force on a recipient by an employee, volunteer, or agent of a provider with or without apparent harm. Any action or provocation of another to act by an employee, volunteer, or agent of a provider that causes or contributes to emotional harm to a recipient.
    - An action taken on behalf of a recipient by a provider who assumes the recipient is incompetent, despite the fact that a guardian has not been appointed, that results in substantial economic, material, or emotional harm to the recipient.
    - Exploitation of a recipient by an employee, volunteer, or agent of a provider.
- **Class III Abuse** means the use of language or other means of communication by an employee, volunteer, or agent of a provider to degrade, threaten, or sexually harass a recipient.

Neglect means an act or failure to act committed by an employee or volunteer of the department, a community mental health services program, or a licensed hospital; a service provider under contract with the department, community mental health services program, or licensed hospital; or an employee or volunteer of a service provider under contract with the department, community mental health services program, or licensed hospital, that denies a recipient the standard of care or treatment to which he or she is entitled under this act.

- **Class I Neglect** means either of the following:
    - 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 causes or contributes to the death, serious physical harm, or sexual abuse of a recipient.
    - The failure to report apparent or suspected abuse Class I or neglect Class I of a recipient.
- **Class II Neglect** means either of the following:
    - 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 that cause or contribute to nonserious physical harm or emotional harm to a recipient.
    - The failure to report apparent or suspected abuse Class II or neglect Class II of a recipient.
- **Class III Neglect** means either of the following:
    - 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 that either placed or could have placed a recipient at risk of physical harm or sexual abuse.
    - The failure to report apparent or suspected abuse Class III or neglect Class III of a recipient.

POLICY

It is the policy of the Board that all staff and all contractual agencies and personnel who become aware of apparent or suspected abuse, or neglect, as defined above must immediately make a report to the Office of Recipient Rights and comply with all legally mandated reporting procedures both internal and external. Failure to report apparent or suspected abuse or neglect will result in disciplinary action including but not limited to official reprimand, demotion, suspension, reassignment or termination of employment. The Rights Office will initiate an investigation immediately when there is an allegation of abuse or neglect, serious injury or when a rights violation is apparent or suspected in the death of a recipient.

Any substantiated abuse or neglect by an employee, volunteer, or agent of a provider will result in appropriate disciplinary action including, but not limited to official reprimand, demotion, suspension, reassignment or termination of employment.

NCCMH and contracted agencies will provide for a prompt and thorough review of charges of abuse that is fair to both the recipient alleged to have been abused and the charged employee, volunteer or agent of a provider.

REFERENCE: Michigan Mental Health Code 330.1100 Definitions
MDHHS Administrative Rules R330.7001 Definitions

REVEIWED: 03/24/08; 07/01/13

REVISED: 06/01/07; 08/19/10; 07/06/15; June 17, 2019

APPROVED BY SIGNATURE:

Christine Gebhard	*08/16/2019*
Chief Executive Officer	Date
Edward G. Ginop	*08/15/2019*
NCCMH Board Chair	Date

NORTH COUNTRY COMMUNITY MENTAL HEALTH
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CHAPTER: Five – Member Rights
POLICY NAME: COMPREHENSIVE ASSESSMENT
SUPERCEDES: Recipient Rights Policy
EFFECTIVE DATE: October 1, 2007

PURPOSE

To establish guidelines which ensure that each recipient receives a comprehensive initial assessment that serves as the basis for the development of an Individual Plan of Service.

APPLICATION

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

POLICY

1. A comprehensive written initial assessment shall be completed for each recipient. The initial assessment shall include a diagnosis of physical and mental conditions and an initial plan of service for initial care, treatment and rehabilitation of the diagnosed conditions. In order to complete the initial assessment and determine a diagnosis, evaluation by a psychiatrist, psychologist, or other professional discipline may be required utilizing assessment protocols established for these professional disciplines.
2. A copy of the initial assessment and Individual Plan of Service, along with reports obtained from other organizations, shall be included in the clinical record.
3. At least annually, there shall be a review and update of the assessment and plan of service.

REFERENCE: Michigan Mental Health Code 330.1752

REVIEWED: 3/24/08; 5/30/10; 07/01/13; 07/02/15; June 30, 2016

REVISED: 09/20/07

APPROVED BY SIGNATURE:

Alexis Kaczynski — *9/21/07*
Director — Date

Laura Stanek — *9/20/07*
NCCMH Board Chair — Date

CHAPTER: Five – Member Services
PROCEDURE NAME: CONFIDENTIALITY USE AND DISCLOSURE
EFFECTIVE DATE: September 1, 2019

PURPOSE

To establish guidelines for maintaining confidentiality of recipient record and to identify circumstances under which information may be disclosed.

APPLICATION

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

DEFINITIONS

Privileged Communication: communication made to a psychiatrist or psychologist in connection with the examination, diagnosis, or treatment of a patient, or to another person while the other person is participating in the examination, diagnosis, or treatment or a communication made privileged under other applicable state or federal law.
Protected Health Information: all information in the record of a recipient and any information acquired in the course of providing mental health services to the recipient.

PROCEDURE

A summary of Section 748 of the Mental Health Code shall be part of each recipient's clinical record.

Upon receipt of a properly executed and procedurally correct request for information, the agency shall provide copies of the record in either paper or electronic format (if available) to the requestor. NCCMH may impose a reasonable, cost-based fee for copies according to the nature of the request and the ability to pay. A recipient will not be denied a reasonable request due to inability to pay. NCCMH honors the medical record access fees that are set annually by MDHHS. An individual may appeal any charge to Customer Services, the Chief Executive Officer, or the NCCMH Board.

A record shall be kept of all disclosures and shall include all of the following information:

- Information released.
- To whom it was released.
- The purpose claimed by the person requesting the information and a statement indicating how disclosed information is germane to the stated purpose
- The subsection of Section 748 of the Michigan Mental Health Code, or other state law, under which the disclosure was made.
- A statement that the receiver of the disclosed information was informed that further disclosure shall be consistent with the authorized purpose for which the information was released.

When requested, information ***shall*** be disclosed:

- Pursuant to orders or subpoenas of court of record, or subpoenas of the legislature, unless the information is made privileged by some provision of law.
- To a prosecuting attorney as necessary for him or her to participate in a proceeding governed by the Michigan Mental Health Code. Specifically, a prosecutor may be given either privileged or non-privileged information if it contains information relating to names of witnesses to acts which support the

criteria for involuntary admission, information relevant to alternatives to admission to a hospital or facility, or other information designated in the policies of the governing body

- To an attorney for the recipient, with the consent of the recipient, the recipient's guardian with authority to give consent, or the parent with legal ***and*** physical custody of a minor recipient.
    - An attorney who is retained or appointed by a court to represent a recipient and who presents identification and a consent or release executed by the recipient, by a legally empowered guardian, or by the parents of a minor shall be permitted to review, on the provider's premises, a record containing information concerning the recipient. An attorney who has been retained or appointed to represent a minor pursuant to an objection to hospitalization of a minor shall be allowed to review the records.
    - Absent a valid consent or release, an attorney who does not represent a recipient shall not be allowed to review records, unless the attorney presents a certified copy of an order from a court directing disclosure of information concerning the recipient to the attorney.

An attorney shall be refused written or telephoned requests for information, unless the request is accompanied or preceded by a certified copy of an order from a court ordering disclosure of information to that attorney or unless a consent or release has been appropriately executed. The attorney shall be advised of the procedures for reviewing and obtaining copies of recipient records.

To the office of the auditor general when the information is necessary for that office to discharge its constitutional responsibility.

- When necessary to comply with another provision of law.
- To Michigan Department of Health and Human Services (MDHHS) when the information is necessary in order for the department to discharge a responsibility placed upon it by law.
- To a surviving spouse, or if none, to the individual(s) most closely related to the deceased recipient within the third degree of consanguinity as defined in civil law, to apply for and receive benefits, but only if the spouse or closest relative has been designated the personal representative or has a court order.

For clinical record entries made subsequent to 03/28/96 information made the Mental Health Code shall be disclosed to an adult recipient, upon the recipient's request, if the recipient does not have a guardian and has not been adjudicated legally incompetent. Release will be completed as expeditiously as possible, but in no event later than the earlier of 30 days of the request or prior to release from treatment.

Except as otherwise provided for in #4 above, if consent has been obtained from:

- the recipient,
- the recipient's guardian who has the authority to consent,
- a parent of a minor with sole or joint legal custody, (Note: the physical custody and/or,
- parenting time of the child are not a factor in this determination. A parent who does not,
- have legal custody must have the consent of the other parent to request and receive,
- information regarding a shared child), or
- court appointed personal representative or executor of the estate of a deceased recipient.

Information made confidential by Sec. 748 ***may*** be disclosed to the following:

- a provider of mental health services to the recipient, or
- the recipient, his or her guardian, the parent of a minor, or another individual
- or agency unless, in the written judgement of the holder of the record (NCCMH), the disclosure would be detrimental to the recipient or others.

DETERMINATION OF DETRIMENT:

The Chief Executive Officer (CEO) of NCCMH/designee, upon notification from a clinical staff member, may make a determination that disclosure of information may be detrimental to the recipient or others.

- If the CEO/designee declines to disclose information because of possible detriment to the recipient or others, then the CEO/designee shall determine whether part of the information may be released without detriment. A determination of detriment shall not be made if the benefit to the recipient from the disclosure outweighs the detriment.
- If the record of the recipient is located on-site, the CEO shall make a determination of detriment within 3 business days from the date of the request. If the record of the recipient is at another location, the CEO shall make a determination of detriment within 10 business days from the date of request.
- The CEO shall provide written notification of the determination of detriment and justification for the determination to the person who requested the information.
- If a determination of detriment has been made and the person seeking the disclosure disagrees with that decision, he or she may file a recipient rights complaint.

Information ***may*** be disclosed in one or more of the following circumstances:

- NCCMH may disclose information without the consent of the recipient or legally authorized representative in order for the recipient to apply for or receive benefits, but only if the benefits shall accrue to the provider or shall be subject to collection for liability for mental health service.
- As necessary for treatment, coordination of care, or payment for the delivery of mental health services, in accordance with the health insurance portability and accountability act of 1996, Public Law 104-191. (HIPAA)
- As necessary for the purpose of outside research, evaluation, accreditation, or statistical compilation, provided that the person who is the subject of the information can be identified only when such identification is essential in order to achieve the purpose, but in no event when the subject of the information is likely to be harmed by the identification.
- To providers of mental or other health services, or a public agency when there is a compelling need for disclosure based upon a substantial probability of harm to the recipient, or others.
- If there is a compelling need for mental health records or information to determine whether child abuse or child neglect has occurred, or to take action to protect a minor where there may be a substantial risk of harm, an MDHHS Child Protective Services' caseworker or administrator directly involved in the investigation shall notify NCCMH that an investigation has been initiated involving a person who has received services from NCCMH and shall request in writing mental health records and information that are pertinent to that investigation [Form DHS-1163-P]. Upon receipt of this notification and written request, the primary case holder will review NCCMH's records to determine if there are records or information which are pertinent to the CPS investigation. Within 14 days after receipt of the written request, NCCMH shall release those pertinent mental health records and information to the CPS caseworker or administrator directly involved in the child abuse or neglect investigation.

Information shall be provided to private physicians or psychologists appointed by the court or retained to testify in civil, criminal, or administrative proceedings as follows:

- A physician or psychologist who presents identification and a certified true copy of a court order appointing the physician or psychologist to examine a recipient for the purpose of diagnosing the recipient's present condition shall be permitted to review, on the provider's premises, a record containing information concerning the recipient. Physicians or psychologists shall be notified before the review of records when the records contain privileged communication that cannot be disclosed in court.
- The court or other entity that issues a subpoena or order and the attorney general's office, when involved, shall be informed if subpoenaed or ordered information is privileged under a provision of law. Privileged information shall not be disclosed unless disclosure is permitted because of an express waiver of privilege or because of other conditions that, by law, permit or require disclosure.

A prosecutor may be given nonprivileged information or privileged information that may be disclosed if it contains information relating to participation in proceedings under the act, including all of the following information:

- Names of witnesses to acts that support the criteria for involuntary admission
- Information relevant to alternatives to admission to a hospital or facility.
- Other information designated in the policies of the provider.

A recipient, guardian, or parent of a minor recipient, after having gained access to records, may challenge the accuracy, completeness, timeliness, or relevance of factual information in that record. That individual will be allowed to insert into the record a statement correcting or amending the information at issue and this will become a part of the recipient record.

If required by federal law, the agency shall grant a representative of the Michigan Protection and Advocacy System (MPAS) access to the records of all of the following:

- A recipient, the recipient’s guardian with authority to consent, or a minor recipient’s parent with legal custody has consented to access.
- A recipient, including a recipient who has died or whose whereabouts are unknown, if all the following apply:
    - Because of mental or physical condition, the recipient is unable to consent to the access.
    - The recipient does not have a guardian or other legal representative, or the recipient’s guardian is the state.
    - The protection and advocacy system have received a complaint on behalf of the recipient or has probable cause to believe, based on monitoring or other evidence that the recipient has been subject to abuse or neglect.
- A recipient who has a guardian or other legal representative if all of the following apply:
    - A complaint has been received by the protection and advocacy system or there is probable cause to believe the health or safety of the recipient is in serious and immediate jeopardy.
    - Upon receipt of the name and address of the recipient’s legal representative, the protection and advocacy system has contacted the representative and helped in resolving the situation.
    - The representative has failed or refused to act on behalf of the recipient.

The agency, when authorized to release information for clinical purposes by the recipient or the recipient’s guardian, or parent of a minor recipient, shall release a copy of the

entire NCCMH medical and clinical record to the provider of mental health services. Information gained from outside providers will not be released without specific consent from the recipient or person with the authority to consent.

The records, data, and knowledge collected for or by individuals or committees assigned a peer review function (including the review function under section 143a(1) of the Code) are confidential, are used only for the purpose of peer review, are not public records, and are not subject to court subpoena. This includes documents related to Risk Management such as CQI reviews and Incident Reports.

REFERENCE: Michigan Mental Health Code 330.1700, 330.1748, 330.1752
MDHHS Administrative Rule R 330.7051
Medical Records Access Act MCL 333.26269

REVIEWED: 03/24/08; 05/30/10; 07/01/13

REVISED: 08/27/07; 07/06/15; July 5, 2019

APPROVED BY SIGNATURE:

Christine Gebhard — *09/10/2019*
Chief Executive Officer — Date

Kim Rappleyea — *09/10/2019*
Director of Recipient Rights — Date

CHAPTER: Five – Member Rights
POLICY NAME: DIGNITY AND RESPECT
EFFECTIVE DATE: November 1, 2016

PURPOSE

To set policy and standards to ensure that all recipients and their family members are treated with dignity and respect. North Country Community Mental Health will promote and protect the dignity and respect to which a recipient of services is entitled.

APPLICATION

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

DEFINITIONS

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

Respect: to show deferential 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.

POLICY

- All recipients of mental health services and their family members shall be treated with dignity and respect. Treatment with dignity and respect shall be further clarified by the recipient or family member, and considered in light of the specific incident, treatment goals, safety concern, laws and standards, and what a reasonable person would expect under similar circumstances.
- Examples of treating a person with dignity and respect include but are not limited to calling a person by his or her preferred name, knocking on a closed door before entering, using positive language, encouraging the person to make choices instead of making assumptions about what he or she wants, taking the person's opinion seriously, including the person in conversations, and allowing the person to do things independently or to try new things.
- All employees, volunteers and contractual service providers shall be sensitive to conduct that is or may be deemed offensive to another person. Staff shall refrain from coarse or vulgar language in the presence of or hearing range of recipients and their family members.
- In addition to the above, showing respect for family members shall include:
    - Giving family members an opportunity to provide information to the treating professionals.
    - Providing family members an opportunity to request and receive educational information about the nature of disorders, medications and their side effects, available support services, advocacy and support groups, financial assistance and coping strategies.

REFERENCE: Michigan Mental Health Code 330.1704, 330.1708, 330.1711

REVIEWED: 03/24/08; 05/30/10; 07/01/13; June 20, 2019

REVISED: 05/31/07; 07/02/15; 06/29/16

APPROVED BY SIGNATURE:

Alexis Kaczynski — *10/20/2016*
Director — Date

Edward G. Ginop — *10/20/2016*
NCCMH Board Chair — Date

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CHAPTER: Five – Member Services
POLICY NAME: FAMILY PLANNING
EFFECTIVE DATE: September 1, 2019

PURPOSE

To establish guidelines whereby staff may provide notice and information to recipients, guardians, or parents of minor recipients, regarding sterilization, abortion, and contraception.

APPLICATION

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

POLICY

It is the policy of the Board that at the initial assessment and annually thereafter, 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. Notice to the recipient, guardian, or parent of a minor recipient will include a statement that mental health services are not contingent upon receiving family planning services.

It is the policy of the Board that family planning services are not provided by the Board, nor any of its employees.

REFERENCE: MDHHS Administrative Rule 330.7029

REVIEWED: 03/24/08; 05/30/10; 07/01/13; 06/30/15; 06/30/16

REVISED: 09/20/07; June 30, 2019

APPROVED BY SIGNATURE:

Christine Gebhard — *08/16/2019*
Chief Executive Officer — Date

Edward G. Ginop — *08/15/2019*
NCCMH Board Chair — Date

NORTH COUNTRY COMMUNITY MENTAL HEALTH
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CHAPTER: Five – Member Rights
POLICY NAME: FINGERPRINTING, PHOTOGRAPHY, AUDIO/VIDEO TAPING, USE OF ONE-WAY GLASS
EFFECTIVE DATE: January 1, 2015

PURPOSE

To establish guidelines for the fingerprinting, photographing, taping, and observing of recipients for clinical purposes.

APPLICATION

The North Country Community Mental Health Services Board, its committees, and all employees, either direct or contractual.

POLICY

It is the policy of the Board that written informed consent be obtained from a recipient, parent of a minor, or empowered guardian prior to any photographing, recording of recipient or use of 1-way glass for education, training, or other purposes that would be accessible to the general public. Prior to photographing, recording or using 1-way glass with recipients, they will be informed of the purpose, duration of use, and agency methods of safekeeping including confidentiality considerations. When these materials are no longer needed, they will either be returned to the individual or destroyed.

REFERENCE: Mental Health Code 330.724
MDHHS Administrative Rule R330.7003

REVIEWED: 03/24/08; 05/30/10; 06/30/16; July 5, 2019

REVISED: 05/31/07; 11/24/14

APPROVED BY SIGNATURE:

Alexis Kaczynski — *12/18/2014*
Director — Date

Edward G. Ginop — *12/18/2014*
NCCMH Board Chair — Date

CHAPTER: Five – Member Rights
PROCEDURE NAME: INFORMED CONSENT
EFFECTIVE DATE: September 1, 2019

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.

DEFINITIONS

Consent: A written agreement executed by a recipient, a minor recipient's parent, a recipient's legal representative with authority to execute consent, or a full or limited guardian authorized under the estates and protected individuals code (EPIC), 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.

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

Informed Consent: All of the following are elements of informed consent:

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

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 need
to know in order to make an informed decision. Other relevant information includes all of the following:

- the purpose of the procedures,
- a description of the attendant discomforts, risks, and benefits that can reasonably be expected,
- a disclosure of appropriate alternatives advantageous to the recipient,
- an offer to answer further inquiries.

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. A person with a limited guardian shall be presumed legally competent in all areas which are not specifically identified as being under the control or scope of the guardian,

Voluntariness: There shall be free power of choice without the intervention of an element of force, fraud, deceit, duress, overreaching 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.

Power of Attorney: a written document that authorizes another person to act (loco parentis) in the place of the person granting the power (parent):

Properly Executed Power of Attorney: A power of attorney document that is notarized or signed in the presence of 2 witnesses who also sign the document. The witness cannot be an individual who is providing treatment. The document must stipulate that the authority to authorize treatment extends to mental health treatment and not simply "emergency or medical treatment as deemed necessary." The power-of-attorney must also include consent for psychotropic medications if the parent is agreeable. If the document is not properly executed, it will not be accepted, however, NCCMH will provide an approved form to be filled out by the consenting parent

Recipient: An individual who receives mental health services from a community mental health program or from a provider under contract with the CMH.

PROCEDURE

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.

Guardianship proceedings will not be instituted unless there is sufficient reason to doubt the recipient's comprehension, as provided under this procedure.

When a recipient's comprehension is in doubt, justification for petitioning the probate court for guardianship consideration shall be entered in the recipient's clinical record.

NCCMH will not petition for, or otherwise cause the filing of, a petition for guardianship of greater scope than is essential.

When the recipient demonstrates that he or she is capable of providing informed consent, NCCMH staff will petition or cause a petition to be filed with the court to terminate a recipient's guardian or narrow the scope of the guardian's powers.

SERVICES TO MINORS

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.

The services provided to such a minor shall not include pregnancy termination referral nor the prescription, or administration, of psychotropic drugs.

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 substantial probability of harm to the minor recipient or another individual.

- Should such a disclosure as noted above be determined to be appropriate, the minor will be notified by the treating professional prior to disclosure.

- Services provided to a minor under this section shall, to the extent possible, promote the minor's relationship to the parent, guardian, or person in loco parentis, and shall not undermine the values that the parent, guardian or in loco parentis has sought to instill in the minor.

- Services provided to a minor as described above shall be limited to not more than 12 sessions or four months per request for services. After this period of time, the treating mental health professional shall terminate services or, with the consent of the minor, notify the parent, guardian, or person in loco to obtain consent to provide further out-patient services.

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

- This procedure does not relieve a mental health professional from his or her duty to report suspected child abuse under the child protection law. [See NCMCH Abuse and Neglect Procedure]

AUTHORITY TO CONSENT ON BEHALF OF A MINOR

The parent with legal custody of a minor has the authority to consent to mental health treatment (including psychotropic medications) for the minor if the parent's rights have not been otherwise delegated by the parent or limited by a court order with respect to medical decisions.

Pursuant to the Estates and Protected Individual's Code, a parent or guardian of a minor may delegate powers regarding care or custody of the minor to another person for a period not exceeding 180 days by means of a properly executed power of attorney [POA]. A person granted powers under a properly executed power of attorney may consent to mental health treatment but only during the effective period and only within the scope of the delegated powers.

If a parent with legal custody of a minor or a guardian of a minor with decision-making powers has voluntarily placed the minor in out-of-home care under the authority of the Michigan Social Welfare Act, pursuant to the Michigan Child Caring Organizations Act, only the parent with legal custody or the person with POA of a minor as described above has the authority to consent to mental health treatment including psychotropic medications.

If the court has taken jurisdiction of the minor either as a temporary court ward (for neglect or delinquency) or as a permanent court ward, the court will designate, by court order, the "care, custody, and control" of the minor to either the Family Division of the Circuit Court or the Department of Health and Human Services (or its designated child placing agency). In these cases, the authority to consent is as follows:

- For all wards, the authority to consent to routine, non-surgical medical care, which includes mental health treatment, but excludes psychotropic medications, rests with the court, MDHHS, or its designated child placing agency.

- For permanent court wards or MCI Wards, the authority to consent for psychotropic medications rests only with the court-appointed supervising agency.

- For temporary wards, the supervising agency must seek to obtain parental consent for psychotropic medication. If the parent with legal custody is not available, a worker from the supervising agency may sign for psychotropic medication only as a condition of admission for an emergency psychiatric hospitalization. If psychotropic drugs are prescribed for continued use upon discharge from a hospital or as a result of outpatient treatment, parental consent is required. If the parents are unavailable to give consent or refuse to consent, psychotropic medications may not be prescribed or administered to the minor unless the court has specifically granted consent.

REFERENCE: Michigan Mental Health Code 330.1707 Rights of Minor
DCH Administrate Rule R330.7003 Informed Consent
Estates and Protected Individuals Code PA 386 of 1998, MCL 700.5205, 700.5103
Michigan Social Welfare act PA 280 of 1939 MCL 400.115c; Michigan Child Caring Organizations Act PA 116 of 973, MCL 722.124a
Michigan Probate Code Act 288 of 1939, MCL 712A.1 to 712A.32
Youth Rehabilitation Services Act (PA 150 or 1973, MCL 803.303 et seq.)

APPENDIX A: Sample Power of Attorney for Minor Form

REVIEWED: 03/24/08; 07/01/13

REVISED: 05/31/07; 09/20/10; 11/09/15; July 03, 2019

APPROVED BY SIGNATURE:

Christine Gebhard — *09/10/2019*
Chief Executive Officer — Date

Kim Rappleyea — *09/10/2019*
Recipient Rights Officer — Date

Appendix A

Power of Attorney- Authorized for Use at North Country CMH

Pursuant to Michigan Compiled Laws § 700.5103

I, _____, of _____do hereby
(*Printed Name of Parent*) (*City/Town, State*)

make, constitute, and appoint _____, of
_____,
(*Printed Name of Appointee*) (*City/Town, State*)

as my true and lawful attorney in fact for me and in my name, place, and stead. I give unto said attorney full power to do and perform all duties which I have as a custodial parent and legal guardian of

_____ whose date of birth is _____, including, but
(*Printed Name of Minor Child*) (*Month/Day/ Year*)

not limited to making necessary decisions concerning the health, education, property, custody and general care of said child. This delegation includes the authority to consent to medical treatment, mental health treatment, medication (including psychotropic medication), and admission to a hospital. In accordance with MCL § 700.5103, this delegation does not include the power to consent to marriage and /or adoption.

This delegation of power will end 180 days after the date that I affix my signature below, unless revoked in writing by me before that date.

_____
(*Signature of Parent*)

_____
(*Date Signed*)

Witness 1: _____
Signature Date

Print Name: _____

Witness 2: _____
Signature Date

Print Name:
_____

Appendix A

Power of Attorney- Authorized for Use at North Country CMH

Pursuant to Michigan Compiled Laws § 700.5103

I, _____, of _____do hereby
(*Printed Name of Parent*) (*City/Town, State*)

make, constitute, and appoint _____, of
_____,
(*Printed Name of Appointee*) (*City/Town, State*)

as my true and lawful attorney in fact for me and in my name, place, and stead. I give unto said attorney full power to do and perform all duties which I have as a custodial parent and legal guardian of

_____ whose date of birth is _____,
including, but
(*Printed Name of Minor Child*) (*Month/Day/ Year*)

not limited to making necessary decisions concerning the health, education, property, custody and general care of said child. This delegation includes the authority to consent to medical treatment, mental health treatment, medication (including psychotropic medication), and admission to a hospital. In accordance with MCL § 700.5103, this delegation does not include the power to consent to marriage and /or adoption.

This delegation of power will end 180 days after the date that I affix my signature below, unless revoked in writing by me before that date.

_____
(*Signature of Parent*)

_____
(*Date Signed*)

Acknowledged before me this _____day of _____, 20

Notary Public_____

_____County

My Commission Expires: _____

NORTH COUNTRY COMMUNITY MENTAL HEALTH
ADMINISTRATIVE MANUAL

CHAPTER: Five – Member Rights
POLICY NAME: PSYCHOTROPIC AND OTHER MEDICATIONS
EFFECTIVE DATE: September 1, 2019

PURPOSE

To establish guidelines regarding the administration of psychotropic and other medications.

APPLICATION

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

DEFINITION

Psychotropic Medication: any medication administered for the treatment or amelioration of disorders of thought, mood, or behavior.

POLICY

It is the policy of North Country Community Mental Health that psychotropic medications are prescribed only when clinically appropriate in the judgment of a qualified physician and are monitored as clinically appropriate. Psychotropic medications shall be administered by the physician or designated nurse consistent with the Medication Consent Procedure.

Use of Psychotropic Medications

- Medication shall not be used as a punishment, for the convenience of staff, or as a substitute for other appropriate treatment.
- Medication shall only be administered per physician's orders.
- Before initiation of a course of psychotropic drug treatment for a recipient, the prescriber, or a licensed health professional acting under the delegated authority of the prescriber, shall do both of the following:
    - explain the specific risks and the most common adverse effects that have been associated with the drug(s); and
    - provide the individual with a written summary of the most common adverse effects associated with the drug(s).
- The administration of a psychotropic medication shall be reviewed and evaluated on a regular basis by the physician as indicated in the recipient's Individual Plan of Service and based upon the recipient's clinical status.
- Psychotropic medications shall not be administered unless the individual consents or unless administration is necessary to prevent physical injury to the individual or to others or there is a court order.
- Initial administration of psychotropic chemotherapy may not be extended beyond 48 hours unless there is consent. A provider may administer chemotherapy to prevent physical harm or injury after signed documentation of the physician is placed in the resident's clinical record, and when the actions of a recipient or other objective criterion clearly demonstrate to a physician that the recipient poses a risk of harm to himself, herself or others.
- Administration and the safe termination of psychotropic medications will comply with established federal standards and the standards of the medical community and shall be as short as possible and at the lowest dosage possible that is

therapeutically effective. The chemotherapy shall be terminated as soon as there is little likelihood that the recipient will pose a risk of harm to himself, herself, or others.

- Documentation of medication administration will be developed by the provider and placed in the recipient's clinical record. Medication errors and adverse reactions to medications shall be reported immediately to the appropriate health care professional and documented in an Incident Report and in the recipient's clinical record.
- If a recipient is unable to administer his or her medication the provider will ensure that medication is administered by, or under the supervision of, personnel who are qualified and trained in medication administration.

A provider shall ensure that only medication that is authorized in writing by a physician is given to recipients upon his or her leave or discharge from the providers program and that enough medication (at least 30 days for NCCMH prescriptions) is made available to ensure the recipient has an adequate supply until he or she can become established with another provider.

REFERENCE: Michigan Mental Health Code 330.1718, 330.1719
MDHHS Administrative Rule R330.7158

REVIEWED: 03/24/08; 05/30/10; 07/01/13; 07/06/15; 07/05/19

REVISED: 06/05/07; August 7, 2019

APPROVED BY SIGNATURE:

Christine Gebhard	*08/16/2019*
Chief Executive Officer	Date
Edward G. Ginop	*08/15/2019*
NCCMH Board Chair	Date

NORTH COUNTRY COMMUNITY MENTAL HEALTH
ADMINISTRATIVE MANUAL

CHAPTER: Five – Recipient Rights
POLICY NAME: RECIPIENT RIGHTS SYSTEM
EFFECTIVE DATE: September 1, 2019

PURPOSE

To establish a Community Mental Health Recipient Rights System with policies and procedures for reporting, investigating, and documenting apparent or suspected violations of recipient rights, and complaints as required by the Michigan Mental Health Code, and to ensure that remedial action is taken when those apparent violations have been substantiated. To ensure that all service sites are monitored annually and that all staff are trained in recipient rights within 30 days of hire.

APPLICATION

This policy shall apply to North Country Community Mental Health and any individual, entity, or contractor providing services to North Country Community Mental Health recipients.

POLICY

North Country shall institute and provide an Office of Recipient Rights for community mental health programs and contracted agencies subordinate only to the Chief Executive Officer of North Country Community Mental Health. This office will endeavor:

- To provide a simple mechanism for recipients and others to report any alleged violations of recipient rights, and to ensure the prompt reporting, investigation and resolution of such alleged violations.
- To provide a system based on a preponderance of evidence for determining whether, in fact, violations occurred.
- To ensure that firm, fair, and appropriate action is taken in the event of a substantiated violation of recipient rights.
- To ensure that individuals filing complaints of alleged violations are informed of:
    - The process and results of the investigation.
    - Any remedial action taken as a result of the complaint.
    - Their opportunity to appeal if dissatisfied with either the complaint determination or remedial action.
- To safeguard the rights of recipients in a manner which does not violate employee rights.

STANDARDS

The NCCMH Board and Chief Executive Officer shall:

- Prepare a job description for the NCCMH Director of the Office of Recipient Rights. The Director must have the education, training, and experience to fulfill the responsibilities of the office.
- Appoint a Recipient Rights Advisory Committee (RRAC) consisting of at least six members. The membership of the committee shall be broadly based so as to represent the varied perspectives of the six-county service area. At least 1/3 of the membership shall be primary recipients or family members, and of that at least one half shall be primary recipients. Members can represent more than one of these categories. None of the members shall be employed by NCCMH or MDHHS. The RRAC shall also serve as the Recipient Rights Appeals Committee.

- Adopt and implement all applicable MDHHS Rights Policies and Procedures.

The Recipient Rights Advisory Committee shall do all of the following:

- Meet at least semiannually, or as necessary to carry out its responsibilities both to the NCCMH Office of Recipient Rights and its function as the appeals committee.
- Hold a meeting only if a quorum exists. A quorum shall consist of no less than one half of the members appointed and serving.
- If the position of the chair of the RRAC/Appeals committee becomes vacant, the committee will elect a new chair. The vote shall be by a majority of the committee members present. Any member may nominate any other member including himself/herself for office.
- Maintain a list of current members, which shall be available upon request.
- Maintain a list of membership categories (without names), which shall be available upon request.
- Protect the Office of Recipient Rights from pressures that could interfere with the impartial, evenhanded, and thorough performance of its functions.
- Recommend candidates for the position of Rights Officer and consult with the Chief Executive Officer of NCCMH regarding any proposed dismissal of the Rights Officer.
- Serve in an advisory capacity to the Chief Executive Officer and the Rights Officer.
- Review and provide comments on the annual report submitted by the Chief Executive Officer to the NCCMH Board, as required by PA 290, Sec. 755 (6).
- Review the funding, resources and staffing of the recipient rights office.
- Conduct its meetings in accordance with the Open Meetings Act, keeping and maintaining minutes of those meetings, which shall be available upon request. The Appeals Committee meeting minutes will be kept separate from the Advisory Committee minutes and will comply with statutory rules and functions.
- In consultation with the Director of the Office of Recipient Rights, develop and recommend official rights policies to the NCCMH Board.

The Director of the Office of Recipient Rights shall:

- Assume direct responsibilities for rights protection duties at NCCMH and all contracted providers.
- Possess the following qualifications:
    - A degree or equivalent experience in the social sciences or related field that will equip him/her for this role.
    - Experience related to community organization, law, social work, counseling, education or other work dealing with human relations.
    - Personal qualities suited to this role and a commitment to the fundamental objective of safeguarding the rights of recipients.
    - MDHHS-ORR training as required.
- Be subordinate only to the Chief Executive Officer of NCCMH.
- Not have any direct clinical service responsibility.

The Director of the Office of Recipient Rights shall:

- Ensure that all contracted service providers receive and maintain appropriate resource materials, including a copy of the Mental Health Code, MDHHS Administrative Rules, rights information pamphlets, and copies of the North Country CMH policies and procedures on recipient rights.
- Visit each unit of service annually in collaboration with the NCCMH Safety Officer, to complete and document a site review according to NCCMH policy.
- Be available to recipients and staff and others to address rights issues and offer consultation.

- Investigate all code-protected allegations of violations of rights as outlined in the Complaint Process of this policy.
- Review incident reports to determine if they involve possible violations of recipient rights.
- Make an independent determination of whether an allegation is substantiated, or unsubstantiated using the standard of a preponderance of evidence as criteria.
- Recommend remedial action to the appropriate respondent when an allegation is substantiated.
- Attend any agency meetings where clarification of rights related issues may prevent a violation of recipient rights.
- Attend the Behavior Treatment Committee as non-voting (ex-officio) member to provide consultation regarding the restriction or limitation of a recipient's rights.
- Ensure that all recipients, upon acceptance for service, and all potential recipients, parents of minors, and guardians, receive a written summary of rights (MDHHS "Your Rights" booklet), including the name, address, and phone number of the NCCMH Rights Officer. This summary shall inform the recipient that information, consultation, and appeal processes are available from MDHHS. This shall be documented in the case record. Additionally, the rights system shall be verbally explained to the recipient. Special provisions shall be made to inform the recipient of their rights and the rights protection system in a manner which ensures the greatest comprehension.
- Ensure that all recipients, parents of minors, guardians and others have ready access to complaint forms.
- Assist recipients or other individuals with the complaint process as necessary.
- Advise the recipient or other individual that there are advocacy organizations available to assist in preparation of a written rights complaint and offer to make a referral. In the absence of assistance from advocacy organizations, the rights office will assist in preparing a written complaint.

TRAINING

- Recipient Rights staff will attend and successfully complete the MDHHS- ORR Basic Skills Training Programs within three months of hire. Staff of the Office of Recipient Rights will complete training annually in recipient rights protection.
- Staff of the ORR will comply with the continuing education requirements as identified in the MDHHS contract attachment [CMHSP 6.3.2.3(A)].
- Every three (3) years after the completion of Basic Skills, the recipient rights staff will accrue 36 Continuing Education Unit (CEU's) in the following categories as defined and approved by MDHHS-ORR:
    - Category I: Operations
    - Category II: Legal Foundations
    - Category III: Leadership
    - Category IV: Augmented Training

  A minimum of twelve (12) CEU's must be obtained in programs classified as Category I or II.
- Staff must acquire at least (3) CEU's in the categories listed above, each calendar year.
- The recipient rights office shall provide training for the Recipient Rights Advisory/Appeals Committee, the Board and other staff, as necessary, to implement policies and procedures for the protection of recipient rights.
- The recipient rights office shall provide recipient rights orientation training to all staff members of NCCMH and contracted providers in accordance with MDHHS/ CMHSP Contract Attachment C6.3.2.3B. The sessions will be held often enough to ensure that all new employees are trained in recipient rights within 30 days of hire.

- Recipient Rights training will be accepted from another CMH's rights office, if it was taken within 3 years prior to application for hire and there is documented proof of attendance.

The Chief Executive Officer shall:

- Meet regularly with the Rights Officer to discuss any substantiated violations, implementation of remedial action, and prevention activities.
- Take firm and fair disciplinary action, and appropriate remedial action, when a right has been violated and will ensure that any contracted agency has initiated and followed through with disciplinary action.
- Accept the preponderance of evidence standard as the standard of proof in deciding employee disciplinary action when a right has been violated.
- Ensure non-retaliation and protection from harassment to all Rights Staff and any individual involved in the filing of a rights complaint and ensure that appropriate disciplinary action is taken if there is evidence of such harassment or retaliation.
- Ensure that in the absence of the Recipient Rights Officer, the Recipient Rights Specialist or an alternate is available.
- Ensure that the Rights office has unimpeded access to all directly operated or contractual programs and services; to all staff employed by such entities; and to all resources and evidence necessary to conduct a thorough investigation, or fulfill a rights monitoring function.
- Ensure that all contracts between the agency and other providers of service specify the following:
    - that the contractual provider and staff receive recipient rights training within 30 days of hire,
    - that the contractor agrees to follow all North Country rights policies, standards, and procedures,
    - that the North Country Rights Office shall have unimpeded access to the contractor's site and staff for the purposes of investigation or monitoring,
    - that the rights office, advisor and alternate of those service providers allowed/required by contract to establish their own rights system have no direct service responsibilities, is regularly accessible to recipients of that unit of service and has no other duties in conflict with rights protection activities; and shall attend MDHHS-ORR Basic Skills Training Programs within 3 months of hire and comply with the continuing education requirements identified in the MDHHS/CMHSP contract [6.3.2.3 (A)].
    - the recipient rights contact information poster must be posted at every service site in areas accessible by both recipients and staff
- Ensure that all employees cooperate in recipient rights investigations.

COMPLAINT PROCESS

Whenever a violation of recipient rights is alleged or suspected, the Rights Office shall be notified, and a report shall be filed on a rights complaint form containing a statement of the allegation, the right allegedly violated, and the outcome desired by the complainant in accordance with the following procedure.

- When a recipient rights complaint is received, or when a recipient informs any staff person of their desire to file a complaint, the staff person will:
    - Assist the individual in the preparing and filing of a written complaint, if necessary.

  The receiving staff person shall forward the written complaint to the Rights Office no later than the end of the work day.
- Upon receipt of a complaint, the Rights Office shall:
    - Accurately record receipt of the complaint in the electronic health record.

    - Acknowledge receipt of the complaint by mailing a notice within five (5) business days to the complainant with a copy of the complaint.
    - Notify the complainant, within five (5) business days, if no investigation is warranted.
    - the complainant of alternative means of problem resolution, including:
        - Meetings with agency staff.
        - Other advocacy alternatives.
        - Mediation after the investigative report is complete [per MHC sec. 788.]
- If the complaint is outside the jurisdiction of the ORR, the complainant will be informed of any referrals made to other sources or agencies.
- Refer any complaint regarding the conduct of the Chief Executive Officer to MDHHS-ORR, or another CMHSP-ORR, for investigation as determined by the Board.
- The Rights Office may utilize an "intervention" in lieu of a full initial investigation if appropriate.
- **"Intervention"** means: To act on behalf of a recipient to resolve a complaint alleging a violation of a code protected right when the facts are clear and the remedy, if applicable, is clear, easily obtainable within 30 days, and does not involve statutorily required disciplinary action. Interventions, at a minimum, must contain the following elements:
    - the specific action taken by the ORR, on behalf of the complainant to resolve the complaint,
    - identification of the code protected right,
    - a statement indicating whether the allegation of a rights violation is substantiated or not substantiated.
    - Additionally, if the allegation is substantiated, the specific remedial action taken is identified.
- The Rights Office shall initiate investigations of apparent or suspected rights violations in a timely and efficient manner. Subject to delays involving pending action by external agencies (MDHHS, LARA, law enforcement), the office shall complete the investigation not later than 90 days after it receives the rights complaint. All complaints alleging abuse, neglect, serious injury, or when a rights violation is apparent or suspected in a death shall be investigated immediately.
- "Investigation" means: A detailed inquiry into and systematic examination of an allegation raised in a rights complaint, as outlined in the MHC 330.1778.
- A notice of complaint status will be sent every 30 days to the complainant, respondent, and NCCMH CEO.
    - The thirty (30) day status reports shall contain the allegations, issues, citations, progress of the investigation, and anticipated completion date.
    - Any amendments to the complaint or withdrawals of the complaint shall be noted.
- A record of investigational activities will be recorded in each rights complaint file.
- Upon completion of the investigation, the Rights Office shall issue a written investigative report containing a statement of the allegations; statement of the issues involved; citations to relevant provisions of applicable laws, rules, policies and guidelines; investigative findings, conclusions, and recommendations (if any) to the Chief Executive Officer of NCCMH and to the respondent.
- Upon receipt of the investigative report, and if remedial action or disciplinary action is recommended, the respondent shall take appropriate remedial action that meets the following requirements:
    - Corrects or remedies the violation.
    - Implements corrective action in a timely manner.
    - Attempts to prevent a reoccurrence of the rights violation.

- NCCMH and each service provider will ensure that appropriate disciplinary action is taken against those who have engaged in abuse, neglect or retaliation/harassment. They will also ensure that administrative action is taken if a staff member has failed to report an apparent or suspected violation of recipient rights.
- The respondent will provide written documentation of the remedial actions, which will become part of the rights office investigative record. The Rights Office shall ensure that the responsible agency and/or provider has followed through with the action and provided written verification of the action taken.
- Upon receipt of the investigative report, the NCCMH Chief Executive Officer shall respond to the complainant, and the recipient if different than the complainant, guardian or parent in the case of a minor, within ten (10) business days, providing them with a summary report containing:
    - A statement of the allegations; statement of the issues involved; citations to relevant provisions of applicable laws, rules, policies, and guidelines; a summary of the investigative findings, conclusions, recommendations if any action (or plan of action) to be taken by the respondent to correct substantiated violations The summary shall contain information describing the potential appellants' right to appeal, timeframes and grounds for making an appeal and process for filing an appeal.
    - Information contained in the summary report shall be provided within the constraints of MHC 748 and 750 and protect the rights of staff pursuant to PA 397 of 1978,(ex. Bullard Plawecki Employee Right to Know Act.)
        - Records compiled in the course of investigating an alleged rights violation shall be retained by rights staff, maintained independent of recipient case records, and shall be subject to confidentiality safeguards as noted in Public Act 258, Section 748.
        - Whenever an employee is specifically named as a participant in an alleged violation of recipient rights, the employee shall be advised that the complaint has been filed, informed of the nature of the allegation, and afforded the opportunity to provide information concerning the alleged rights violation.
        - If the Summary Report includes a 'Plan of Action', written notice will be issued to the potential appellants upon completion of the plan. If the action taken was different than the plan, the notice will include the action that was taken and date it occurred as well as the right to appeal on action only.

APPEAL PROCESS

NCCMH will adhere to the MDHHS/CMHSP contract attachment C6.3.2.4 for the technical requirements of the appeal process (see appendix A).

A complainant, recipient, guardian or parent, in the case of a minor, may file an appeal regarding a recipient rights complaint report no later than 45 calendar days after receipt of the summary report.

- When such an appeal is received, the NCCMH Office of Recipient Rights shall:
    - Advise the individual of other advocacy agencies who may be able to assist in the filing of an appeal and offer to make a referral.
    - In the absence of assistance from an advocacy organization, assist the individual in meeting the procedural requirements of a written appeal.
    - Inform the individual of local mediation options regarding the appeal.
- An appeal shall be based on one of the following grounds:

    - That the investigative findings are not consistent with the facts or with law, rules, policies, or guidelines.
    - That the action taken, or proposed, by the respondent does not provide an adequate remedy.
    - That the investigation was not initiated or completed in a timely manner.
- Upon receipt of the written appeal, the NCCMH Office of Recipient Rights shall:
    - Schedule a review of the appeal by the NCCMH Recipient Rights Appeals Committee within five (5) business days to determine if the appeal meets criteria.
    - Inform the individual, in writing and within seven (7) business days, whether the appeal has been accepted or denied, and the grounds for any denial.
    - Schedule an appeal hearing for any accepted appeal within thirty (30) calendar days; providing, within five (5) business days, a copy of the appeal to both the respondent and NCCMH.
    - Ensure that any member of the committee who has a personal or professional relationship with an individual involved in the appeal abstains from participation in the process.
- The appeals committee, upon meeting to hear the matter, shall do one of the following and shall document its decision and justification in writing and provide copies of that decision to the respondent, appellant, recipient if different than the appellant, recipient's guardian if one has been appointed, the NCCMH and the rights office within ten (10) business days after reaching its decision.
    - **Uphold the findings of the NCCMH-Office of Recipient Rights including the plan for actual or proposed remedial action.** The written decision will inform the appellant that they may, within 45 calendar days, file a written Level 2 Appeal of this decision with MDHHS. Grounds for appeal are based on the record established in the previous appeal and the allegation that the investigative findings of the local Office of Recipient Rights were not consistent with the facts, law, rules, policies, or guidelines when the decision is upheld.
    - **Request that the CMH-Office of Recipient Rights reopen and reinvestigate the matter adhering to all required investigative reporting requirements**. The Report of Investigative Findings will be sent to the Chief Executive Officer within 45 days. With a showing of good cause by the ORR, the Appeals Committee may extend the investigative time frame to no more than 90 days. The CEO will issue a Summary Report within ten (10) business days of receipt of the investigative report. The CEO's Summary will include a statement of the appellant's right to a Level 2 appeal within 45 days from the receipt of the decision. Grounds for appeal are that the investigative findings of the local Office of Recipient Rights were not consistent with the facts, law, rules, policies, or guidelines *when the complaint remains unsubstantiated.* OR
    - If the complaint is *substantiated*, the CEO's Summary will include a statement of the appellant's right to appeal to the NCCMH Appeals Committee within 45 days. Ground for appeal is that the action taken, or plan of action proposed does not provide an adequate remedy.
    - **Uphold the investigative findings of the CMH-Office of Recipient Rights but make recommendations to the respondent regarding additional, or different, remedial action to correct the violation.** Within thirty (30) calendar days, the respondent shall provide written notice to the Appeals Committee that the action has been taken care of or justification as to why it was not taken. The written notice shall also be sent to the appellant, recipient if different than appellant, guardian if any, NCCMH if different than the respondent and the ORR. If the action

taken by the respondent is determined by the Appeals Committee and/or the appellant still to be inadequate to remedy the violation, the appellant shall be informed by the Appeals Committee of his/her right to file a recipient rights complaint against NCCMH or the Chief Executive Officer.

- **Recommend that the Board requests an external investigation performed by the MDHHS Office of Recipient Rights.** The Board may make its request to MDHHS-ORR, in writing, within five (5) business days of receipt of the request from the Appeals Committee. Within (ten) 10 business days of receipt of the investigative report from MDHHS-ORR, the Chief Executive Officer shall issue a Summary Report and notice of appeal rights.
- **Recommend that the Chief Executive Officer address the root cause of the lack of timeliness with the investigating rights staff if the Appeals Committee confirms that the investigation was not initiated or completed in a timely manner.**

RETALIATION AND HARASSMENT

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.

- If a recipient, an NCCMH staff member or a contracted provider staff member is the subject of retaliation or harassment by an employee, volunteer, or agent, because of participation in recipient rights activities, the Office of Recipient Rights will investigate the alleged rights violation.
- If a staff member of the ORR is the subject of retaliation or harassment by an NCCMH employee, the matter will be referred to the Chief Executive Officer of NCCMH and to the Manager of Human Resources.
- If a staff member of the ORR is the subject of retaliation or harassment by a staff member of a contracted provider, an ORR staff member that is not involved in the complaint will complete an investigation and make a recommendation to the NCCMH Chief Executive Officer and the Contract Manager.
- If a staff member of the ORR is the subject of retaliation or harassment by the NCCMH Chief Executive Officer, the Board will refer the allegation to another CMH's ORR or MDHHS-ORR for investigation.

REFERENCE: Michigan Mental Health Code, Chapter Seven
MDHHS Administrative Rules
CARF Behavioral Health Standards Manual
MDHHS/ CMHSP Contract Attachment C6.3.2.3A CEU's for Rights Staff
MDHHS/ CMHSP Contract Attachment C63.2.3B RR Training Standards
APPENDIX A: MDHHS/CMHSP Contract attachment C6.3.2.4 Appeals

REVIEWED: 03/24/08; 08/01/15

REVISED: 09/01/03; 08/13/07; 09/18/10; 06/29/16; June 18, 2019

APPROVED BY SIGNATURE:

Christine Gebhard	*08/16/2019*
Chief Executive Officer	Date
Edward G. Ginop	*08/15/2019*
NCCMH Board Chair	Date

TECHNICAL REQUIREMENT
RECIPIENT RIGHTS APPEAL PROCESS

I. Background

Chapter 7A of the Michigan Mental Health Code, PA 258 of 1974 as amended, establishes the right of public mental health service recipients, or someone on their behalf, to file complaints alleging a violation of rights guaranteed by Chapter 7 of the Code. Chapter 7A also assures that an appeal can be made regarding the findings, remedial action, or timeliness of the complaint investigation. The purpose of this technical requirement is to establish a process for handling these appeals to assure all recipients, and those acting on their behalf, receive procedural due process, including its essential elements of notice and opportunity to be heard by a fair and impartial decision-making entity.

II. Definitions

A. Appeals Committee:
A committee appointed by the Michigan Department of Health and Human Services (MDHHS) Director, by the board of a Community Mental Health Services program (CMHSP), or by the governing board of a licensed private psychiatric hospital/unit (LPH/U).

B. **Appellant:** The complainant, the recipient (if someone filed on the recipient's behalf), or the legal guardian of the recipient (if any), who seeks review by an appeals committee or the MDHHS pursuant to sections 330.1784 and 330.1786 of the Code.

C. **Complainant:** The individual who files a recipient rights complaint.

D. Grounds for appeal:
i. The investigative findings of the office are not consistent with the facts or with law, rules, policies or guidelines
ii. The action taken, or plan of action proposed, by the respondent does not provide an adequate remedy
iii. An investigation was not initiated or completed on a timely basis

E. **Intervention:** To act on behalf of a recipient to resolve a complaint alleging a violation of a code protected right when the facts are clear and the remedy, if applicable, is clear, easily obtainable within 30 days, and does not involve statutorily required disciplinary action. Interventions, at a minimum, must contain the following elements: the specific action taken by ORR, on behalf of the complainant, to resolve the complaint, identification of the code protected right, a statement indicating whether the allegation of a rights violation is substantiated or not substantiated. Additionally, if the allegation is substantiated, the specific identified.

F. **Investigation:** A detailed inquiry into and systematic examination of an allegation raised in a rights complaint, as outlined in 330.1778 of PA 258 of 1974

G. **Legal Guardian:** A judicially appointed guardian or parent who has legal custody of a minor recipient.

H. **Office:** Any of the following:
   i. With respect to a rights complaint involving services provided directly by the MDHHS, the MDHHS Office of Recipient Rights created under section 330.1754 of the Code.
   ii. With respect to a rights complaint involving services provided directly or under contract to a community mental health services program, the Office of Recipient Rights created by the community mental health services program under section 330.1755 of the Code.
   iii. With respect to a rights complaint involving services provided directly or under contract to a licensed private psychiatric hospital/unit, the Office of Recipient Rights created by the licensed hospital under section 330.1755 of the Code.

I. **Respondent:** The service provider that had responsibility at the time of an alleged rights violation for the services with respect to which a rights complaint has been filed.

J. **Responsible Mental Health Agency (RMHA):** The hospital, center, or community mental health services program that has primary responsibility for the recipient's care or for the delivery of services or supports to that recipient.

III. Procedure – Local Appeals Committee

A. Jurisdiction
An appeal shall be reviewed by the committee designated by the governing body. The appeals committee of a CMHSP shall have jurisdiction over their recipients placed for treatment in an LPH/U. For non-CMHSP recipients, the LPH/U, may appoint its own Appeals Committee in compliance with section 330.1774(4)(a) of the Code or, by agreement with MDHHS, designate the MDHHS Appeals Committee to hear appeals against the LPH/U under section 330.1774(4)(b) of the Code.

B. Training
The Office of Recipient Rights with the MDHHS, a CMHSP, or an LPH/U shall assure that training is provided to the Appeals Committee, as required by Section 330.1755(2)(a) of the Code. Topics shall include the following:
   - Categories of rights violations
   - The complaint investigation process
   - Types and weighing of evidence
   - Explanation of the preponderance of the evidence standard used by the rights office in determining whether a rights violation has occurred
   - Statutory definition of “appropriate remedial action”
   - Agency disciplinary guidelines
   - Agency policy/procedures on the appeal process and functions of the Appeals Committee

C. Notice of Right to Appeal
Every complainant, recipient (if different than the complainant) and the recipient’s legal guardian (if one has been appointed) shall be informed in the Summary Report issued by the executive director of a CMHSP the right to appeal to the designated Appeals Committee. Notice shall include the address for filing the appeal, the grounds for appeal as stated in section 330.1784(2) of the Mental Health Code, the time frame for submission of the appeal, information on advocacy organizations that may assist with filing the written appeal, and, in the absence of assistance from an advocacy organization, an offer of assistance by the Office of Recipient Rights.

D. Notification when the Summary Report Contains a Plan of Action

A Summary Report which contains a plan of action shall indicate a date the action is to be completed. The MDHHS facility director, CMHSP executive director or director of the LPH/U shall assure that the complainant, recipient (if different than the complainant), the recipient's legal guardian, (if any), and the office are provided written notice that the action described in the plan has been completed. If the action taken differs from the original plan, a description of that action shall be provided.

E. Time Frame
Not later than 45 calendar days after receipt of the Summary Report, or 45 days from the mailing of a notice regarding the action that was taken when the Summary Report provided only a plan of action, the appellant may file a written appeal with the Appeals Committee having jurisdiction to act upon it. The only ground for appeal of a notice of action taken is that the action failed to provide adequate remedy.

F. Preliminary Review
Within 5 business days of receipt of the request for appeal, members of the appeals committee shall review the request for appeal to determine if the appellant has standing to appeal and if the appeal request meets the timeframe and grounds. This review may be conducted by the full Committee, or by a subcommittee consisting of at least two committee members designated by the full Committee to fulfill this responsibility. The Committee shall maintain a log of all appeals received and the disposition of each.

G. Notice of Preliminary Review Decision
Within 7 business days of receipt of the request for appeal, written notice that the appeal has been accepted, or rejected, shall be provided to the appellant and a copy of the appeal shall be provided to the respondent, the RMHA, and the Rights Office. A notice of rejection shall describe the reason for not accepting the request for appeal.

H. Committee Appeal Review
No later than 30 calendar days after receipt of a written appeal the Appeals Committee shall meet in closed session to review the facts as stated in all complaint investigation documents in light of the reason for appeal. The Committee shall not consider allegations that were not part of the original complaint but shall inform appellant of his/her right to file a complaint with the office. Upon completion of their review, the Appeals Committee shall do one of the following:

i. Uphold the investigative findings of the office and the action taken or plan of action proposed by the respondent; OR
ii. If the appeal concerns the investigative findings of the office, either:
    a. Return the investigation to the office and direct that it be reopened or reinvestigated, or
    b. Recommend that the board (CMHSP) or governing body (LPH/U) request an external investigation by the state Office of Recipient Rights.
iii. If the appeal concerns the action taken, directs that the respondent takes additional, or different, action to remedy the violation. The Appeals Committee shall base its determination upon any or all of the following as required by Sec 1780 of the MHC.
    a. Action taken or proposed did not correct or remedy the rights violation.
    b. Action taken or proposed was/will not be taken in a timely manner.
    c. Action taken or proposed did not/will not prevent a future recurrence of the violation.

Written notice of this direction for additional or different action to be taken by the respondent shall also be provided to the RMHA, if different than the respondent and the office.

iv. If the appeal concerns the timeliness of the investigation and the Committee confirms that the investigation was not initiated or completed in a timely manner, recommend that the MDHHS-ORR director, executive director of the CMHSP or director of the LPH/U address the root cause of the lack of timeliness with their Rights Advisor.

I. Recusal

Any member of an Appeals Committee who has a personal or professional relationship with an individual involved in the appeal shall abstain from participating in that appeal.

J. Decision

The Appeals Committee shall document its decision in writing within 10 working days following the decision and shall provide copies of such to the respondent, appellant, recipient (if different than appellant), the recipient's legal guardian (if any), the RMHA and the office. Documentation shall include justification for the decision made by the Committee.

IV. Subsequent Action

A. If the Appeals Committee directs that the office reopens or reinvestigate the complaint, the office shall submit another investigative report in compliance with section 330.1778(5) within 45 calendar days of receipt of the written decision of the Committee to the CMHSP executive director. The 45 calendar day time frame may be extended at the discretion of the Appeals Committee upon a showing of good cause by the office. At no time shall the time frame exceed 90 days.

B. Within 10 business days of receipt of the reinvestigate report, the executive director of the CMHSP shall issue new Summary Report in compliance with section 330.1782. The Summary Report shall be submitted to the appellant, recipient if different than the appellant, the recipient's legal guardian, if any, the office and the Appeals Committee. If the Summary Report indicates the decision in the case remains unsubstantiated, the Summary Report shall contain information regarding the appellant's right to further appeal, the time frame for the appeal and the ground for appeal. The report shall also inform the appellant of advocacy organizations that may assist in filing the written appeal or, in the absence of an advocacy organization, offer the assistance of the office.

C. If, upon review, the Committee feels that the reinvestigated results in the Report of Investigative Findings is still inadequate, the Committee shall inform the appellant of the ability to further appeal to Level 2.

D. If the reinvestigation results in the substantiation of a previously unsubstantiated rights violation but the appellant disagrees with the adequacy of the action or plan of action proposed by the respondent, the appellant may file an appeal on such grounds with the local Appeals Committee. The Summary Report shall inform the appellant of this right as well as provide further information as stated in II C above

E. If the Appeals Committee directs that the respondent take additional or different action, that direction shall be based on the fact that the action taken was not in compliance with section 330.1780 of the Code.

F. Within 30 calendar days of receipt of the determination from the Appeals Committee, respondent shall provide written notice to the Appeals Committee that the action has been taken or justification as to why it was not taken. The written notice shall also be sent to the appellant, recipient if different than appellant, the recipient's legal guardian, if any, the RMHA if different than the respondent, and the office.

G. If the action taken by the respondent is determined by the Appeals Committee and/or the appellant still to be inadequate to remedy the violation, the appellant shall be informed by the Appeals Committee of his/her right to file a recipient rights complaint against the RMHA, i.e., MDHHS facility director, executive director of a CMHSP or the director of an LPH/U for violation of section 330.1754(3)(c) or 330.1755(3)(b) of the Code.

H. If the Appeals Committee recommends that the board or governing body of the CMHSP, request an external investigation by MDHHS-Office of Recipient Rights, the Board of Directors may make the request to MDHHS-ORR, in writing, within 5 business days of receipt of the request from the Appeals Committee.
    i. Within 10 business days of receipt of the investigative report from MDHHS-ORR, the executive director of the CMHSP, or the director of the LPH/U, shall issue a Summary Report in compliance with section 330.1782. The Summary Report shall be submitted to the appellant, recipient if different than the appellant, the recipient's legal guardian, if any, the office and the Appeals Committee.
    ii. The complainant, recipient if different than the complainant, and the recipient's legal guardian, if any, shall be informed in the Summary Report issued by the executive director of a CMHSP or the director of an LPH/U of the right to appeal to the MDHHS Appeals Committee. Notice shall include information on the grounds for appeal as stated in section 330.1784(2), the time frame for submission of the appeal, advocacy organizations that may assist with filing the written appeal, and an offer of assistance by the Office of Recipient Rights in the absence of assistance from an advocacy organization.
    iii. Not later than 45 calendar days after receipt of the Summary Report, the appellant may file a written appeal with the MDHHS Appeals Committee.

V. Level 2 Appeals

A. Grounds and Timeframe
An appeal to Level 2 Appeals may be made only if the original appeal was based on the question of whether the investigative findings of the office were inconsistent with the facts or with law, rules, policies or guidelines; and 1) only after a decision to uphold the findings has been made on the original appeal by the local Appeals Committee or, 2) when upon reinvestigation by ORR at the request of the local appeals committee, the findings of the office remain unsubstantiated. Within 45 calendar days after receiving written notice of the decision of the Appeals Committee or the Summary Report from MDHHS-ORR the appellant may file a written appeal with Level 2 Appeals. The appeal shall be mailed to:

Level 2 ORR Appeal
MDHHS-Appeals
PO Box 30807
Lansing, MI 48909
FAX: (517) 241-7973

B. Written Notice
Upon receipt of the appeal, Level 2 Appeals shall give written notice of the receipt to the respondent, local Office of Recipient Rights holding the record of the complaint and the CMHSP Director.

C. Review
The respondent, local office holding the record of the complaint, and the CMHSP shall ensure that Level 2 Appeals has access to all necessary documentation and other evidence cited in the complaint and local appeal. Level 2 Appeals shall review the record generated by the local appeal. Level 2 Appeal shall not consider additional evidence or information that was not available during the local appeal.

D. Level 2 Action
   i. Within 30 calendar days after receiving the appeal, Level 2 Appeals shall review the appeal and do one of the following:
      a. Uphold the findings of the office.
      b. Affirm the decision of the Appeals Committee.
      c. Return the matter to the director of the department's Office of Recipient Rights, the executive director of the CMHSP or the director of the LPH/U with instruction for additional investigation or consideration.
   ii. Level 2 Appeals shall provide copies of its action to the respondent, the appellant, recipient if different than appellant, the recipient's legal guardian, if any, the board of a CMHSP, the governing body of the LPH/U and the local Office of Recipient Rights holding the record. If the appeal involves the findings of a MDHHS-ORR rights advisor, the MDHHS-ORR director shall also be provided copies of the action.
   iii. If Level 2 Appeals upholds the findings of the office, notice shall be provided to the appellant of his/her legal right to seek redress through the circuit court.
   iv. If Level 2 Appeals instructs that additional investigation be conducted, the director of MDHHS-ORR, the executive director of the CMHSP or the director of the LPH/U shall assure that such investigation is completed in a fair and impartial manner within 45 calendar days of his/her receipt of the written notice from MDHHS-APPEALS. The 45 calendar day time frame may be extended at the department's discretion upon a showing of good cause by the CMHSP executive director. At no time shall the time frame exceed 90 calendar days. In cases of re-investigation by MDHHS-ORR, the director of that office shall be responsible for the submission of the investigative report to the appropriate MDHHS facility director.

E. Subsequent Action
   i. Within 10 business days of the receipt of the investigative report, executive director of the CMHSP, shall issue a Summary Report in compliance with section 330.1782 of the Code to the department, appellant, recipient if different than appellant and the recipient's legal representative, if any.
   ii. If the findings of the additional investigation remain the same as those appealed, the department shall inform appellant, recipient (if different than appellant) and the recipient's legal guardian, if any, in writing of the right to seek redress through the circuit court. Copies of this notice will be provided to the:
      a. MDHHS Bureau of Community Based Services (if the investigation was conducted by a CMHSP)
      b. Michigan Department of Licensing & Regulatory Affairs, Bureau of Community and Health Systems (if the investigation was conducted by an LPH).

If the additional investigation results in the substantiation of previously unsubstantiated violation, but the appellant disagrees with the adequacy of the action taken, or plan of action proposed to remedy the violation, the department shall inform the individual(s) of the right to appeal this to the local Appeals Committee.

NORTH COUNTRY COMMUNITY MENTAL HEALTH
ADMINISTRATIVE MANUAL

CHAPTER: Five – Member Rights
POLICY NAME: RELIGIOUS WORSHIP AND TREATMENT BY SPIRITUAL MEANS
EFFECTIVE DATE: September 1, 2019

PURPOSE

To establish guidelines allowing for religious freedom with regard to worship, religious activities, and treatment by spiritual means.

APPLICATION

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

DEFINITION

Treatment by Spiritual Means encompasses a spiritual discipline or school of thought upon which a recipient wishes to rely to aid physical or mental recovery.

POLICY

A recipient shall be permitted access to religious services and worship on a nondiscriminatory basis.

A recipient shall not be coerced into engaging in religious activity.

Recipients shall be permitted treatment by spiritual means upon the request of the recipient, a guardian, if any, or parent of a minor recipient.

Opportunities for contact with agencies providing treatment by spiritual means will be provided in the same manner as recipients are permitted to see private mental health professionals.

Requests for printed, recorded, or visual material essential or related to treatment by spiritual means, and to a symbolic object of similar significance shall be honored and made available at the recipient's expense.

The "right to treatment by spiritual means" includes the right of recipients, guardians, or parents of a
minor to refuse medication or other treatment on spiritual grounds which predate the current allegations of mental illness or disability, but does not extend to circumstances where either:

- A guardian or the provider has been empowered by court to consent to provide treatment and has done so.
- A recipient poses harm to himself/herself or others and treatment is essential to prevent physical injury.

The right to treatment by spiritual means does not include the right to any of the following:

- To use mechanical devices or chemical or organic compounds which are physically harmful.
- To engage in activities prohibited by law.
- To engage in activities which physically harm the recipient or others.

- To engage in activities which are inconsistent with court-ordered custody or voluntary placement by a person other than the recipient.

Recourse to court is ensured if medication or other treatment for a minor is refused.

Written notice will be given to the requesting person of a denial of treatment by spiritual means with the reason for the denial.

The individual requesting treatment by spiritual means will be provided, upon request, with administrative review or an appeal of a denial of the request.

REFERENCE: MDHHS Administrative Rule R330.7009, R330.7135

REVIEWED: 03/24/08; 05/30/10; 07/01/13; 08/01/15

REVISED: 09/20/07; July 03, 2019

APPROVED BY SIGNATURE:

Christine Gebhard — *08/16/2019*
Chief Executive Officer — Date

Edward G. Ginop — *08/15/2019*
NCCMH Board Chair — Date

NORTH COUNTRY COMMUNITY MENTAL HEALTH
ADMINISTRATIVE MANUAL

CHAPTER: Five – Member Rights
POLICY NAME: RESIDENT COMMUNICATION AND VISITATION POLICY
EFFECTIVE DATE: September 1, 2019

PURPOSE

To protect the rights of recipients of North Country CMH services when in residential settings.

APPLICATION

All North Country CMH direct service programs and contracted direct service providers.

DEFINITIONS

Facility: a licensed residential facility for the care or treatment of individuals with serious mental illness, serious emotional disturbance, or intellectual/developmental disability.
Home and Community Based Services (HCBS): provides opportunities for Medicaid Beneficiaries to receive services in their own home or community rather than institutions or other isolated settings.
Resident: an individual who receives services in a facility.

POLICY

- A resident is entitled to unimpeded, private, and uncensored communication with others by mail and telephone and to visit with persons of his or her choice except in the circumstances and under conditions set forth here.
- A facility will provide space for a resident to receive visitors.
- Telephones shall be reasonably accessible. Telephone usage funds shall be provided in reasonable amounts to residents that are unable to procure such funds.
- Correspondence shall be conveniently and confidentially received and mailed. Writing materials and postage shall be provided in reasonable amounts to residents who are unable to procure such items. A daily pickup and deposit of mail shall be provided.
- Each facility shall make space available for visits.
- If Home and Community Based Services (HCBS) Rules do not apply to the setting, reasonable time and place for the use of telephones and for visits may be established and if established, shall be in writing and posted in each living unit of a residential program.
- The right to communicate by mail or telephone or to receive visitors shall not be further limited except as authorized in the resident's plan of service.
- Limitations on communication do not apply to a resident and an attorney or court or any other individual if the communication involves matters that may be the subject of legal inquiry.
- If a resident is able to secure the services of a mental health professional, he or she shall be allowed to see that person at any reasonable time.

REFERENCE: Michigan Mental Health Code 330.1715, 330.1726, 330.1915(i)

REVIEWED: 03/24/08; 05/30/10; 07/01/13; 07/02/15; 06/30/16

REVISED: 06/01/07; July 05, 2019

APPROVED BY SIGNATURE:

Christine Gephard — *08/16/2019*
Chief Executive Officer — Date

Edward G. Ginop — *08/15/2019*
NCCMH Board Chair — Date

NORTH COUNTRY COMMUNITY MENTAL HEALTH
ADMINISTRATIVE MANUAL

CHAPTER: Five – Member Rights
POLICY NAME: RESIDENT FREEDOM OF MOVEMENT
EFFECTIVE DATE: October 1, 2007

PURPOSE

To protect the rights of recipients of North Country Community Mental Health in residential settings.

APPLICATION

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

POLICY

Individuals have the right to receive services in the least restrictive setting that is appropriate and available, and to have unimpeded access to vocational, social, and recreational activities and areas. Individuals also have the right to have any limitations placed upon their freedom of movement removed when the circumstances which justified those limitations cease to exist.

REFERENCE: Michigan Mental Health Code 330.1708, 330.1744

REVIEWED: 3/24/08; 05/30/10; 07/01/13; 08/01/15; July 4, 2019

REVISED: 06/01/07

APPROVED BY SIGNATURE:

Alexis Kaczynski — *09/21/07*
Director — Date

Laura Stanek — *9/20/07*
NCCMH Board Chair — Date

NORTH COUNTRY COMMUNITY MENTAL HEALTH
ADMINISTRATIVE MANUAL

CHAPTER: Five – Member Rights
POLICY NAME: RESIDENT LABOR
EFFECTIVE DATE: September 1, 2019

PURPOSE

To protect the rights of recipients of North Country Community Mental Health in residential settings.

APPLICATION

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

DEFINITIONS

Facility: a licensed residential facility for the care or treatment of individuals with serious mental illness, serious emotional disturbance, or developmental disability.
Resident: an individual who receives services in a facility.

POLICY

- A resident may perform labor that contributes to the operation and maintenance of the facility for which the facility would otherwise employ someone only if:
    - the resident voluntarily agrees to perform the labor.
    - engaging in the labor is consistent with the individual plan of service for the resident.
    - the amount of time or effort necessary to perform the labor would not be excessive.
    - In no event shall discharge or privileges be conditioned upon the performance of such labor.
- A resident who performs labor that contributes to the operation and maintenance of the facility for which the facility would otherwise employ someone shall be compensated appropriately and in accordance with applicable federal and state labor laws, including minimum wage and minimum wage reduction provisions.
- A resident who performs labor other than that described in #2 shall be compensated an appropriate amount if an economic benefit to another individual or agency results from his or her labor.
- The governing body of the facility may provide for compensation of a resident when he or she performs labor not governed by section #2 or #3.
- Labor of a personal housekeeping nature or labor performed as a condition of residence in a small group living arrangement is not eligible for payment.
- One-half of any compensation paid to a resident under this policy is exempt from collection as payment for mental health services provided.

REFERENCE: Michigan Mental Health Code 330.1736

REVIEWED: 05/30/08; 06/01/09; 07/01/13; 08/01/15

REVISED: 06/01/07; July 5, 2019

APPROVED BY SIGNATURE:

Christine Gebhard	*08/16/2019*
Chief Executive Officer	Date
Edward G. Ginop	*08/16/2019*
NCCMH Board Chair	Date

NORTH COUNTRY COMMUNITY MENTAL HEALTH
ADMINISTRATIVE MANUAL

CHAPTER: Five – Member Rights
POLICY NAME: RESIDENT RIGHT TO ENTERTAINMENT MATERIALS, INFORMATION, AND NEWS
EFFECTIVE DATE: September 1, 2019

PURPOSE

To establish guidelines regarding access to written materials and the viewing of television, movies, video tapes, or listening to the radio.

APPLICATION

All North Country Community Mental Health licensed residential programs and contracted residential service providers.

DEFINITIONS

Facility: a licensed residential facility for the care or treatment of individuals with serious mental illness, serious emotional disturbance, or developmental disability.
Resident: an individual who receives services in a facility.

POLICY

- It is the policy of the Board that a provider shall not prevent a resident from acquiring entertainment materials, information and news at his or her expense, or from reading written or printed material, or from viewing or listening to television, radio, recordings, movies or internet access that is made available at a facility for reasons of, or similar to, censorship.
- It is the policy of the Board that restrictions or limitations may not be imposed unless approved and justified in the written plan of service; any restrictions or limitations will be removed when no longer clinically justified.
- It is the policy of the Board that any denial or limitation of right to access may be appealed to the Rights Office.

REFERENCE: MDHHS Administrative Rule R330.7139

REVIEWED: 03/24/08; 05/30/10; 08/01/15

REVISED: 06/01/07; July 4, 2019

APPROVED BY SIGNATURE:

Christine Gephard — *08/16/2019*
Chief Executive Officer — Date

Edward G. Ginop — *08/15/2019*
NCCMH Board Chair — Date

CHAPTER: Five – Member Rights
PROCEDURE NAME: RESIDENTIAL PROPERTY AND FUNDS
EFFECTIVE DATE: September 1, 2019

PURPOSE

To establish guidelines for the protection of, and access to, personal property and funds belonging to recipients in supported living situations and in other group services.

APPLICATION

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

DEFINITIONS

Facility: a licensed residential facility for the care or treatment of individuals with serious mental illness, serious emotional disturbance, or developmental disability.
Recipient: an individual who receives mental health services from a community mental health services program, or a facility or from a provider that is under contract with the community mental health services program.
Resident: an individual who receives services in a facility.

PROCEDURE

A facility may exclude particular kinds of personal property from the facility (i.e. weapons, explosives, drugs and alcohol). Any exclusions shall be officially adopted and shall be in writing and posted in each residential unit. The exclusions must not violate Home and Community Based Services (HCBS) regulations if applicable, or recipient rights as defined by the Mental Health Code (MHC) and Michigan Department of Health and Human Services (MDHHS) Administrative rules.

The individual in charge of the plan of service for the resident (primary case holder) may limit the rights involving personal property if each limitation is essential for one of the following purposes:

- To prevent theft, loss, or destruction of the property, unless a waiver is signed by the resident.
- To prevent the resident from physically harming himself, herself, or others.

A limitation adopted under this section, the date it expires, and justification for its adoption shall be promptly noted in the record of the resident. The limitation shall be removed when the circumstance that justified its adoption ceases to exist.

A facility shall provide:

- A receipt to the resident and/or an individual chosen by him or her for property taken into the possession of the facility. All personal property in the possession of a residential setting shall be returned to the recipient upon his or her leaving.
- A reasonable amount of storage space to each resident for his or her clothing and other personal property. The resident shall be permitted to inspect personal property at reasonable times.
- Ready access to personal funds held for a resident.

Searches:
A recipient's personal space or property shall not be searched by a provider unless such a search is authorized in their plan of service or there is reasonable cause to believe that the recipient is in possession of contraband or property that is excluded from the

recipient's possession by the written policies, procedures of the provider or foster care Licensing Rules. Contraband may include:

- Illegal drugs, weapons, explosives.
- Other items which could pose an identifiable threat to the individual or others.
- Items specifically excluded by the plan of service.
- A search of the recipient's living area or property shall occur in the presence of a witness. The recipient shall also be present unless they decline.

Documentation will be completed in the recipient's record with the following information:

- The reason for conducting the search.
- The reason for initiating the search.
- The names of the individuals performing and witnessing the search.
- The results of the search, including a description of the property seized.

REFERENCE: Michigan Mental Health Code 330.1728, 330.1730, 330.1732
MDHHS Administrative Rule R330.7009

REVIEWED: 03/24/08; 05/30/10; 07/06/15

REVISED: 06/01/07; 08/08/16; July 4, 2019

APPROVED BY SIGNATURE:

Christine Gebhard	*09/10/19*
Chief Executive Officer	Date
Kim Rappleyea	*09/10/2019*
Recipient Rights Officer	Date

NORTH COUNTRY COMMUNITY MENTAL HEALTH
ADMINISTRATIVE MANUAL

CHAPTER: Five – Member Services
POLICY NAME: RESTRAINT, SECLUSION AND PHYSICAL MANAGEMENT
EFFECTIVE DATE: September 1, 2019

PURPOSE

To establish guidelines with regard to the use of restraint, seclusion and physical management.

APPLICATION

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

DEFINITIONS

Nonserious physical harm: physical damage or what could reasonably be construed as pain suffered by a recipient that could *not* have caused, or contributed to, the death of a recipient, the permanent disfigurement of a recipient, or an impairment of his or her bodily functions.

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 others. All physical management techniques must be approved for use by the Behavior Treatment Committee.

Protective Device: a device or physical barrier to prevent the recipient from causing serious self-injury associated with documented and frequent incidents of the behavior. A protective device as defined and incorporated in the written individual plan of service shall not be considered a restraint as defined in this policy.

Restraint: the use of a physical device to restrict an individual's movement. Restraint does not include the use of a device primarily intended to provide anatomical support.

Seclusion: the temporary placement of a recipient in a room, alone, where egress is prevented by any means.

Serious physical harm: physical damage suffered by a recipient that caused or could have caused the death of a recipient, caused the impairment of his or her bodily functions, or caused the permanent disfigurement of a recipient.

Therapeutic de-escalation: an intervention, the implementation of which is incorporated in the individualized written plan of service, wherein the recipient is placed in an area or room accompanied by staff who shall therapeutically engage the recipient in behavioral de-escalation techniques and debriefing as to the cause and future prevention of the target behavior.

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.

POLICY

Restraint and/or seclusion is prohibited in all agency programs or sites directly operated or under contract where it is not permitted by statute and agency policy. The Office of Recipient Rights will review the restraint and seclusion policies of contracted inpatient settings and child caring institutions for compliance with applicable state and federal rules and regulations.

Physical management may only be used in situations when a recipient is presenting an imminent risk of physical harm to himself, herself or others and lesser restrictive

interventions have been unsuccessful in reducing or eliminating the imminent risk of serious or non-serious physical harm. Both of the following shall apply:

- Physical management shall not be included as a component in a behavior treatment plan.
- Prone immobilization of a recipient for the purpose of behavior control is prohibited unless other techniques are medically contraindicated and documented in the recipient's record.

A person employing physical management shall insure the safety, welfare and dignity of the recipient and others. Physical management shall be employed only by persons who have received training in its use. Use of physical management may be evidence of treatment/supports failure. Should use occur more than 3 times within a 30-day period the individual's written individual plan of service must be revisited through the person-centered planning process and modified accordingly, if needed. If indicated, a behavior treatment plan and crisis plan, if applicable, shall be developed and presented for review and approval to the Behavior Treatment Committee as described in the Behavior Treatment Committee Policy.

Any use of physical management shall be documented in an Incident Report and BTC Justification Form and filed as indicated.

REFERENCE: Michigan Mental Health Code 330.1700; 330.1740; 330.1742; 330.1755
MDHHS Administrative Rules R 330.7001, R330.7243

REVIEWED: 03/24/08; 05/30/10; 07/01/13; 08/01/15

REVISED: 05/31/07; 08/20/09; July 5, 2019

APPROVED BY SIGNATURE:

Christine Gebhard	*08/16/2019*
Chief Executive Officer	Date
Edward G. Ginop	*08/15/2019*
NCCMH Board Chair	Date

NORTH COUNTRY COMMUNITY MENTAL HEALTH
ADMINISTRATIVE MANUAL

CHAPTER: Five – Member Rights
POLICY NAME: SERVICES SUITED TO CONDITION
EFFECTIVE DATE: December 1, 2019

PURPOSE

To establish guidelines for the development of an Individual Plan of Service that will ensure that each recipient receives services suited to his/her condition.

APPLICATION

All North Country CMH direct service programs and contracted direct service providers.

DEFINITIONS

Applicant: an individual or his or her legal guardian who has requested, but is not yet accepted for, services from the agency.
Care Plan: a written plan that specifies the personal support services or any other supports that are to be developed with, and provided for, a recipient.
Change in type of treatment: ending of services, addition of services, transfer between programs, or transfer to another type of treatment.
Emergency Situation: a situation in which an individual is experiencing a serious mental illness or a developmental disability, or a minor is experiencing a serious emotional disturbance, and one of the following applies:

- The individual can reasonably be expected within the near future to physically injure himself, herself, or another individual, either intentionally or unintentionally.
- The individual is unable to provide himself or herself food, clothing, or shelter or to attend to basic physical activities such as eating, toileting, bathing, grooming, dressing, or ambulating, and this inability may lead in the near future to harm to the individual or to another individual.
- The individual has mental illness that has impaired his or her judgment so that the individual is unable to understand his or her need for treatment and presents a risk of harm.

Person-Centered Planning: a process for planning and supporting the individual receiving services that builds upon the individual's capacity to engage in activities and that promote community life and that honors the individual's preferences, choices and abilities. The person-centered planning process involves families, friends and professionals as the individual desires or requires.
Plan of Service (POS): a written, individualized plan for services which consists of a treatment plan, a support plan, or both, and is developed in partnership with each recipient through a person-centered planning process.
Treatment Plan: a written plan that establishes meaningful and measurable goals, and specifies goal-oriented treatment or training services, including rehabilitation or habilitation services, that are to be developed with, and provided for, a recipient.
Urgent Situation: a situation in which an individual is determined to be at risk of experiencing an emergency situation in the near future if he or she does not receive care, treatment, or support services.

POLICY

DENIAL OF INITIAL SERVICES

- If an applicant for community mental health services had been denied services, the applicant, their guardian if one is appointed, of the parent (s) of a minor applicant may request a second opinion of the Chief Executive Officer/designee. The CEO/designee shall secure the second opinion from a physician, licensed Psychologist, RN, MSW, or master's level psychologist within 5 business days. If

that second opinion determines that the applicant has a serious mental illness, serious emotional disturbance, or developmental disability, or is experiencing an emergency situation or urgent situation, the CMH services program shall direct services to that applicant.

PLAN OF SERVICE

- Each recipient shall receive services suited to his/her condition that are provided in a safe, sanitary, and humane treatment environment. These services, including any change in type of treatment, shall be determined in partnership with the recipient through a person-centered planning process.
- The recipient will be informed orally and in writing of his or her clinical status and progress in a manner appropriate to his or her clinical condition.
- A preliminary Plan of Service (POS) shall be developed within seven days of the commencement of services, or if an individual is hospitalized and the hospitalization is for less than seven days, before discharge or release.
- 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 EHR.
- The Plan of Service shall identify strategies for assuring that a recipient has access to needed and available supports identified through a review of their needs. The individual plan of services shall consist of a treatment plan, a support plan, or both. A treatment plan shall establish meaningful and measurable goals with the recipient. The individual plan of services shall address, as either desired or required by the recipient, the following areas of possible need:
    - food
    - shelter
    - clothing
    - physical health care
    - employment opportunities
    - educational opportunities
    - legal services
    - transportation
    - Recreation
- The Plan of Service will include a specific date or dates when the overall plan, or any of its subcomponents, will be formally reviewed for possible modification or revision will be noted in the Plan of Service. 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.
- The Plan of Service is reviewed whenever there is a major change in condition and is revised as necessary; minimally the plan is reviewed every six months. Addendums are completed by the primary case holder and approved by the supervisor, as required. If the review includes participation in a day or residential program, the appropriate service or rehabilitation coordinator from this program should participate in the review. Major changes requiring a review of the POS prior to six months include the following:
    - Hospitalization or alternative placement in Crisis Residential.
    - Move to a more restrictive level of care.
    - Significant behavioral changes or changes in condition that require a major modification in goals and or treatment approaches. Significant changes might involve a need for more intensive support to address a risk issue or a significant change or increase in medication to prevent a relapse.
- The Plan of Service shall identify any restriction or limitation of the recipient's rights. A comprehensive assessment/analysis of a recipient's challenging

behaviors will be conducted to rule out any physical or environmental cause for the behavior. [See Behavior Treatment Procedure] Restrictions, limitations, or intrusive behavior treatment techniques are reviewed and approved by the North Country CMH Behavior Treatment Committee (BTC). The BTC is a specially constituted body comprised of at least 3 individuals, 1 of whom shall be a fully- or limited- licensed psychologist with the formal training or experience in applied behavior analysis, and one of whom shall be a licensed physician/psychiatrist. Any restriction or limitation shall be justified, time-limited, and clearly documented in the Plan of Service. Documentation shall include a description of attempts that have been made to avoid the need to impose a restriction or limitation, and the action that will be taken as part of the Plan of Service to ameliorate or eliminate the need for the limitation in the future.

- If a recipient is not satisfied with his or her individual plan of service, the recipient, the person authorized by the recipient to make decisions regarding the authorized by the
recipient to make decisions regarding the individual plan of services, the guardian of the recipient, or 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 30 days and shall be carried out according to the person-centered planning process.

CHOICE OF MENTAL HEALTH PROFFESSIONAL

- A recipient shall be given a choice of physician or other mental health professional within the limits of available staff and as determined by the treatment team. A recipient may appeal any denial of choice, first to the program director then to the CEO, in addition to filing a Recipient Rights Complaint.

DENIAL OF HOSPITILIZATION

- If the preadmission screening unit of NCCMH denies hospitalization, the individual or the person making the application may request a second opinion from the CEO/designee.
The CEO/designee shall arrange for an additional evaluation by a psychiatrist, other physician, or licensed psychologist within 3 days, excluding Sundays and legal holidays, after the CEO/designee receives the request. If the conclusion of the second opinion is different from the conclusion of the preadmission screening unit, the CEO/designee, in conjunction with the Medical Director, shall make a decision based on all clinical information available. The CEO/designee's decision shall be confirmed in writing to the requestor and signed by the CEO/designee and the Medical Director or verification that the decision was made in conjunction with the medical director. If an individual is assessed and found not clinically suitable for hospitalization, the pre-admission screening unit shall provide appropriate referral services.

REFERENCE: Michigan Mental Health Code 330.1100, 330.1409, 330.1705, 330.1712, 330.1713, 330.1714
MDHHS Administrative Rule R330.7199

REVIEWED: 03/24/08; 05/30/10; 07/01/13; 08/01/15

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APPROVED BY SIGNATURE:

Christine Gebhard	*11/20/2019*
Chief Executive Officer	Date
Edward G. Ginop	*11/21/2019*
NCCMH Board Chair	Date