The Rights of Individuals Receiving Mental Health Services

North Country Community Mental Health
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Rights are Defined by Law and Have a Legal Means of Being Protected

MENTAL HEALTH CODE Act 258 of 1974
330.1704 Rights of Recipient Sec. 704

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

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

(3) The provisions of this chapter shall be construed to protect and promote the dignity and respect to which a recipient of services is entitled.
The Right to Have a Written Plan of Service Developed Through a Person-Centered Process

- **Person-Centered Planning** means a process for planning and supporting the individual receiving services that builds upon the individual’s preferences and choices, and abilities and promote community life. The person-centered planning process involves families, friends, and professionals, as the individual desires or requires.

- The right to refuse treatment unless it is court ordered.
ALL Information About a Recipient and His or Her Treatment is Confidential!

It is important to understand what is meant by confidentiality, to understand what the Mental Health Code requires of you, to recognize instances when the confidentiality of a recipient has been violated, and to know what you should do if this happens.
Every recipient is informed about the law requiring confidentiality.

A record is maintained of any information about the recipient that is disclosed. This record must indicate what information was released, to whom it was released, and the reason for release.

Some information can be provided to legal and medical personnel who are providing services to the recipient, however, they **MUST** obtain a release of information consent.

Disclosure would be appropriate to other agencies if there is a risk of harm or in the case of duty to warn.

**Duty to Warn:** If a recipient communicates a threat of physical violence against a third person and has the apparent intent and ability to carry out the threat in the foreseeable future.
A recipient cannot simply agree to have information about him or her released. In order for a release of information to be valid it must be given with **Informed Consent**. This means the recipient:

- Is not pressured in any way to give consent.
- Is able to understand what information he or she is agreeing to release.
- Understands the risks, benefits and consequences of agreeing-or not agreeing-to the release of information requested.

*A person who has a guardian is not legally able of giving informed consent. In most cases involving children- informed consent must be obtained from their parents.*
If you ever have any questions about releasing information, or if someone is authorized to receive information, **ALWAYS** check with your supervisor.
The Abuse or Neglect of a recipient is not acceptable and will not be tolerated!!!

It is important to understand what is meant by abuse and neglect, to recognize a situation that is abusive or neglectful, and to know what the law requires you to do when you become aware that a recipient has been abused or neglected.
A non-accidental act, or provocation of another to act, by an employee, volunteer, or agent of a provider that caused or contributed to the death, or sexual abuse of, or serious physical harm to a recipient.
ABUSE CLASS II

• 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.

• Any action or provocation of another to act 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.

• The exploitation of a recipient.
The use of language or other means of communication to degrade, threaten, or sexually harass a recipient.
NEGLECT CLASS I

• Acts of commission or omission by an employee which result from a noncompliance with a standard of care or treatment required by law, rules, policies, guidelines, written directives, procedures, or individual plan of service that cause or contribute to serious physical harm or sexual abuse of a recipient.

• The failure to report Abuse Class I or Neglect Class I.
Acts of commission or omission by an employee that result from noncompliance with a standard of care or treatment required by law, rules, policies, guidelines, written directives, procedures, or individual plan of service and that cause or contribute to non-serious physical harm or emotional harm to a recipient.

The failure to report Abuse Class II or Neglect Class II.
Acts of commission or omission by an employee 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 either placed or could have placed a recipient at risk of physical harm or sexual abuse, or

- The failure to report Abuse Class III or Neglect Class III.

*Note: No actual harm has to occur to the recipient in Class III Neglect; it is only required that the recipient be placed in a situation where there is, or could be, a risk of harm.
When you see or hear about a recipient being abused or neglected it is important that you **TAKE ACTION QUICKLY!**

Protecting the recipient is your primary responsibility. The failure to report abuse or neglect will result in **YOU BEING CHARGED** with neglect as well.

**ALL** violations **MUST** be verbally **REPORTED IMMEDIATELY** and followed up by a written report within 24 hours or at the end of your shift.
Dignity

To be treated with esteem, honor, politeness, or honesty; to be addressed in a manner that is not patronizing, condescending, or demeaning, to be treated as an equal; to be treated the way the individual wants to be treated.

Respect

To show differential 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 the individual to make choices.
Encompassing the Person-Centered philosophy; a recipient is entitled to treatment suitable to his or her own condition, medical care, and medication for mental and physical health, as needed.
The recipient shall not be restricted more than what is necessary to provide services, to prevent injury, or to prevent substantial property damage.

Any limitations on freedom of movement must be clinically justified on a time-limited basis and entered into the recipient’s Plan of Service.

Recipients shall receive services in the LEAST RESTRICTIVE setting.
Seclusion
Temporary placement of a recipient in a room alone, where egress is prevented by any means. Seclusion is **NOT TO BE USED** in community treatment settings.

Restraint
The use of physical devise to restrain an individual’s movement. Restraint shall **NOT TO BE USED** in any programs under contract with North Country Community Mental Health.
The recipient is entitled to receive, possess, and use all personal property, including clothing, except for those items prohibited including: weapons, drugs, etc.

- **ANY EXCLUSION** of personal property shall be written and posted in each setting, i.e. **HOUSE RULES**
- Additional limitations **MUST BE** in the recipient’s **PLAN OF SERVICE**.
Entertainment Materials

• Recipients shall have the right to entertainment material, information, and news.

• The recipient shall not be prevented from obtaining, reading, viewing, listening to material at his or her own expense.

• Any limitations must be in the recipient’s Plan of Service!!
A recipient shall be provided access to a telephone for incoming and outgoing calls during hours stated in the house rules.

A recipient shall be guaranteed regular visiting hours which shall be scheduled to be least disruptive of normal treatment activity and to occur on no less than three days weekly.

A recipient shall be provided daily distribution of mail - a postal box or daily pickup and deposit of mail shall be provided.

The ONLY exception would be if it was written in their Plan of Service!!!
ANYONE…
Can file a complaint on behalf of a recipient.
If you become aware that a recipient’s rights are being violated…

YOU MUST REPORT to the RECIPIENT RIGHTS OFFICE!!!
• The Mental Health Code requires an investigation be completed within **90 days** of receipt of the complaint.

• A “**Report of Investigative Findings**” will be given to the Executive Director of the NCCMH agency and to the service provider.

• A “**Summary Report**” will be given to the complainant and the recipient **within 10 days** after receiving the Rights Officer’s investigate report.

• **Anonymous Reporters Do Not Receive a Summary Report.**
The decision about what happens to a staff person who has committed abuse or neglect, or otherwise violated the rights of a recipient, rests with the employer.

Each provider should have policies and procedures for dealing with offenses. These should emphasize the seriousness of improper actions.
Upon completion of a recipient rights investigation, the recipient, his or her guardian, the parent of a minor, and the person who made the compliant, have the right to appeal the decision. This appeal can be made for the following reasons:

• The findings of the investigation are inconsistent with the law, facts, rules, and policies or guidelines;

• The action, or plan of action, is inadequate; or

• The investigation was done in an untimely manner.

*NOTE: Staff are NOT eligible to file an appeal unless they were the complainant.
You have rights that protect you from actions based on incorrect or malicious information. There are laws which protect employees when they report rights violations.

The Mental Health Code mandates that complainants, staff of the Office of Recipient Rights, and any staff acting on behalf of a recipient will be protected from harassment or retaliation resulting from recipient rights activities and that appropriate disciplinary action will be taken if there is evidence of harassment or retaliation.
North Country Community Mental Health Services adheres to a policy of non-retaliation in connection with the filing of rights complaints pursuant to:

**Michigan Mental Health Code & the Whistleblower’s Protection Act (PA 469,1980.)**

**This agency is committed to the fair resolution of all rights complaint matters.**
Protects Employees Who Report Rights Violations

The law states it is illegal for employers in Michigan to discharge, threaten, or otherwise discriminate against you regarding compensation, terms, conditions, locations, or privileges of employment because you, or a person acting on your behalf:

1. Reports, or is about to report a violation, or a suspected violation.
2. Takes part in a public hearing, investigation inquiry, or court action.
This act requires that you be notified when an employer or former employer divulges:

1. A Disciplinary Report
2. Letter of Reprimand

Other disciplinary action to a third party, to a party who is not a part of the employers organization, or to a party who is not a part of a labor organization representing the employee without written notice.

*NOTE: The written notice to the employee shall be by first-class mail to the employee’s last known address, and shall be mailed on or before the day the information is divulged from the personnel record.
Circumstances In Which An Incident Report Is Required:  
Suspected Abuse or Neglect 
(Fill Out A Complaint Form and/or Call Recipient Rights!)

- Any explained or unexplained injury of a recipient
- An unusual or first time medically related occurrence, such as a seizure
- Environmental emergencies
- Problem behaviors not addressed in the treatment plan such as breaking things, attacking people, or setting fires
- Inappropriate sexual acts (inappropriate touching of others, etc.)
- Medication errors or refusals
- Suspected criminal offenses involving recipients
- ANY use of physical intervention
- Involvement of other agencies (police, hospital, fire, etc.)
- Any unauthorized leave of absence of a recipient
- The death of a recipient
The Mental Health Code gives the Office of Recipient Rights UNIMPEEDED ACCESS to ALL staff, service sites, recipients, and evidence necessary to conduct an investigation or to monitor services.

You have a responsibility to make yourself available in a timely manner and to answer questions posed to you orally and in writing as requested by staff of the Office of Recipient Rights.
I acknowledge that I have read, and have a general understanding, of what the Office of Recipient Rights is responsible for. I acknowledge that recipients who are receiving mental health services have additional rights that protect them from abuse and neglect. Dignity and respect are rights, not earned privileges, there is no limit on the right to be treated with dignity and respect. I acknowledge that if I am unsure about the understanding of any recipient right, I will contact the Office of Recipient Rights for clarification. I understand that it is my responsibility to assist recipients with completing and submitting complaint forms. I further understand and agree to report any behavior that infringes or denies a recipient of any/all rights. By continuing, you are agreeing to all of the material covered in this tutorial.
THE OFFICE OF RECIPIENT RIGHTS

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