



TUSCOLA

Behavioral Health Systems

THE RIGHTS OF
INDIVIDUALS
RECEIVING MENTAL
HEALTH SERVICES

(REVISED 8/2023)

RECIPIENT RIGHTS ANNUAL UPDATE ONLINE TRAINING COURSE

Legal Basis of Rights

- Individuals who receive mental health services have the same rights as you.
- It is important to understand where rights come from, what they are, and what additional rights are granted to recipients of mental health services in Michigan.
- Rights are defined by law and have a legal means of being protected.

Civil Rights

- Religious Expression
- Freedom of Speech
- Search and Seizure
- Due Process
- Legal Protection
- Discrimination
- Voting
- Education



Mental Health Code Rights

- 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 capacity to engage in activities that promote community life 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.
- The right not to be required to receive treatment unless the law allows it and a court orders it.

Confidentiality

Information about a recipient and his or her treatment is confidential. It is important to understand what is meant by confidentiality, to know 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.



Mental Health Code Requirements Regarding Confidentiality

- 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.



Mental Health Code Requirements Regarding Confidentiality

- Some information can be provided to legal and medical personnel who are providing services to the recipient without obtaining a release of information. However, this information is limited to that which relates to the services being provided.
- There are times when it is appropriate to disclose information about a recipient.

Release of Information

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.

Release of Information

- 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 capable of giving informed consent.
- In most cases involving children, informed consent must be obtained from their parents.

If you have questions about releasing information, or if someone is authorized to receive information, check with your supervisor.



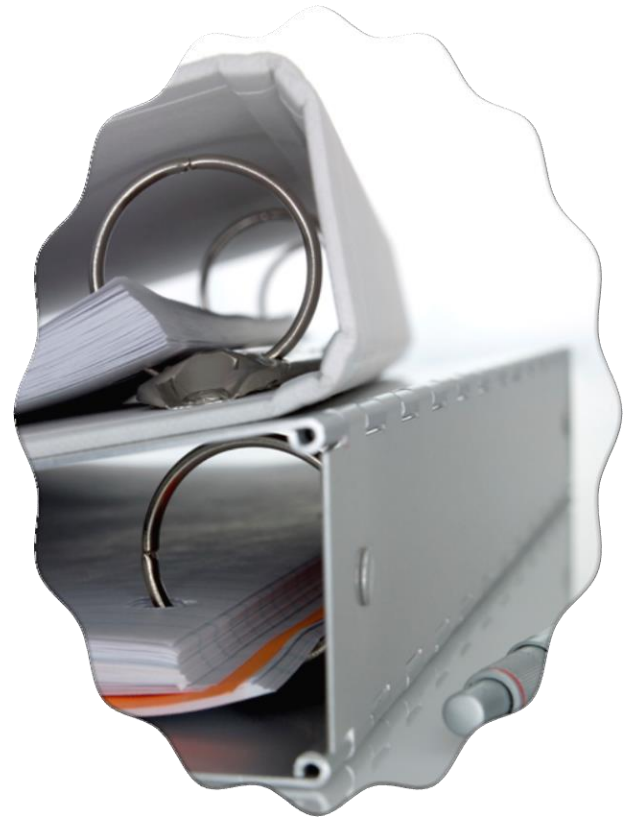
Examples of Unknowingly Violating Confidentiality and Privacy

- Talking about recipients outside of work.
- Referring to recipients by name when discussing work with family or friends.
- Giving information over the phone to persons who say they are relatives.
- Taking photographs or videotapes of recipients without permission.
- Listening in on a recipient's phone call.



Examples of Unknowingly Violating Confidentiality and Privacy

- Discussing information in a recipient's record with other mental health or service professionals who are not authorized to receive information.



Examples of Unknowingly Violating Confidentiality and Privacy



- Referring to a recipient by name in another recipient's record or on an incident report for another recipient.
- Referring to a recipient by full name when speaking with another recipient's family or teachers.

Abuse & Neglect

- 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.

Abuse & Neglect

- Abuse and Neglect are defined in the Administrative Rules of the Department of Community Health. These rules supplement the Mental Health Code and have the force of the law.
- Abuse and Neglect definitions have several classes and are based upon the action taken and the severity of the injury to the recipient.



Abuse Class I

- 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.

Abuse Class II

- 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.

Abuse Class II

- Any action or provocation of another to act that causes or contributes to emotional harm to a recipient.
- The exploitation of a recipient.



Abuse Class III

- The use of verbal abuse.
- “Verbal abuse” means the use of language or other means of communication by an employee to degrade, threaten, or sexually harass a recipient.

Examples of Abuse

- Any sexual contact with a recipient.
- Sexually harassing a recipient.
- Making remarks which could be emotionally harmful to a recipient.
- Causing or prompting others to commit any of the actions listed above.
- Hitting, slapping, biting, poking, or kicking a recipient.
- Use of weapons on a recipient.
- Swearing at, using foul language, racial or ethnic slurs, or other means of communication to degrade, or threaten the recipient.

Neglect Class I

- Acts of commission or omission by an employee that 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 and 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.

Neglect Class II

- Acts of commission or omission by an employee that 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 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.

Neglect Class III

- 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.

Neglect – Class III

- 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.



Examples of Neglect

- Leaving a recipient, who is not able to care for himself, unattended.
- Not providing the proper medication or the correct dosage of a medication.
- Being aware of an abusive or neglectful situation and not reporting that to the Recipient Rights Office and to your supervisor.
- Not addressing, in the treatment plan, a problem behavior which may result in harm to the recipient or to others.

Reporting Abuse & Neglect

**WHEN YOU SEE OR
HEAR ABOUT A
RECIPIENT BEING
ABUSED OR
NEGLECTED, IT IS
IMPORTANT THAT
YOU TAKE ACTION
QUICKLY!**



Reporting Abuse & Neglect

- 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 & Respect

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; and
- To be treated the way the individual wants to be treated.

Dignity & Respect

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.

Services Suited to Condition

- 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.



Freedom of Movement

- 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 record.
- Recipients shall receive services in the LEAST restrictive setting.

Restraint and Seclusion

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 device to restrain an individual's movement. Restraint is NOT used in any TBHS programs or contracted programs.

Personal Property

- 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. Additional limitations may be imposed 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 specifically approved in the recipient's plan of service.

Communication, Telephone, Visitors, & Mail

- A recipient shall be provided access to a telephone for incoming and outgoing calls unless the recipient is otherwise restricted in an approved treatment plan.

Communication, Telephone, Visitors, & Mail

- A recipient has a right to receive visitors unless the recipient is otherwise restricted in an approved treatment plan.



Communication, Telephone, Visitors, & Mail

- A recipient shall be provided daily distribution of mail unless the recipient is restricted and limitations have been incorporated into the recipient's treatment plan. A postal box or daily pickup and deposit of mail shall be provided.



Incident Reports

Circumstances in which an Incident Report is required:

- Any explained or unexplained injury of a recipient.
- An unusual or first time medically related occurrence, such as seizures.
- Environmental emergencies.
- Problem behaviors not addressed in the treatment plan such as breaking things, attacking people, or setting fires.
- Suspected abuse or neglect (a complaint form should also be completed).

Incident Reports

Circumstances in which an Incident Report is required continued:

- Inappropriate sexual acts (excessive masturbation, inappropriate touching of others, etc.).
- Medication errors or refusals.
- Suspected criminal offenses involving recipients.
- 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.

Investigating Rights Allegations

- 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 this to the Rights Office.
- The Rights Officer reviews all allegations of rights violations and all incident reports involving recipients in their jurisdiction.

Investigating Rights Allegations

- The Office of Recipient Rights may investigate and can make recommendations about remedial action, the service provider, and the responsible CMH Services Program.
- Rights Officers often serve as advocates for individuals and groups of recipients.



Results of Substantiated Investigation

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.

The Appeal Process



Upon completion of a recipient rights investigation, the recipient, his or her guardian, the parent of a minor, and of course, the person who made the compliant, have the right to appeal the decision.

The Appeal Process

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 untimely.

*Note: Staff are not eligible to file an appeal unless they were the complainant.

Employee Rights

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.

Whistleblowers Protection Act

- 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:
 - Reports or is about to report, a violation or a suspected violation.
 - Takes part in a public hearing, investigation inquiry, or court action.



Bullard-Plawecki Employee Right To Know Act

This act requires that you be notified when an employer or former employer divulges:

- A Disciplinary Report
- Letter of Reprimand
- Other disciplinary action to a third party, to a party who is not a part of the employer's organization, or to a party who is not a part of a labor organization representing the employee without written notice.




Bullard-Plawecki Employee Right To Know Act

*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.



FIRST CLASS



Contact Information

If you have any questions regarding Recipient Rights, please contact the Recipient Rights Officer:

- Syndi Neeb

or a Recipient Rights Advisor

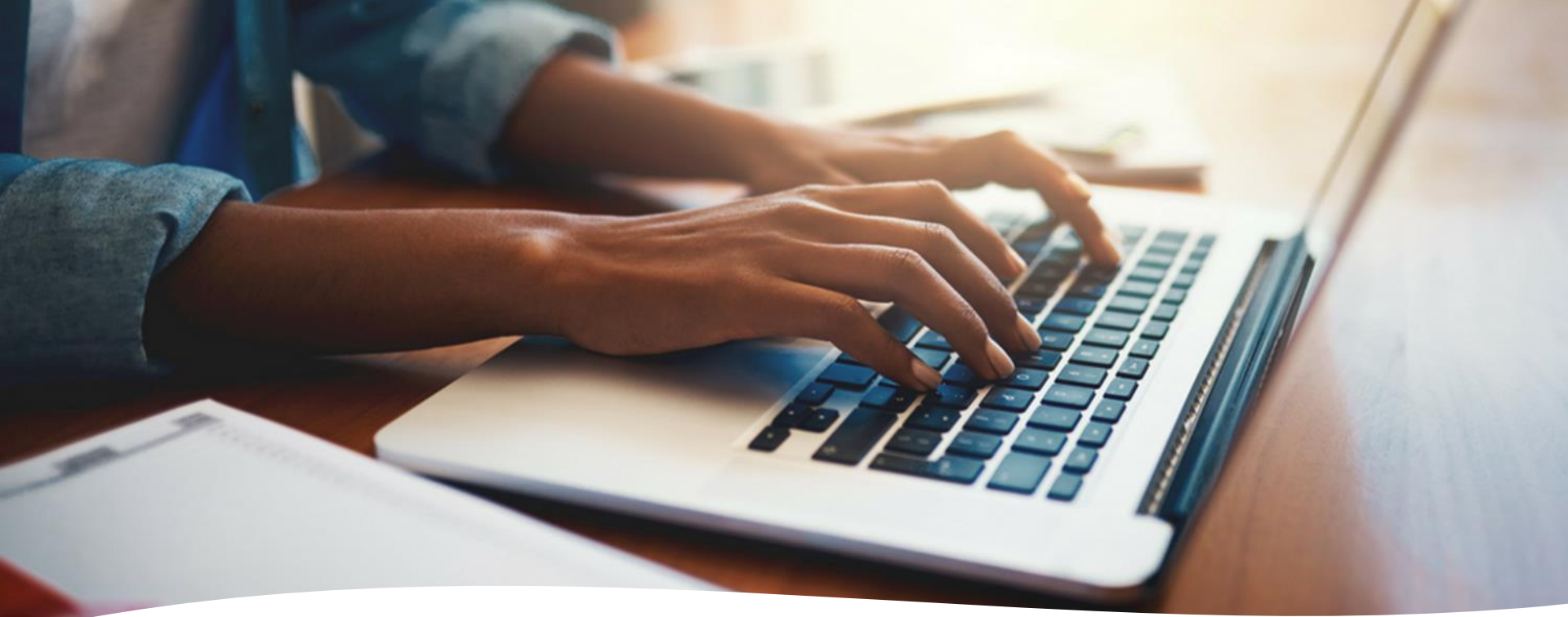
- Cindy Mitchell

(989) 673-6191

or the appropriate program supervisor

*Thank you for
advocating on
behalf of the
individuals we
serve.*





**Please proceed to final exam by clicking
on the link below!**

[TBHS Recipient Rights Test](#)