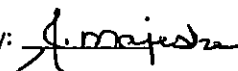


TUSCOLA BEHAVIORAL HEALTH SYSTEMS
RECIPIENT RIGHTS POLICIES
TABLE OF CONTENTS

Records Retention & Disposal	VII-001-000
Treatment by Spiritual Means	VII-001-001
Seclusion	VII-001-002
Recipient Rights System.....	VII-001-003
Right to Access Entertainment Material Information & News.....	VII-001-004
Communication, Telephone, Visiting Rights	VII-001-005
Change in Treatment.....	VII-001-006
Comprehensive Examination.....	VII-001-007
Sterilization/Abortion/Contraception	VII-001-008
Residential Labor.....	VII-001-009
Fingerprint, Photograph, Audio Tape & One-Way Glass	VII-001-010
Personal Property & Funds.....	VII-001-011
Abuse & Neglect.....	VII-001-012
Appeals.....	VII-001-013
Informed Consent.....	VII-001-014
Medication Administration/Stop Order	VII-001-015
Psychotropic Medications	VII-001-016
Services Suited to Condition.....	VII-001-017
Freedom of Movement	VII-001-018
Confidentiality & Disclosure of Information	VII-001-019
Duty to Warn.....	VII-001-020
Least Restrictive Environment.....	VII-001-021
Dignity & Respect.....	VII-001-022
Recipient Rights Officers Qualifications & Training	VII-001-023
Restraint/Physical Management.....	VII-001-024
Substance Use Disorder-Understanding Recipient Rights	VII-001-025
Person Centered Plan.....	VII-001-026

Review Date: 9/24/24

Approved By: 



TUSCOLA BEHAVIORAL HEALTH SYSTEMS
Recipient Rights Policies

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-000
Subject	Records Retention & Disposal	Issue Date	09/29/2008
		Revision Date	07/29/2015
		Approved By	<i>Tharon Beale</i>
		Page	1 of 2

POLICY

It is the policy of Tuscola Behavioral Health Systems (TBHS) to maintain all information gathered for a Recipient Rights Investigation.

PURPOSE

The purpose of this policy is to identify all documentation gathered and maintained to assure all requirements are met.

APPLICATION

This policy shall be applicable to the Tuscola Behavioral Health Systems (TBHS) Rights Office Records only.

DEFINITIONS

n/a

PROCEDURES

1. All records gathered and attached to a Recipient Rights Report of Investigative Findings will be kept for seven (7) years. All documentation includes statements made by anyone involved in the investigation, notes kept by the Rights Officer during an investigation, appeals information, police reports, Adult Protective Services Reports, Licensing Reports, etc.
2. All information gathered and attached to Recipient Rights Informal Intervention Report will be kept for seven (7) years. All documentation includes statements made by anyone involved during the intervention, notes by the Recipient Rights Officer, intervention taken by administration and any other reports, documentation, etc.
3. If any case file is re-opened during the (7) year retention period, that case will be kept on file for an additional (7) years.
4. When an Incident Report is not essential as evidence, Recipient Rights copies of Incident Reports can be destroyed after one (1) year if used for aggregated data only.

If Incident Reports are used as evidence and labeled as such, they will be attached to a Recipient Rights Complaint form or Informal Intervention form and kept for seven (7) years with that complaint.

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-000
Subject	Records Retention & Disposal	Issue Date	09/29/2008
		Revision Date	07/29/2015
		Page	2 of 2

RELATED FORMS & MATERIALS

n/a

REFERENCES/LEGAL AUTHORITY

n/a

Revision Date:
12/12/2013
07/29/2015



TUSCOLA BEHAVIORAL HEALTH SYSTEMS
Recipient Rights Policies

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-001
Subject	Treatment by Spiritual Means	Issue Date	09/29/2008
		Revision Date	09/24/2024
		Approved By	<i>Justin Majors</i>
		Page	1 of 2

POLICY

It is the policy of Tuscola Behavioral Health Systems (TBHS) that all programs shall recognize and allow for a recipient to receive treatment by spiritual means on request by recipient, guardian, or parent of a minor recipient.

PURPOSE

The purpose of this policy is to ensure recipients have access to treatment of their choice.

APPLICATION

This policy shall be applicable to all Tuscola Behavioral Health Systems (TBHS) Programs, both direct and contracted.

DEFINITIONS

Treatment By Spiritual Means: Encompasses a spiritual discipline or a school of thought that a recipient, guardian or parent of a minor recipient, wishes to rely on to aid physical or mental recovery and includes easy access, at the recipient's expense, both to printed, recorded, or visual material essential or related to treatment by spiritual means and to a symbolic object of similar significance.

PROCEDURES

- 1) 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 that predate the current allegations of mental illness or disability, but does not extend to circumstances where either of the following provisions applies:
 - a) A guardian or the provider has been empowered by a court to consent to or provide treatment and has done so.
 - b) A recipient is dangerous to self, or others and treatment is essential to prevent physical injury.
- 2) TBHS does not provide treatment by spiritual means. Opportunity for contact with agencies providing treatment by spiritual means shall be provided in the same manner as recipients are permitted to see private mental health professionals.
- 3) RIGHT TO TREATMENT BY SPIRITUAL MEANS DOES NOT INCLUDE THE RIGHT:
 - a) To use mechanical devices or chemical or organic compounds which are physically harmful.
 - b) To engage in activity prohibited by law.
 - c) To engage in activity which physically harms the recipient or others.
 - d) To engage in activity which is inconsistent with court-ordered custody or placement by a person other than the recipient.

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-001
Subject	Treatment by Spiritual Means	Issue Date	09/29/2008
		Revision Date	09/24/2024
		Page	2 of 2

- 4) Recipients shall not be required or coerced to participate in any religious observance.
- 5) Minors shall be afforded the opportunity to participate in religious services and other religious activities in accordance with their individual and family preferences.
- 6) When requested and to the extent feasible, the programs shall assist recipients in locating and gaining access to religious services and ministrations suited to individual beliefs.
- 7) Community religious representatives shall be allowed to visit their parishioners during times arranged with providers which do not disrupt program activities for other participants.
- 8) Recourse to court proceedings is available when there is refusal of medication or other treatment for a minor.
- 9) Notice shall be given to the requesting person of a denial of a request and the reasons for the denial.
- 10) Provide for administrative review or appeal of denial of treatment by spiritual means at the option of the person requesting treatment.

COMPLAINT PROCESS:

Recipients or other interested individuals on behalf of recipients shall have the opportunity to file a complaint for denials or limitations of their rights to treatment by spiritual means. Complaints may be made to the Recipient Rights Office.

RELATED FORMS & MATERIALS

n/a

REFERENCES/LEGAL AUTHORITY

- Mental Health Code Section 330.1752
- DCH Administrative Rules 330.7001(y), 330.7135

Revision Dates:

10/14/2009
12/12/2013
07/29/2015
09/24/2024



TUSCOLA BEHAVIORAL HEALTH SYSTEMS
Recipient Rights Policies

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-002
Subject	Seclusion	Issue Date	09/29/2008
		Revision Date	09/24/2024
		Approved By	<i>Audie Majeska</i>
		Page	1 of 2

POLICY

It is the policy of Tuscola Behavioral Health Systems (TBHS) that seclusion, including temporary seclusion, is not an approved procedure and is prohibited from use in all Tuscola Behavioral Health Systems programs or sites directly operated or under contract where it is not permitted by statute and agency policy.

PURPOSE

The purpose of this policy is to ensure that no seclusion occurs to a recipient.

APPLICATION

This policy shall be applicable to all Tuscola Behavioral Health Systems (TBHS) Programs, both direct and contracted.

DEFINITIONS

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

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.

PROCEDURES

STANDARDS:

- A. Whenever seclusion is used without following the requirements of this policy and the requirements of the policy entitled Recipient Abuse or Neglect, the violators may be subject to the most severe penalties available, including cancellation of contracts and/or termination from employment with Tuscola Behavioral Health Systems.
- B. In contract settings where seclusion is permitted by statute (hospitals, centers, child caring institutions), the settings will follow all applicable state and federal regulations.

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-002
Subject	Seclusion	Issue Date	09/29/2008
		Revision Date	09/24/2024
		Page	2 of 2

COMPLAINT PROCESS:

A recipient or other interested individuals on behalf of recipients shall have the opportunity to file a complaint regarding decisions on seclusion by contacting the Recipient Rights Office.

RELATED FORMS & MATERIALS

n/a

REFERENCES/LEGAL AUTHORITY

- Mental Health Code Sections 330.1742, 330.1700(j), 330.1755, 330.1752
- MDHHS Administrative Rule 330.7243

Revision Dates:

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Recipient Rights Policies

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-003
Subject	Recipient Rights System	Issue Date	09/29/2008
		Revision Date	09/24/2024
		Approved By	<i>[Signature]</i>
		Page	1 of 9

POLICY

It is the policy of Tuscola Behavioral Health Systems (TBHS) that the rights of all service recipients are safeguarded. All agencies, programs and service providers that have entered into a contractual relationship with TBHS must, as a condition of that contract, implement and abide by the Agency's recipient rights protection system.

PURPOSE

The purpose of this policy is to ensure a rights system is in place and will be protected from pressures that could interfere with the impartial, evenhanded and thorough performance of its duties as required by the Mental Health Code.

APPLICATION

This policy shall be applicable to all Tuscola Behavioral Health Systems (TBHS) Programs, both direct and contracted.

DEFINITIONS

Code-Protected Rights: A right that is guaranteed by the Michigan Mental Health Code.

Complainant: A recipient or any other person who files a complaint indicating that a right has been violated.

Disciplinary Action: Appropriate penalty including official reprimand, demotion, suspension, reassignment or dismissal.

MDHHS-ORR: Michigan Department of Health and Human Services Office of Recipient Rights.

Intervention: The Rights Office acts on behalf of a recipient to obtain resolution of an allegation of a rights violation contained in a complaint through processes other than investigation.

Preponderance of Evidence: A standard of proof which is met when, based upon all available evidence; it is more likely that something is true than untrue; greater weight of evidence, not to quantity (number of witnesses), but as to quality (believability and greater weight of important facts); more than 50 percent.

Provider: The Chief Executive Officer (CEO) of TBHS. The CEO may delegate his/her duties to individual facilities, programs or entities operated by or under contract with TBHS but shall ensure uniformity in recipient rights procedures.

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-003
Subject	Recipient Rights System	Issue Date	09/29/2008
		Revision Date	09/24/2024
		Page	2 of 9

Recipient: A person who receives mental health services from a program or facility operated by or under contract with TBHS. People who receive purely educational or informational services are not considered mental health recipients.

Recipient Rights Advisor: An employee of TBHS designated to provide rights services.

Recipient Rights Officer: An employee of TBHS who assumes the responsibility for safeguarding the rights of recipients.

Remedial Action: If it has been determined through investigation that a right has been violated, the respondent shall take appropriate remedial action that meets all of the following requirements:

- Corrects or provides a remedy for the rights violation.
- Is implemented in a timely manner.
- Attempts to prevent a recurrence of the rights violation.

Substantiated: A determination made by the Recipient Rights Officer that the recipient rights complaint was a rights violation.

Unsubstantiated: A determination made by the Recipient Rights Officer that a recipient rights complaint was not a rights violation.

PROCEDURES

STANDARDS:

- A. TBHS employs the Recipient Rights Officer. The hiring and dismissal procedures are established by the TBHS personnel policies. The hiring and dismissal decisions are ultimately made by the TBHS Chief Executive Officer (CEO) with input from the TBHS Recipient Rights Advisory Committee.
- B. The Office of Recipient Rights is subordinate only to the Chief Executive Officer (CEO).
- C. TBHS Chief Executive Officer will ensure all of the following:
 1. Completes the Executive Rights Training program within 180 days of hire.
 2. Written policies and procedures for the operation of the rights system are on file with MDHHS-ORR.
 3. Education and training in recipient rights policies and procedures are provided to the recipient rights advisory committee and appeals committee.
 4. The process for funding the rights office includes a review of the funding by the recipient rights advisory committee.
 5. The recipient rights office will be protected from pressures that could interfere with the impartial, even-handed and thorough performance of its duties.
 6. The rights office will have unimpeded access to all of the following:
 - a. All programs and services operated by or under contract with TBHS.
 - b. All staff employed by or under contract with TBHS.
 - c. All evidence necessary to conduct a thorough investigation or to fulfill its monitoring functions.
 7. Staff of Tuscola Behavioral Health Systems rights office receives training each year in recipient rights protection. New Rights Officer/Advisor and alternate staff will attend MDHHS-ORR Basic Skills Curricula within the first 90 days of hire.

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-003
Subject	Recipient Rights System	Issue Date	09/29/2008
		Revision Date	09/24/2024
		Page	3 of 9

8. Each contract between TBHS and a provider require all of the following:
 - a. The provider and his/her employees receive recipient rights training.
 - b. Recipients will be protected from rights violations while they are receiving services under the contract.
 - c. For those service providers who are allowed by contract to establish their own rights protection system, that rights officers/advisors and alternates have attended MDHHS-ORR Basic Skills Curricula within the first 90 days of hire.
 9. Policies and procedures require employee cooperation in recipient rights investigations.
 10. TBHS policies and procedures specify how rights services will be provided including in the temporary absence of the Rights Officer.
 11. A complaint procedure is available for complainants concerning Section 504, Rehabilitation Act of 1973, P.L. 93 -112; and grievances related to the Americans With Disabilities Act of 1990.
 12. A local grievance and dispute resolution process for Medicaid/non-Medicaid recipients/applicants is in place through the Customer Services Department compliant with federal and state regulations.
 13. Complainants, rights office staff and any staff acting on behalf of a recipient will be protected from harassment or retaliation resulting from recipient rights activities.
 14. All recipients will be protected from any form of coercion, discipline, convenience or retaliation.
 15. Appropriate disciplinary action was taken if there was evidence of harassment or retaliation.
 16. Appropriate remedial action is taken to resolve violations of rights.
 17. Notice is provided to complainants of substantiated violations in a manner that does not violate employees' rights.
- D. The CEO has selected a Rights Officer who has the education, training and experience to fulfill the responsibilities of the office.
- E. The CEO did not select, replace or dismiss the Rights Officer without first consulting the Recipient Rights Advisory Committee.
- F. A grievance procedure is available to the Rights Officer in the event of disciplinary action or discharge.
- G. The Rights Officer has no direct clinical service responsibilities.
- H. The CEO submits to the Board of TBHS and MDHHS, an annual report prepared by the Recipient Rights Office on the current status of recipient rights at TBHS and a review of the operations of the rights office. The report is submitted no later than 12/30 of each year for the preceding fiscal year. The annual report includes, at a minimum, all of the following:
 1. Summary data, by category, including complaints received, number of reports filed, number of reports investigated by provider.
 2. Number of substantiated rights violations by category and provider.
 3. Remedial action taken on substantiated violations by category and provider.
 4. Training received by staff of the rights office.
 5. Training provided by rights office to contract providers.
 6. Desired outcomes established for the rights office and progress toward these outcomes.
 7. Recommendations to the TBHS Board.

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-003
Subject	Recipient Rights System	Issue Date	09/29/2008
		Revision Date	09/24/2024
		Page	4 of 9

- I. TBHS and each provider under contract with TBHS have established written policies and procedures concerning recipient rights and the operation of an office of recipient rights.
 1. The policies and procedures provide a mechanism for prompt reporting, review, investigation, discipline and resolution of apparent or suspected rights violations, are consistent with Chapter 7 and 7A and prevent repetition of violations of rights guaranteed by Chapter 7 and 7A.
 2. Policies and procedures include, at a minimum:
 - a. Complaint and appeal processes.
 - b. Consent to treatment and services.
 - c. Sterilization, contraception and abortion.
 - d. Fingerprinting, photographing, audio-taping, use of 1-way glass.
 - e. Abuse and neglect including detailed categories of type and severity.
 - f. Confidentiality and disclosure.
 - g. Treatment by spiritual means.
 - h. Qualifications and training for recipient rights staff.
 - i. Change in type of treatment.
 - j. Medication procedures.
 - k. Use of psychotropic drugs.
 - l. Use of restraint.
 - m. Right to be treated with dignity and respect.
 - n. Least restrictive setting.
 - o. Services suited to condition.

In regard to residents:

 - p. Right to entertainment materials, information, and news.
 - q. Comprehensive exam.
 - r. Property and funds.
 - s. Freedom of movement.
 - t. Resident labor.
 - u. Communication and visits.
 - v. Use of seclusion.
 3. TBHS has policies and procedures that ensure a person-centered planning process is used to develop a written IPOS in partnership with the recipient.
- J. The Office of Recipient Rights does all of the following:
 1. Provides or coordinates the protection of recipient rights for all directly operated or contracted services.
 2. Ensures that recipients, parents of minor recipients, and guardians or other legal representatives have access to summaries of the rights guaranteed by Chapter 7 and 7A of the Mental Health Code.
 3. Ensures that recipients, parents of minor recipients, and other legal representatives are notified of the rights guaranteed by Chapter 7 and 7A of the Mental Health Code in an understandable manner, both at the time services are initiated and periodically during the time services are provided to the recipient.
 4. Ensure the phone number and address of the rights office and names of rights officers are conspicuously posted in all service sites.
 5. Maintain a record system for all reports of apparent or suspected rights violations received within TBHS including both:
 - a. A mechanism for logging all complaints.

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-003
Subject	Recipient Rights System	Issue Date	09/29/2008
		Revision Date	09/24/2024
		Page	5 of 9

- b. A mechanism for secure storage of all investigative documents and evidence.
6. Ensure that each service site is visited with the frequency necessary for protection of rights but in no case less than annually.
7. Ensure that all individuals employed by TBHS or a contract agency receive training related to recipient rights protection before or within 30 days after being employed.
8. Review and comment as needed on all TBHS and contract provider policies impacting the rights of recipients.
9. Serve as a consultant to the CEO and to TBHS staff in rights related matters.
10. Attend meetings such as Behavior Treatment Plan Review Committee (BTPRC) meetings, Quality Improvement Committee meetings, executive staff meetings, Board meetings, and individual case meetings when rights related matters are to be discussed.
11. Ensure that all reports of apparent or suspected violations of rights within TBHS are investigated in accordance with requirements of Chapter 7A of the Mental Health Code.
12. Ensure that those reports of alleged or suspected rights violations that did not warrant investigation are recorded in accordance with Standard J.5. above.
13. Semi-annually provide summary complaint data consistent with the required annual report together with a summary of remedial action taken on substantiated complaints by category to MDHHS by June 30th and to the Recipient Rights Advisory Committee of TBHS.

K. The Recipient Rights Advisory Committee (RRAC) shall:

1. Be appointed by the TBHS Board consisting of at least six (6) members who represent the various perspectives of Tuscola County's geographic area. At least 1/3 of the membership will be primary consumers or family members. Of the 1/3, 1/2 will be primary consumers.
2. TBHS RRAC will meet at least semiannually or as necessary to carry out its responsibilities.
3. TBHS RRAC will maintain a current list of members names which is available to individuals upon request.
4. TBHS RRAC will maintain a current list of names and categories represented by members, which is available to individuals upon request.
5. TBHS RRAC protects the recipient rights office from pressures, which could interfere with the impartial, even-handed and thorough performance of its duties.
6. TBHS RRAC recommends candidates for recipient rights officer to the CEO.
7. TBHS RRAC consults with the CEO regarding any proposed dismissal of the recipient rights officer.
8. TBHS RRAC serves in an advisory capacity to the CEO and the director of the rights office.
9. TBHS RRAC reviews and provides comments on the annual rights report submitted by the CEO to the Board of TBHS.
10. The TBHS RRAC serves as the appeals committee for recipient rights complaint appeals.
11. The TBHS RRAC meetings comply with the Open Meetings Act, Act No. 267 of the Public Acts of 1976, MCL 15.261 to 15.275.
12. TBHS RRAC minutes of meetings are maintained and made available to individuals upon request.

L. The Rights Advisors for each TBHS program or facility shall:

1. Report directly to the Recipient Rights Officer regarding recipient rights issues.
2. Participate in in-service training regarding the Recipient Rights System.
3. Complete all training required by MDHHS-ORR and Michigan Mental Health Code.

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-003
Subject	Recipient Rights System	Issue Date	09/29/2008
		Revision Date	09/24/2024
		Page	6 of 9

4. Ensure that service recipients and others have access to Recipient Rights Complaint Forms
 5. Assist service recipients, his/her relatives, friends, and/or staff members in completing the Recipient Rights Complaint Form.
 6. Report to the Recipient Rights Officer oral complaints made by service recipients, his/her relatives, friends, and/or staff members.
 7. Forward all alleged violations (marked "Confidential") to the Recipient Rights Officer.
 8. Assist the Recipient Rights Officer in investigating recipient rights complaints, when asked.
 9. Provide recipient rights service and may serve as a backup in case the Recipient Rights Officer is absent.
- M. At the time of intake and annually, all recipients will receive a summary of rights; that is explained in an understandable manner. Completion of this will be documented and signed off by the staff person who provided the explanation.
- N. Records compiled in the course of investigating an alleged rights violation, shall be retained by the Recipient Rights Officer; maintained independent of the recipient's case record, or an employee's personnel record, and shall be subject to confidentiality safeguards of Public Act 258, section 748.
- O. Complaint Investigation and Resolution:
1. All allegations or incidents of suspected recipient rights violations of a recipient are reported to the employee's immediate supervisor and/or designee and to the TBHS Office of Recipient Rights immediately. The reporting employee shall assure that an incident report form DCH0044 and a Recipient Rights Complaint form is filed.
 2. TBHS Rights Officer will assure those recipients, parents of minors, guardians and others have ready access to complaint forms.
 3. Each rights complaint is recorded upon receipt by the rights office.
 4. Acknowledgment of the recording of the complaint will be sent along with a copy of the complaint to complainant within 5 business days.
 5. The rights office notifies the complainant within 5 business days after a complaint is received, determining whether an investigation/intervention will be taking place.
 6. The rights office responds to complaints that are out of TBHS jurisdiction or did not involve a code protected right within 5 days after receiving the complaint.
 7. The rights office assists the recipient or other individual with the complaint process as necessary.
 8. The rights office will 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 the referral.
 9. In the absence of assistance from an advocacy organization, the office will assist in preparing a written complaint, which contains a statement of the allegation, the right allegedly violated, and the outcome desired by complainant.
 10. If a rights complaint has been filed regarding the conduct of the CEO, the rights investigation will be conducted by the office of another community mental health service program (CMHSP) or by the state Office of Recipient Rights as decided by the TBHS Board of Directors.

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-003
Subject	Recipient Rights System	Issue Date	09/29/2008
		Revision Date	09/24/2024
		Page	7 of 9

11. The rights office will initiate investigation of apparent or suspected rights violations in a timely and efficient manner. An investigation will be initiated immediately in cases involving abuse, neglect, serious injury, or death of a recipient, or retaliation/harassment.
12. In cases not warranting an investigation, the rights office will conduct an intervention of an apparent or suspected rights violation in compliance with the standards established by MDHHS-ORR Attachment C. If the complainant is not satisfied with the results of the intervention, within 10 days, the complainant may contact the Recipient Rights Officer and request an investigation. The Recipient Rights Officer will initiate an investigation upon receipt of the request.
13. Subject to delays involving pending action by external agencies (CPS, law enforcement, etc.) the office completes investigations no later than 90 calendar days following receipt.
14. Investigation is immediately initiated in cases involving alleged abuse, neglect, serious injury, or death of a recipient when a rights violation was apparent or suspected.
15. The office accurately records investigation activities for each rights complaint.
16. The rights office used a preponderance of evidence as its standard of proof in determining whether a right was violated.
17. The rights office will issue a written status report every 30-calendar days during the course of the investigation to the complainant, respondent and the responsible mental health agency. The 30-day status report will contain:
 - a. Statement of the allegations.
 - b. Statement of the issues.
 - c. Citations to relevant provisions to the Mental Health Code, rules, policies and guidelines.
 - d. Investigative progress to date.
 - e. Expected date for completion.
18. Upon completion of the investigation, the office will submit a written investigative report to the respondent and to the CEO of TBHS. (Issuance of the written investigative report may be delayed pending completion of investigations that involve external agencies). The written investigative report will include all of the following:
 - a. Statement of allegations.
 - b. Statement of the issues involved.
 - c. Citations to relevant provisions of the Mental Health Code, rules, policies and guidelines.
 - d. Summary of investigative findings
 - e. Conclusions.
 - f. Recommendations, if any.
19. On substantiated rights violations, the respondent will take appropriate remedial action that meets all of the following requirements:
 - a. Corrects or provides remedy for the rights violation.
 - b. Is implemented in a timely manner.
 - c. Attempts to prevent a recurrence of the rights violation.
20. The remedial action taken on substantiated violations is documented and made part of the record maintained by the rights office.
21. The CEO will submit a written summary report to the complainant and recipient, if different than the complainant, guardian or parent of a minor recipient, within 10 business days after the CEO receives a copy of the investigative report from the rights office.
22. The written summary report submitted by the CEO will contain all of the following:
 - a. Statement of the allegations.
 - b. Statement of the issues involved.

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-003
Subject	Recipient Rights System	Issue Date	09/29/2008
		Revision Date	09/24/2024
		Page	8 of 9

- c. Citations to relevant provision of the Mental Health Code, rules, policies and guidelines.
 - d. Summary of investigation findings of the rights office.
 - e. Conclusions of the rights office.
 - f. Recommendations made by the rights office.
 - g. Action taken, or plan of action proposed, by the respondent.
 - h. Statement describing the right of the complainant, recipient, if different, guardian or parent of a minor recipient to appeal and the grounds for appeal, where to send the appeal.
23. Information in the summary report is provided within the constraints of the confidentiality/privileged communications sections (748, 750) of the Mental Health Code.
 24. Information in the summary report cannot violate the rights of any employee (ex. Bullard-Plawecki Employee Right to Know Act, Act No. 397 of the Public Acts of 1978, MCL a423.501 et.seq).
 25. TBHS and each service provider under contract with TBHS will ensure that appropriate disciplinary action is taken against those who have engaged in abuse or neglect; or retaliation or harassment.
 26. When either TBHS or provider personnel fail to report suspected violations of rights, appropriate administrative action will be taken.
 27. If a plan of action was proposed by the respondent at the time of the issuance of the original summary, an amended summary report with the final action that was taken by the respondent, will be submitted to the complainant, recipient, parent of minor recipient, and/or guardian if applicable. The amended summary report will also include the notice of appeal rights.
 28. The rights office complies with pertinent TBHS policies to assure that investigations were conducted in a manner that does not violate employee rights.
 29. Rights complaints filed by recipients or anyone on their behalf are sent or given to the designated rights officer/advisor in a timely manner.

RELATED FORMS & MATERIALS

n/a

REFERENCES/LEGAL AUTHORITY

- Mental Health Code Sections 330.1755(1). (2), (a), (b), (c), (d), (i-iii), (e), (3), (a), (b), (4), 330.1722, 330.1752, 330.1757, 330.1776-1782, 330.1788, 330.1753, 330.1232A (1)(b), 330.1704, 330.1712
- MDHHS/CMH Contract FY 15-16, 6.3.2

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-003
Subject	Recipient Rights System	Issue Date	09/29/2008
		Revision Date	09/24/2024
		Page	9 of 9

Revision Dates:

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06/16/2016
11/22/2016
10/03/2017
01/08/2018
07/29/2020
10/15/2021
09/24/2024



TUSCOLA BEHAVIORAL HEALTH SYSTEMS
Recipient Rights Policies

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-004
Subject	Right to Access Entertainment Material, Information & News	Issue Date	09/29/2008
		Revision Date	09/24/2024
		Approved By	<i>[Signature]</i>
		Page	1 of 2

POLICY

It is the policy of Tuscola Behavioral Health Systems (TBHS) that recipients of mental health services are entitled to receive, possess and use all personal property, including clothing, except in certain circumstances and conditions as defined in this policy.

PURPOSE

The purpose of this policy is to ensure that recipients of mental health services shall not be prevented from acquiring, at their own expense, or from reading written or printed materials, or from viewing or listening to television, radio, recordings or movies for reasons of, or similar to, censorship.

APPLICATION

This policy shall be applicable to all Tuscola Behavioral Health Systems (TBHS) Programs, both direct and contracted.

DEFINITIONS

Limitation: Individual rules governing the specific limitations of a recipient's right to access entertainment materials, information, and news.

Resident: A person with a mental illness or developmental disability who is living in a residential setting.

Restrictions: Laws, rules and policies governing specific restrictions of access to entertainment material, information and news of a resident or group of residents.

Right to Access: The right to purchase, possess and use personal property, entertainment materials, including printed materials, television, radio, recordings and/or movies.

PROCEDURES

- A. A provider will 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, or movies made available at a facility for reasons of, or similar to, censorship.
- B. A provider may limit access to entertainment materials, information, or news only if such a limitation is specifically approved in the resident's individualized plan of service. A provider shall document each instance when a limitation is imposed in the resident's record.

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-004
Subject	Right to Access Entertainment Material, Information & News	Issue Date	09/29/2008
		Revision Date	09/24/2024
		Page	2 of 2

- C. A provider will not limit access to entertainment materials, information or news when such limitations can no longer be clinically justified. Treatment teams working with recipients in a residential facility must determine if the recipient has an interest in a daily newspaper. If the recipient desires access to a daily newspaper, arrangements will be made to secure the paper requested.
- D. A receipt will be given to the recipient or their legal guardian, or, any person designated by the recipient] for any personal property taken into custody. Any personal property in possession of the program or residential facility at the time the recipient to whom the property belongs is discharged, shall be returned to the recipient.
- E. The right of access will not entitle a minor recipient to obtain and keep written or printed material or to view television programs or movies over the objection of the minor's parent or guardian or if prohibited by state law. Material not prohibited by law may be read or viewed as a part of a written plan of service. The primary clinician may attempt to persuade a parent or guardian of a minor to withdraw their objections to the material desired by the minor.

COMPLAINT PROCESS:

A recipient or another individual on behalf of a recipient has the right to file a complaint about denials or limitations of their right to access entertainment material, information and news, or the time frames placed upon a limitation. Complaints may be made to TBHS Recipient Rights Office.

RELATED FORMS & MATERIALS

n/a

REFERENCES/LEGAL AUTHORITY

- Mental Health Code Section 330.1752
- MDHHS Administrative Rule 330.7139

Revision Dates:

07/28/2009
07/29/2015
06/16/2016
08/16/2019
09/20/2022
09/24/2024



TUSCOLA BEHAVIORAL HEALTH SYSTEMS
Recipient Rights Policies

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-005
Subject	Communication, Telephone, Visiting Rights	Issue Date	09/29/2008
		Revision Date	09/24/2024
		Approved By	<i>[Signature]</i>
		Page	1 of 2

POLICY

It is the policy of TBHS that a resident is assured unimpeded, private and uncensored communication with others by mail and telephone and to visit with persons of his/her choice, except in the circumstances and under the conditions set forth in this policy.

PURPOSE

The purpose of this policy is to ensure residents have access to telephone, mail and visitors.

APPLICATION

This policy shall be applicable to all Tuscola Behavioral Health Systems (TBHS) Residential Programs, both direct and contracted.

DEFINITIONS

n/a

PROCEDURES

- 1) 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 the conditions set forth in this section.
- 2) Each facility will endeavor to ensure that telephones are reasonably accessible, by ensuring that correspondence can be conveniently and confidentially received and mailed, and by making space for visits available.
- 3) Writing materials, telephone usage funds, and postage will be provided in reasonable amounts to residents who are unable to procure such items.
- 4) The right to communicate by mail or telephone or receive visitors will not be further limited except as authorized in the resident's individual plan of services.
- 5) Limitations on communication do not apply to a resident and an attorney or a court, or between a resident and other individuals if the communication involves matters that are or may be the subject of legal inquiry.
- 6) If a resident can secure the services of a mental health professional, they will be allowed to see that person at any reasonable time.

Complaint Process:

A resident or another individual on behalf of a resident has the right to file a complaint regarding denials or limitations of their right to communication, telephone, visiting, or the time frames placed upon a limitation. Complaints may be made through the Recipient Rights Office.

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-005
Subject	Communication, Telephone, Visiting Rights	Issue Date	09/29/2008
		Revision Date	09/24/2024
		Page	2 of 2

RELATED FORMS & MATERIALS

n/a

REFERENCES/LEGAL AUTHORITY

- Mental Health Code Sections , 330.1726.

Revision Dates:

10/14/2009
01/08/2018
07/29/2020
10/02/2020
09/24/2024



TUSCOLA BEHAVIORAL HEALTH SYSTEMS
Recipient Rights Policies

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-006
Subject	Change in Treatment	Issue Date	09/29/2008
		Revision Date	09/24/2024
		Approved By	<i>Audie [Signature]</i>
		Page	1 of 2

POLICY

It is the policy of Tuscola Behavioral Health Systems (TBHS) that a recipient shall receive progressive treatment and care until sufficiently rehabilitated or as required by laws, rules, policies or guidelines, or until the recipient has received the maximum benefit from the program. A recipient will be informed when ready for change, release, discharge, or when maximum benefit has been received.

Justification for a change from one type of treatment to another shall be relayed to the recipient and documented in the recipient's record.

PURPOSE

The purpose of this policy is to ensure recipients are informed when ready for change, release, discharge, or when maximum benefit has been achieved.

APPLICATION

This policy shall be applicable to all Tuscola Behavioral Health Systems (TBHS) Programs, both direct and contracted.

DEFINITIONS

n/a

PROCEDURES

A recipient will be given a choice of physician or other mental health professional in accordance with the policies of TBHS, and/or service provider under contract with TBHS, and within the limits of available TBHS staff, or service provider under contract with TBHS.

COMPLAINT PROCESS:

Recipients have the right to file a complaint regarding decisions concerning a change in treatment. Complaints may be made with the Recipient Rights Office.

RELATED FORMS & MATERIALS

n/a

REFERENCES/LEGAL AUTHORITY

- Mental Health Code Sections 330.1712, 330.1714 and 330.1752
- MDHHS Administrative Rule 330.7199 (2) (j)
- Master Contract FY23-24, 6.3.2

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-006
Subject	Change in Treatment	Issue Date	09/29/2008
		Revision Date	09/24/2024
		Page	2 of 2

Revision Dates:

10/14/2009
01/10/2011
10/03/2012
12/12/2013
07/29/2015
06/16/2016
09/20/2022
09/24/2024



TUSCOLA BEHAVIORAL HEALTH SYSTEMS
Recipient Rights Policies

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-007
Subject	Comprehensive Examination	Issue Date	09/29/2008
		Revision Date	07/29/2015
		Approved By	<i>Shawn Beals</i>
		Page	1 of 1

POLICY

It is the policy of Tuscola Behavioral Health Systems (TBHS) that all consumers enrolled in services with TBHS are given a comprehensive evaluation consistent with the Michigan Department of Health and Human Services (MDHHS) rules.

PURPOSE

The purpose of this policy is to ensure all recipients, when admitted to a hospital or center, receive a comprehensive examination within 24 hours.

APPLICATION

This policy shall be applicable to all Tuscola Behavioral Health Systems (TBHS) Programs, both direct and contracted.

DEFINITIONS

n/a

PROCEDURES

All consumers accepted for admission in a hospital or center shall receive a comprehensive physical and mental examination within 24 hours. Each resident shall be periodically re-examined not less often than annually.

RELATED FORMS & MATERIALS

n/a

REFERENCES/LEGAL AUTHORITY

- Mental Health Code 330.1752

Revision Dates:

07/28/2009

07/29/2015



Recipient Rights Policies

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-008
Subject	Sterilization/Abortion/Contraception	Issue Date	09/29/2008
		Revision Date	09/24/2024
		Approved By	<i>[Signature]</i>
		Page	1 of 2

POLICY

It is the policy of Tuscola Behavioral Health Systems (TBHS) to safeguard the rights of recipients to be informed of sterilization/abortion/contraception.

PURPOSE

The purpose of this policy is to assure that a recipient is informed about sterilization/abortion/contraception and is provided referral assistance to providers of family planning and health information services, when requested.

APPLICATION

This policy shall be applicable to all Tuscola Behavioral Health Systems (TBHS) Programs, both direct and contracted.

DEFINITIONS

n/a

PROCEDURES

NOTIFICATION PROCESS:

The individual in charge of the recipient's written plan of service will 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. The notice shall include a statement that receiving mental health services does not depend in any way on requesting or not requesting family planning or health information services.

REFERRAL ASSISTANCE:

The recipient, guardian or parent of a minor recipient will be provided with referral assistance to providers of family planning and health information services upon request.

SERVICES:

Mental Health Services are not contingent upon receiving family planning services.

Policy Section	Safeguarding The Rights of Recipients	Policy Number	VII-001-008
Subject	Sterilization/Abortion/Contraception	Issue Date	09/29/2008
		Revision Date	09/24/2024
		Page	2 of 2

RELATED FORMS & MATERIALS

n/a

REFERENCES/LEGAL AUTHORITY

- Mental Health Code Section 330.1752
- MDHHS Administrative Rule 7029

Revision Dates:

01/10/2011
11/30/2011
06/16/2016
09/24/2024



TUSCOLA BEHAVIORAL HEALTH SYSTEMS
Recipient Rights Policies

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-009
Subject	Residential Labor	Issue Date	09/29/2008
		Revision Date	09/24/2024
		Approved By	<i>Julie Majors</i>
		Page	1 of 2

POLICY

It shall be the policy of Tuscola Behavioral Health Systems (TBHS) that recipients will not be allowed nor required to perform labor as a prerequisite, or as a condition of, or as a part of any mental health residential treatment program, other than duties of a personal housekeeping nature.

PURPOSE

The purpose of this policy is to ensure recipients are not asked to perform labor that is not consistent with their plan of service.

APPLICATION

This policy shall be applicable to all Tuscola Behavioral Health Systems (TBHS) Programs, both direct and contracted.

DEFINITIONS

n/a

PROCEDURES

- 1) 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 would not be inconsistent with the individual plan of services for the resident, and 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.
- 2) 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.
- 3) A resident will be compensated when performing labor which benefits another individual or agency.
- 4) Labor of a personal housekeeping nature or labor performed as a condition of residence in a small group living arrangement is not eligible for compensation. One-half of any compensation paid to a resident under this section is exempt from collection for payment of mental health services provided.

COMPLAINT PROCESS:

A recipient or another individual on behalf of the recipient has the right to file a complaint regarding decisions concerning performing labor. Complaints may be filed with the TBHS Recipient Rights Office.

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-009
Subject	Residential Labor	Issue Date	09/29/2008
		Revision Date	09/24/2024
		Page	2 of 2

RELATED FORMS & MATERIALS

n/a

REFERENCES/LEGAL AUTHORITY

- Mental Health Code Sections 330.1736 and 330.1752
- MDHHS Administrative Rule 7229

Revision Dates:

10/14/2009
06/16/2016
08/16/2019
09/20/2022
09/24/2024



Recipient Rights Policies

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-010
Subject	Fingerprinting, Photographing, Audiotaping & Use of One-Way Glass	Issue Date	09/29/2008
		Revision Date	09/24/2024
		Approved By	<i>Judith Majors</i>
		Page	1 of 2

POLICY

It is the policy of Tuscola Behavioral Health Systems (TBHS) that Recipients shall not be fingerprinted, photographed, audiotaped, or viewed through a one-way glass as a part of any program without the written consent of the recipient, guardian or parent except in the circumstances set forth in this policy.

PURPOSE

The purpose of this policy is to ensure the correct use of fingerprinting, photographing, audiotaping and one-way glass.

APPLICATION

This policy shall be applicable to all Tuscola Behavioral Health Systems (TBHS) Programs, both direct and contracted.

DEFINITIONS

Education/Training: For the purposes of this policy, education and training includes the use of photographs for the development of treatment approaches, supervision of therapy and staff skill development (in-service training).

Photography: For the purposes of this policy, photography includes the use of still, motion picture, videotape cameras and other electronic forms that capture an image.

PROCEDURES

1. A recipient of mental health services shall not be fingerprinted, photographed, audio recorded, or viewed through a 1-way glass except in the circumstances and under the conditions set forth in this policy. Photographs include still pictures, motion pictures, and recordings.
2. Fingerprints, photographs, or audio recordings may be taken, and used, and 1-way glass may be used in order to provide services, including research, to a recipient or in order to determine the name of the recipient only when prior written consent is obtained from 1 of the following:
 - (a) The recipient if 18 years of age or over and competent to consent.
 - (b) The guardian of the recipient if the guardian is legally empowered to execute such a consent.
 - (c) The parent with legal and physical custody of the recipient if the recipient is less than 18 years of age.
3. This consent may be withdrawn at any time by providing verbal or written notice to the provider of service.
4. Fingerprints, photographs, or audio recordings taken in order to provide services to a recipient, and any copies of them, shall be kept as part of the record of the recipient.

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-010
Subject	Fingerprinting, Photographing, Audiotaping & Use of One-Way Glass	Issue Date	09/29/2008
		Revision Date	09/24/2024
		Page	2 of 2

5. Fingerprints, photographs, or audio recordings taken in order to determine the name of a recipient shall be kept as part of the record of the recipient, except that when necessary the fingerprints, photographs, or audio recordings may be delivered to others for assistance in determining the name of the recipient. Fingerprints, photographs, or audio recordings so delivered shall be returned together with copies that were made. An individual receiving fingerprints, photographs, or audio recordings shall be informed of the requirement that return be made. Upon return, the fingerprints, photographs, or audio recordings, together with copies, shall be kept as part of the record of the recipient.
6. Fingerprints, photographs, or audio recordings in the record of a recipient, and any copies of them, shall be given to the recipient or destroyed when they are no longer essential, or upon discharge of the resident, whichever occurs first.
7. Photographs of a recipient may be taken for purely personal or social purposes and will be maintained as the recipient's personal property. A photograph of a recipient will not be taken or used if the recipient has indicated his or her objection.
8. Photographs or audio recordings may be taken, and 1-way glass may be used for educational or training purposes only when express written consent is obtained from 1 of the following:
 - (a) The recipient if 18 years of age or over and competent to consent.
 - (b) The guardian of the recipient if the guardian is legally empowered to execute such a consent.
 - (c) The parent with legal and physical custody of the recipient if the recipient is less than 18 years of age.
9. Video surveillance is prohibited.

COMPLAINT PROCESS:

A recipient or another individual on behalf of a recipient may file a complaint for decisions regarding fingerprinting, photographing, audiotaping and use of one-way glass. Complaints may be filed with the TBHS Recipient Rights Office.

RELATED FORMS & MATERIALS

n/a

REFERENCES/LEGAL AUTHORITY

- Mental Health Code Sections 330.1724 and 330.1752
- MDHHS Administrative Rule 7003

Revision Dates:

0728/2009
10/14/2009
01/10/2011
06/16/2016
10/15/2021
09/20/2022
09/24/2024



Recipient Rights Policies

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-011
Subject	Personal Property & Funds	Issue Date	09/29/2008
		Revision Date	09/24/2024
		Approved By	<i>Audie Majeska</i>
		Page	1 of 3

POLICY

It is the policy of Tuscola Behavioral Health Systems (TBHS) that recipients are assured the right to receive, possess and use all personal property and funds including clothing.

PURPOSE

The purpose of this policy is to safeguard the recipient's right to inspect his or her own personal property and funds at reasonable times, except in certain circumstances and conditions as defined in this policy.

APPLICATION

This policy shall be applicable to all Tuscola Behavioral Health Systems (TBHS) Programs, both direct and contracted.

DEFINITIONS

Limitation: Individual rules governing the specific limitations of a recipient's right to access personal property and funds.

Resident: A person with a mental illness or developmental disability who is living in a residential setting.

Restrictions: Laws, rules and policies governing specific restrictions of access to personal property and funds of a resident or group of residents.

PROCEDURES

1. A resident is entitled to receive, possess, and use all personal property, including clothing, except in the circumstances and under the conditions set forth in this policy.
2. A facility may exclude particular kinds of personal property from the facility. Any exclusions will be officially adopted and will be in writing and posted in each residential unit.
 - A. Excluded property may include, but it is not limited to, the following:
 1. Weapons: Firearms, knives and sharp objects, explosives and other potentially dangerous articles.
 2. Monetary items: Expensive jewelry, stocks, bonds, etc.
 3. Contraband: Drugs, whether prescribed or not.
 4. Alcoholic beverages.
3. A recipient's property or living area will not be searched by staff unless such a search is authorized in the recipient's 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

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-011
Subject	Personal Property & Funds	Issue Date	09/29/2008
		Revision Date	09/24/2024
		Page	2 of 3

written policies, procedures, or rules of the provider. The following conditions apply to all searches:

- (a) A search of the recipient's living area or property will occur in the presence of a witness. The recipient will also be present unless he or she declines to be present.
- (b) The circumstances surrounding the search will be entered in the recipient's record, and will include all the following:
 - (i) The reason for initiating the search.
 - (ii) The names of the individuals performing and witnessing the search.
 - (iii) The results of the search, including a description of the property seized.

4. The individual in charge of the plan of services for a resident may limit the rights guaranteed as stated in #1 above if each limitation is essential for 1 of the following purposes:
 - (a) In order to prevent theft, loss, or destruction of the property, unless a waiver is signed by the resident.
 - (b) In order to prevent the resident from physically harming himself, herself, or others.
5. A limitation adopted by the individual in charge of the plan of service, the date it expires, and justification for its adoption shall be promptly noted in the record of the resident.
6. A limitation will be removed when the circumstance that justified its adoption ceases to exist.
7. Each facility will minimally inventory and account for recipient's personal property when the recipient enters a program/residential setting.
8. A receipt will be given to the recipient, (or their legal guardian, or, any person designated by the recipient) for any personal property and funds taken into the possession of the facility. Any personal property or funds in possession of the facility at the time of the recipient of whom the property belongs is discharged, the property will be returned to the recipient.
9. Each facility will provide a reasonable amount of storage space to each resident for his or her clothing and other personal property. A resident is permitted to inspect personal property at reasonable times. [MHC 728(2)]
10. A recipient will have easy access to the money in his/her personal spending account and have the option to spend or otherwise use the money as he/she chooses.
11. A limitation or restriction to funds in a recipient's personal spending account may only be made with the primary clinician, and the interdisciplinary team or primary therapist in consensus with the legal guardian or payee, where applicable and only limited to prevent the recipient from physically harming himself, herself or others, theft, loss, or destruction of the property, unless a waiver is signed by the recipient.
12. Recipients will have the opportunity to file a complaint regarding denials or limitations of their right to access funds, or the time frames placed upon limitation by filing a complaint with the recipient rights office.
13. Each facility will account for recipient's personal funds on an ongoing, at least monthly basis, and when the recipient is discharged or leaves the program. Personal property will be accounted for and maintained and will accompany the recipient upon discharge.

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-011
Subject	Personal Property & Funds	Issue Date	09/29/2008
		Revision Date	09/24/2024
		Page	3 of 3

14. The right of personal property and funds will not entitle a minor recipient to obtain and keep personal property and funds over the objection of the minor's parent or guardian or if prohibited by state law. The supports coordinator or primary clinician may attempt to persuade a parent or guardian of a minor to withdraw their objections to the property and funds desired by the minor.

RELATED FORMS & MATERIALS

n/a

REFERENCES/LEGAL AUTHORITY

- Mental Health Code Sections 330.1728, 330.1730, 330.1732 and 330.1752
- MDHHS Administrative Rule 7009

Revision Dates:

10/14/2009
01/10/2011
06/16/2016
01/08/2018
09/24/2024



TUSCOLA BEHAVIORAL HEALTH SYSTEMS
Recipient Rights Policies

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-012
Subject	Abuse & Neglect	Issue Date	09/29/2008
		Revision Date	09/24/2024
		Approved By	<i>[Signature]</i>
		Page	1 of 7

POLICY

It is the policy of Tuscola Behavioral Health Systems (TBHS) that any action of commission or omission which, by its nature, jeopardizes or impairs the rights, safety, and wellbeing, best interest and properties of recipients are prohibited. (Actions include, but are not limited to, those stated in the definition section). Willful acts of employees are prohibited which adversely affect care and treatment of recipients. A response system of accountability for safeguarding recipients from abuse, neglect, or mistreatment will be assured. Instances of, or knowledge of, suspected abuse, neglect or mistreatment are to be reported immediately.

PURPOSE

To establish policy to safeguard recipients of mental health services from abuse, neglect, or mistreatment, to promote the safety, security and wellbeing of recipients and to ensure protection of the recipient.

APPLICATION

This policy shall be applicable to all Tuscola Behavioral Health Systems (TBHS) Programs, both direct and contracted.

DEFINITIONS

MHC 330.1100a(2) "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.

MHC 330.1100b(18) "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.

Abuse Class I: means 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.

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-012
Subject	Abuse & Neglect	Issue Date	09/29/2008
		Revision Date	09/24/2024
		Page	2 of 7

Abuse Class II: means any of the following:

- A. 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.
- B. The use of unreasonable force on a recipient by an employee, volunteer, or agent of a provider with or without apparent harm.
- C. 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.
- D. 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.
- E. Exploitation of a recipient by an employee, volunteer, or agent of a provider (see definition section for description of exploitation).

Abuse Class III: 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.

A. "Threaten" means any of the following:

- a. To utter intentions of injury or punishment against:
- b. To express deliberate intention to deny the well-being, safety, or happiness of somebody unless the person does what is being demanded.

B. "Degrade" means any of the following:

- a. Threat humiliatingly: To cause somebody or something a humiliating loss of status or reputation, or cause somebody a humiliating loss of self-esteem
- b. Make worthless: To cause people to feel that they or other people are worthless and do not have the respect or good opinion of others
- c. (SYN) Degrade, abase, debase, demean, humble, humiliate: These verbs mean to deprive of self-esteem or self-worth; to shame or disgrace.

Degrading behavior shall be further defined as any language or epithets that insult the person's heritage, mental status, race, sexual orientation, gender, intelligence, etc.

Examples of behavior that is degrading, and must be reported as abuse includes, but is not limited to:

- Swearing at recipients
- Using foul language at recipients
- Using racial or ethnic slurs toward or about recipients
- Making emotionally harmful remarks toward recipients
- Causing or prompting others to commit the actions listed above

*Recipient to recipient physical altercations is not abuse under TBHS definition. Recipient to recipient sexual abuse must be reported to the TBHS Office of Recipient Rights accompanied by a completed incident report.

Neglect Class I: means either of the following:

- A. Acts of commission or omission by an employee, volunteer, or agent of a provider that result from non-compliance with a standard of care or treatment required by law, rules, policies, guidelines,

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-012
Subject	Abuse & Neglect	Issue Date	09/29/2008
		Revision Date	09/24/2024
		Page	3 of 7

written directives, procedures, or individual plan of service and that causes or contributes to the death, or sexual abuse of, or serious physical harm to a recipient.

- B. The failure to report apparent or suspected Abuse Class I or Neglect Class I of a recipient.

Neglect Class II: means either of the following:

- A. Acts of commission or omission by an employee, volunteer, or agent of a provider that result from non-compliance 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.
- B. The failure to report apparent or suspected Abuse Class II or Neglect Class II of a recipient.

Neglect Class III: means either of the following:

- A. Acts of commission or omission by an employee, volunteer, or agent of a provider that result from non-compliance 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.
- B. The failure to report apparent or suspected Abuse Class III or Neglect Class III of a recipient.

“Act”: Means mental health code, 1974 PA 258, MCL 330.1001.

Anatomical Support: Body positioning or physical support ordered by a physical or occupational therapist for the purpose of maintaining or improving a recipient's physical functioning.

Bodily Function: The usual action of any region or organ of the body.

Emotional Harm: The impaired psychological functioning, growth, or development of a significant nature as evidenced by observable physical symptomatology or as determined by a mental health professional.

Exploitation: An action by an employee, volunteer or agent of a provider that involves the misappropriation or misuse of a recipient's property or funds for the benefit of an individual or individuals other than the recipient.

Non-Serious Physical Harm: Physical damage “or what could reasonably be construed as pain” suffered by a recipient that a physician or registered nurse determines 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 in order to prevent the recipient from harming himself, herself, or others.

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 in this subdivision and incorporated in the written individual plan of service shall not be considered a restraint as defined in subdivision (q) of this subreele.

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-012
Subject	Abuse & Neglect	Issue Date	09/29/2008
		Revision Date	09/24/2024
		Page	4 of 7

Provider: The department, each community mental health services program, each licensed hospital, each psychiatric unit and each psychiatric partial hospitalization program licensed under section 137 of the "Act", their employees, volunteers, and contractual agents.

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

Restraint: Means 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.

Serious Physical Harm: Physical damage suffered by a recipient that a physician or registered nurse determines 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.

Sexual Harassment: Sexual advances to a recipient, requests for sexual favors from a recipient, or other conduct or communication of a sexual nature toward a recipient.

Sexual Penetration: Sexual intercourse, cunnilingus, fellatio, anal intercourse, or any other intrusion, however slight, of any part of a person's body or of any object into the genital or anal openings of another person's body, but emission of semen is not required.

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.

Treatment by Spiritual Means: A spiritual discipline or school of thought that a recipient wishes to rely on to aid physical or mental recovery.

Unreasonable Force: Physical management or force that is applied by an employee, volunteer, or agent of a provider to a recipient where there is no imminent risk of significant injury to the recipient, staff or others or that is in one or more of the following circumstances:

- A. Not in compliance with approved behavior management techniques. There is no imminent risk of serious or non-serious physical harm to the recipient, staff or others.
- B. The physical management used is not in compliance with techniques approved by the provider and the responsible mental health agency.
- C. The physical management used is not in compliance with the emergency interventions authorized in the recipient's individual plan of service.
- D. The physical management or force used when other less restrictive measures were possible but not attempted immediately before the use of physical management or force.

PROCEDURES

- A. All employees are responsible for safeguarding recipients from abuse, neglect, or mistreatment. It is the assigned duty and legal responsibility of the employee who has knowledge of recipient abuse, neglect, or mistreatment to make or cause to be made a report to the local law enforcement

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-012
Subject	Abuse & Neglect	Issue Date	09/29/2008
		Revision Date	09/24/2024
		Page	5 of 7

agency, county or city in which the violation is suspected to have occurred, and/or the Department of Health and Human Services (DHHS), (county of which violation is alleged to have occurred) when appropriate.

In all cases of abuse, neglect, and/or mistreatment, it is the assigned duty and responsibility of the employee who has knowledge or reasonable cause to suspect recipient abuse, neglect, or mistreatment to report it to their immediate supervisor and to the recipient rights office immediately.

- B. Allegations of abuse, neglect, or mistreatment shall be reported in accordance with recipient rights procedures, related to TBHS policy and state law. The reporting employee shall assure that an incident report form DCH0044 is filed.
- C. Incidents that, according to the direct observation of the reporting person, results from accidents or from self-abuse shall be reported to the reporting person's immediate supervisor.
- D. When a prompt and thorough initial review has determined that there is cause to believe or suspect that child abuse or neglect may have occurred, the reporting employee shall notify his/her supervisor, and the Tuscola Behavioral Health Systems Office of Recipient Rights. In all cases of suspected criminal abuse or neglect (child, adult, or vulnerable adult) the appropriate police agency shall also be notified.
- E. During police investigation of alleged abuse:
 - 1. Direct care staff and contract service agency personnel shall give police full cooperation and support in order that they may complete their investigation.
 - 2. The investigation convened by the Office of Recipient Rights shall be carried out in cooperation with the police.
- F. Statement of alleged abuse shall neither be discounted because the recipient is receiving mental health services, nor shall such statements be used to deprive a recipient of their rights and benefits, unless the cause for such discounting is clearly documented in the recipient's records.
- G. Services provided by contract agencies and direct service sites shall comply with all recording and investigative requirements of this policy.
- H. A person who intentionally fails to report a reasonable suspicion of abuse, or who knowingly makes a false report of abuse could be guilty of a misdemeanor and may have civil liability for damages proximately caused by the violation.
- I. When there is reasonable cause to suspect that an employee, either directly or as an accomplice, has been involved in abusing a recipient, the employee will not continue in his/her present assignment during the investigation of allegations of abuse.
- J. Assistance will be provided to appropriate individuals and/or agencies as necessary in the prosecution of criminal charges against those who have engaged in abuse, including the reporting of acts or actions, which may lead to prosecution. TBHS employees shall cooperate with authorized investigators from other agencies assigned to inquire into other violations, which by law are within their jurisdiction. For example, the Department of Health and Human Services, Adult Protective Services and the Michigan Department of Civil Rights.

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-012
Subject	Abuse & Neglect	Issue Date	09/29/2008
		Revision Date	09/24/2024
		Page	6 of 7

REPORTING/INVESTIGATION PROCEDURES:

- A. All allegations or incidents of suspected abuse, neglect, or mistreatment toward a recipient are reported to the employee's immediate supervisor and/or designee and to the TBHS Office of Recipient Rights immediately.
- B. When necessary, pursuant to Public Act 32 Section 723, a verbal report shall be made immediately to the law enforcement agency for the county or city in which the abuse is suspected to have occurred or to the State Police. Within 72 hours after making the oral report to the appropriate law enforcement agency, the reporting person shall file a written report. The written report shall be filed with the law enforcement agency to which the oral report was made and with the Tuscola Behavioral Health Systems Office of Recipient Rights. If the person making the report is not the party making the initial allegation, (complainant), that person shall be provided a copy of the written report.
 - 1. A report of suspected abuse is not required if the staff person has knowledge (must be clearly documented) that the incident has been reported to the appropriate law enforcement agency and the Office of Recipient Rights, or suspected abuse occurred more than one year before the date on which it first became known to an individual otherwise required to make a report.
 - 2. The written reports contain the name of the recipient, a description of the abuse and other available information, which might establish the cause and manner of the alleged abuse.
 - 3. The identity of the individual making the report and the report itself, is confidential and is disclosed only with the written consent of the individuals or by appropriate judicial process.
 - 4. These reporting requirements do not relieve a staff person from the duty to report abuse under other applicable law.
- C. The reporting requirement is superseded by the patient-therapist (psychiatrist, psychologist, clinical social worker, licensed counselor) privilege recognized in the State of Michigan if the allegation does not involve:
 - 1. Abuse by:
 - a. Mental Health Professional.
 - b. A person employed by or under contract to TBHS.
 - c. A person employed by an entity under contract to TBHS.
 - 2. Suspected abuse is alleged to have been committed in:
 - a. Residential setting.
 - b. A Community Mental Health Program site.
 - c. The work site of a person employed by or under contract to TBHS.
 - d. An entity under contract to TBHS.
 - e. Any place where a recipient is under the supervision of a person employed by or under contract to TBHS.
- D. Upon receipt of written notification of alleged abuse, neglect, or mistreatment, the Office of Recipient Rights shall determine if there is reasonable cause to believe that abuse, neglect, or mistreatment may have occurred. As appropriate, the Office of Recipient Rights shall notify the Chief Executive Officer of the situation, keeping him/her apprised of the situation, the investigation and the findings. Assure that appropriate procedure for notification to various departments in law enforcement and adult protective service agencies are completed.

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-012
Subject	Abuse & Neglect	Issue Date	09/29/2008
		Revision Date	09/24/2024
		Page	7 of 7

- E. The Office of Recipient Rights shall implement approved procedures for investigating complaints/allegations.
1. Results within 90 days of the investigation are sent to the Chief Executive Officer for review.
 2. If an allegation is substantiated and remedial action or firm and appropriate disciplinary action is necessary, the Chief Executive Officer, having reviewed and approved the recommendations for corrective/disciplinary action, shall discharge such responsibility to the appropriate individuals thereby correcting the situation and/or preventing reoccurrence of incident/situation.
 3. The Office of Recipient Rights shall maintain copies of reported abuse, neglect, and mistreatment.
 4. The Rights Officer, on a quarterly basis, shall recount accumulative data detailing submitted reports of abuse, neglect, and mistreatment to the Rights Advisory Committee.

RELATED FORMS & MATERIALS

n/a

REFERENCES/LEGAL AUTHORITY

- Mental Health Code Sections 330.1100, 330.1722, 330.1723, 330.1752, 330.1778
- MDHHS Administrative Rules 330.7001 and 330.7035
- Public Act 238 of 1978 and Public Act 509 of 1982

Revision Dates:

07/28/2009
10/14/2009
01/10/2011
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09/30/2014
07/29/2015
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09/24/2024



Recipient Rights Policies

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-013
Subject	Appeals	Issue Date	09/29/2008
		Revision Date	09/24/2024
		Approved By	<i>[Signature]</i>
		Page	1 of 3

POLICY

It is the policy of Tuscola Behavioral Health Systems (TBHS) that a recipient be provided information about the appeals process. In the absence of assistance from an advocacy organization, the Rights Office shall assist the recipient with the process.

PURPOSE

This policy establishes a process for those who feel that their rights have been violated, to appeal if they have disagreements about the Recipient Rights report or the outcome the complainant is seeking as a resolution to the complaint.

APPLICATION

This policy shall be applicable to all Tuscola Behavioral Health Systems (TBHS) Programs, both direct and contracted.

DEFINITIONS

"Appellant" means the recipient, complainant, parent, or guardian who appeals a recipient rights finding or a respondent's action to an appeals committee.

"Investigation" means a detailed inquiry into and systematic examination of an allegation raised in a rights complaint.

"Respondent" means 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.

PROCEDURES

Appeals Committee

1. The Tuscola Behavioral Health Systems Board of Directors has designated the recipient rights advisory committee as the appeals committee.
2. The appeals committee may request consultation and technical assistance from MDHHS Office of Recipient Rights.
3. A member of an appeals committee who has a personal or professional relationship with an individual involved in an appeal shall abstain from participating in that appeal as a member of the committee.

Appeal

1. Not later than 45 days after receipt of the summary report, the complainant may file a written appeal with the appeals committee with jurisdiction over the office of recipient rights that issued the summary report.
2. The grounds for appeal are:

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-013
Subject	Appeals	Issue Date	09/29/2008
		Revision Date	09/24/2024
		Page	2 of 3

- a. The investigative findings of the office are not consistent with the facts or with law, rules, policies, or guidelines.
 - b. The action taken or plan of action proposed by the respondent does not provide an adequate remedy.
 - c. An investigation was not initiated or completed on a timely basis
3. The rights office will advise the complainant that there are advocacy organizations available to assist in preparing the written appeal and offer to make the referral. In the absence of assistance from an advocacy organization, the rights office will assist the appellant in meeting the procedural requirements of a written appeal.
 4. Within 5 business days after receipt of the written appeal, 2 members of the appeals committee will review the appeal to determine whether establishes ground for appeal. The results of the review and a copy of the appeal request will be provided, in writing, to the appellant, within 5 business days.
 5. Within 30 days after receipt of a written appeal, the appeals committee shall meet in closed session and review the facts as stated in all complaint investigation documents and will take on of the following actions:
 - (a) Uphold the investigative findings of the office and the action taken or plan of action proposed by the respondent.
 - (b) Return the investigation to the rights office and request that it be reopened or reinvestigated.
 - i. The rights office will complete the reinvestigation with 45 days following the standards established in Sec. 778.
 - ii. Upon receipt of the Report of Investigative Findings, Tuscola Behavioral Health Systems CEO will take appropriate remedial action and will submit a written summary report to the complainant, recipient, if different that the complainant, parent or guardian, and the appeals committee within 10 days.
 - (c) Uphold the investigative findings of the rights office but recommend that the respondent take additional or different action to remedy the violation.
 - i. A response will be sent within 30 days as to the action taken or justification as to why it was not taken. The response will be sent to the complainant, recipient, if different that the complainant, parent or guardian, and the appeals committee.
 - (d) Tuscola Behavioral Health Services Board of Directors requests an external investigation by MDHHS Office of Recipient Rights.
 - i. Tuscola Behavioral Health Systems Board of Directors will make a request to MDHHS Office of Recipient Rights, in writing within 5 business days of receipt of request from the appeals committee. Within 10 days of receipt of MDHHS amended report, Tuscola Behavioral Health Systems CEO must issue an amended summary reporting compliance with Sec. 782. The amended summary report must be submitted to the appellant, recipient, if different from the appellant, the recipient's legal guardian, if any, the parent of a minor recipient, rights office and appeals committee. If the appellant still disagrees with the conclusion of the investigation or asserts that the investigative findings of the rights office are not consistent with the facts or law, rules, policies, or guidelines, they may file an appeal under Sec. 786.
 - (e) The investigation was not initiated or completed in a timely manner; Tuscola Behavioral Health Systems CEO take remedial action to address the lack of timeliness with the rights office.

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-013
Subject	Appeals	Issue Date	09/29/2008
		Revision Date	09/24/2024
		Page	3 of 3

6. The appeals committee will document its decision and justification in writing. Within 10 working days after reaching its decision, it will provide copies of the decision to the respondent, appellant, recipient if different than the appellant, the recipient's guardian if a guardian has been appointed, Tuscola Behavioral Health Services and Office of Recipient Rights. The written decision will include a statement of appellant's right to appeal to MDHHS Office of Recipient Rights within 45 days from receipt of decision and ground for appeal.

Employees of TBHS cannot be members of the Appeals Committee.

RELATED FORMS & MATERIALS

n/a

REFERENCES/LEGAL AUTHORITY

- Mental Health Code Sections 330.1722, , 330.1784 through 330.1788

Revision Dates:

10/14/2009
01/10/2011
12/01/2011
07/29/2015
11/22/2016
09/20/2022
03/21/2023
09/24/2024



TUSCOLA BEHAVIORAL HEALTH SYSTEMS
Recipient Rights Policies

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-014
Subject	Informed Consent	Issue Date	09/29/2008
		Revision Date	09/24/2024
		Approved By	<i>Aubrey Majors</i>
		Page	1 of 4

POLICY

It shall be the policy of Tuscola Behavioral Health Systems (TBHS) to obtain written informed consent from a recipient of service or applicant for service, from his/her empowered guardian or from a parent, if a minor, prior to providing treatment, changing treatment, or providing medication.

PURPOSE

The purpose of this policy is to safeguard the recipient's right to be informed about treatment, changes in treatment and or medications.

APPLICATION

This policy shall be applicable to all Tuscola Behavioral Health Systems (TBHS) Programs, both direct and contracted.

DEFINITIONS

Informed Consent: A written agreement executed by the recipient, a minor recipient's parent, a recipient's legal representative with authority to execute a consent, or a full or limited guardian with the authority to consent, or a verbal agreement of a recipient witnessed and documented by an individual other than the individual providing treatment.

Informed Consent Board: Shall consist of the interdisciplinary team and may include a staff member with prior clinical contact with the recipient whose ability to give informed consent is at issue.

PROCEDURES

STANDARDS:

- A. Informed Consent requires:
1. Legal competency. An individual must 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.
 2. Knowledge. To consent, a recipient or legal representative must have basic information about the procedure, risks, other related consequences, and other relevant information. The standard governing required disclosure by a doctor is what a reasonable patient needs to know in order to make an informed decision. Other relevant information includes all of the following:
 - (i) The purpose of the procedures.

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-014
Subject	Informed Consent	Issue Date	09/29/2008
		Revision Date	09/24/2024
		Page	2 of 4

(ii) A description of the attendant discomforts, risks, and benefits that can reasonably be expected.

(iii) A disclosure of appropriate alternatives advantageous to the recipient.

(iv) An offer to answer further inquiries.

3. **Comprehension.** An individual must be able to understand what the personal implications of providing consent will be based upon the information provided under knowledge. 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 or their individual representative is free to withdraw consent and to discontinue participation or activity at any time without prejudice to the recipient.

B. Informed consent shall be obtained for the following conditions involving recipients:

1. Participation in a TBHS Program
2. Medication consent
3. Routine medical services
4. Photographing, audio taping/videotaping and use of one-way glass
5. Disclosure of confidential information which requires consent
6. Any significant change in treatment

C. Upon verbal or written revocation of consent, those procedures or services to which consent is being revoked shall be discontinued.

D. Informed consent will be reobtained if changes in circumstances substantially change the risks, other consequences or benefits that were previously expected.

E. There shall be forms available for obtaining consent and revoking consent.

F. Informed consent may be obtained from:

1. Voluntary recipient
2. Legal parents of minors
3. Legal guardian or court-appointed custodian
4. Recipients with advocate selected jointly by recipient and program director. (Advocate can be family member, close personal friend or interested individual, but not a direct service provider).
5. Court-ordered recipients. If consent/document is refused, the court system must be notified.
6. A minor fourteen (14) years of age or older as follows:
 - a. A minor may request and receive mental health services and mental health professionals may provide services on an outpatient basis (excluding pregnancy termination referral services and use of psychotropic drugs) without the consent or knowledge of the minor's parent, guardian or person in loco parentis.
 - b. The minor's parent, guardian or person in loco parentis is not informed of the services without the consent of the minor unless the treating mental health professional determines a compelling need for disclosure based upon substantial probability of harm to minor or another and if the minor is notified of the treating professional's intent to inform.

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-014
Subject	Informed Consent	Issue Date	09/29/2008
		Revision Date	09/24/2024
		Page	3 of 4

- c. Services provided to the minor are limited to not more than twelve (12) sessions or four (4) months per request and after these expire, the mental health professional terminates the services or, with the consent of the minor, notifies the parent, guardian or person in loco parentis to obtain consent to provide further outpatient services.
- d. The minor's parent, guardian of person loco parentis is not liable for the costs of services that are received by a minor.

PROCEDURES:

When the staff has reason to believe that the individual is not competent to give informed consent; the following procedures will occur prior to any guardianship proceedings:

- A. **Staff Member**
 1. May decline to provide the service on the grounds that the recipient is not capable of giving or refusing to give an informed consent.
 2. Inform the Program Supervisor, in writing, with reasons for a conclusion that the recipient is not capable of giving or refusing to give an informed consent.

- B. **Program Supervisor**
 1. Determine whether the written conclusion of a staff member regarding the recipient capability of giving or refusing to give an informed consent is valid.
 - a. Authorize staff, to act upon consent, or refusal of the recipient who is presumed by the Supervisor to be legally competent or:
 - b. Convene an informed consent board.
 2. When a Program Supervisor convenes an informed consent board, it may either be the standing interdisciplinary body or appointed on a case by case basis and shall consist of:
 - a. Two mental health professionals of different disciplines with appropriate clinical experience or training
 - b. A third person who is not employed by the program, selected by the Program Supervisor from qualified volunteers with an interest in mental health or mental retardation advocacy and services
 - c. One informed consent board member shall have prior clinical contact with the person whose ability to give informed consent is at issue. No board member shall have been involved in either the action or application for which consent is needed or the decision to evaluate the need for guardianship proceedings.

- C. **An Informed Consent Board shall:**
 1. Evaluate the capacity of the recipient to give or refuse to give the required consent by interviewing the recipient and other recipient advocates, and by evaluating available clinical records and test results.
 2. Submit
 - a. A written report stating findings of fact
 - b. The person's desires in the matter when possible
 - c. A conclusion whether the consent or refusal is, or will be, informed
 - d. The Informed Consent Board's recommendations
 3. Recommend those mental, physical, social or educational evaluations it deems necessary to further ascertain the capacity to give informed consent, or the need of a minor approaching the age of eighteen (18) for protective services of a guardian, to determine if

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-014
Subject	Informed Consent	Issue Date	09/29/2008
		Revision Date	09/24/2024
		Page	4 of 4

guardianship will promote and protect the well-being of the person or to arrive at a suitable guardianship design.

4. If a majority of an informed consent board concludes that the recipient does not have the capacity to make a decision or to rationally understand a situation as required for an informed consent, and if the board concludes that guardianship can promote and protect the well-being of the recipient, they may recommend a guardianship request designed to encourage the development of maximum self-reliance and independence.
 - a. A parent or a responsible relative, a previously appointed partial guardian or other interested person or entity, shall be notified of the determination that the recipient cannot give an informed consent. More than one entity or person may be notified.
 - b. Parent or involved persons will be encouraged to file a guardianship application.
 - c. If there are no involved persons, the case manager or designee will file a guardianship application.
 - d. All guardianship applications will be in accordance with the ARC of Michigan and Michigan Protection and Advocacy guidelines.
5. If a majority of an informed consent board concludes informed consent is absent either because the recipient has not been sufficiently aware of procedures, risks, or other ramifications, benefits or alternatives or because a decision is not voluntary, as required for an informed consent, the Program Supervisor shall provide the recipient the necessary information and an opportunity for voluntary choice.
6. If a majority of an informed consent board concludes that the recipient can give or has given informed consent or has the capacity to give an informed consent and has refused to consent, the supervisor shall authorize the staff to act accordingly.
7. A copy of an Informed Consent Board's report shall be placed in the recipient's case record.

COMPLAINT PROCESS:

A recipient or another individual on behalf of a recipient has the right to file a complaint regarding decisions concerning informed consent. Complaint may be filed with the TBHS Recipient Rights Office.

RELATED FORMS & MATERIALS

n/a

REFERENCES/LEGAL AUTHORITY

- Mental Health Code Sections 330.1707, 330.1752
- MDHHS Administrative Rule 330.7003

Revision Dates:

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TUSCOLA BEHAVIORAL HEALTH SYSTEMS
Recipient Rights Policies

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-015
Subject	Medication Administration/Stop Order	Issue Date	09/29/2008
		Revision Date	09/24/2024
		Approved By	<i>[Signature]</i>
		Page	1 of 3

POLICY

It is the policy of Tuscola Behavioral Health Systems (TBHS) to establish standards regarding proper dispensing of medication, expiration of medication orders and applicable documentation of medication errors.

PURPOSE

The purpose of this policy is to safeguard the recipient's right in regard to medication administration and/or stop orders.

APPLICATION

This policy shall be applicable to all Tuscola Behavioral Health Systems (TBHS) Programs, both direct and contracted.

DEFINITIONS

MDHHS: Michigan Department of Health and Human Services; also referred to as the Department

PROCEDURES

1. Medication shall be administered only by order of a licensed physician or dentist.
2. Medication orders will be documented in the recipient's record per clinical policy.
3. Physician's orders may only be changed by the prescribing physician or another physician.
4. Direct care staff cannot receive telephone orders for medications. In an emergency, the pharmacist and the RN, as licensed health care professionals, may receive telephone orders for medications in the event the physician is unable to write the prescription in person.
5. All telephone orders for new medication or changes in dosage are to be signed by the authorized prescriber within 72 hours. Telephone orders from community physicians are sent to them for signature or are obtained from the dispensing pharmacist.
6. All written drug orders that do not specify time or exact date for use of drug are subject to the following automatic stop:
 - a. All medication orders expire quarterly and must be rewritten.
 - b. All psychotropic medication orders expire quarterly and must be rewritten.
 - c. All orders for nasal, ophthalmic and over the counter preparations, such as cough preparations, antihistamines, decongestants, expire weekly, or as otherwise written by the

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-015
Subject	Medication Administration/Stop Order	Issue Date	09/29/2008
		Revision Date	09/24/2024
		Page	2 of 3

physician or on a standing order. Specific standing orders regarding when and under what conditions the medication should be administered must be signed by a physician.

- d. Orders for Schedule II drug prescriptions expire within three days but after prescriptions are filled, staff will administer according to physician orders. Medication use shall conform to medication use guidelines adopted by MDHHS, which guidelines shall, at a minimum, conform to federal standards and nationally recognized peer review organization standards. The medication use guideline adopted by the Department on psychotropic medication shall allow a provider to select between standards on dosage levels recommended by one or more nationally recognized organizations or those of the manufacturer of the medication.
7. Medication review shall occur every 90 days with the psychiatrist or as clinically indicated. The RN will review anti-psychotic or anti-convulsant medications based on the person-centered plan or as needed.
8. Medication shall be kept in a secured/locked location according to directions with each medication. Internals are to be kept separate from externals.
9. Medication shall be administered by the Registered Nurse, a certified personnel or certified residential staff under the supervision of the RN, who are qualified and trained pursuant to Act No. 368 of the Public Acts of 1978, as amended, being 333.1101 et seq. of the Michigan Compiled Laws.
10. The administration of a psychotropic medication shall be reviewed by a RN based on the recipient's clinical status or at minimum monthly and by a physician at least once every 90 days to determine the appropriateness of continued use. New orders shall be reviewed at least every 90 days to determine the appropriateness of continued use. New orders shall be written at least every 90 days.
11. Medication cards or other approved systems shall be used in the preparing, administration and documentation of oral, topical, eye, ear, nose, vaginal and rectal medication.
12. Medication shall not be used as punishment, for the convenience of staff, or as a substitute for other appropriate treatment.
13. Medication errors and adverse drug reactions shall be immediately reported to the supervisor and nurse in charge who will consult with the physician. An Incident Report is to be completed with documentation by the supervisor to be included. Documentation of medication error and adverse reactions will be written in the clinical record.
14. Only medications prescribed by a doctor are to be given at discharge or leave. Enough medication will be made available by the physician to the recipient to ensure the recipient has an adequate supply until he or she can become established with another provider. Medication given to recipients upon leave to other program sites, or discharge, shall comply with state rules and federal regulations pertaining to labeling and packaging.
15. For injections, see TBHS Clinical Policy, IV-005-001.
16. Specific programs may have their own procedures that may be more specific and restrictive.

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-015
Subject	Medication Administration/Stop Order	Issue Date	09/29/2008
		Revision Date	09/24/2024
		Page	3 of 3

COMPLAINT PROCESS:

Recipients or another individual on behalf of a recipient may file a complaint for a decision regarding Medication Administration/Stop Order. Complaints can be filed with the TBHS Recipient Rights Office.

RELATED FORMS & MATERIALS

n/a

REFERENCES/LEGAL AUTHORITY

- Mental Health Code Section 330.1752
- MDHHS Administrative Rule 330.7158
- TBHS Clinical Policy IV-005-001

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07/29/2015
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TUSCOLA BEHAVIORAL HEALTH SYSTEMS
Recipient Rights Policies

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-016
Subject	Psychotropic Medications	Issue Date	09/29/2008
		Revision Date	09/24/2024
		Approved By	<i>Julie Majors</i>
		Page	1 of 4

POLICY

It is the policy of Tuscola Behavioral Health Systems (TBHS) that psychotropic medications may be used when it is not possible to manage behavior or treat a psychiatric disorder utilizing a less restrictive technique.

PURPOSE

The purpose of this policy is to safeguard the recipient's rights while receiving psychotropic drug treatment.

APPLICATION

This policy shall be applicable to all Tuscola Behavioral Health Systems (TBHS) Programs, both direct and contracted.

DEFINITIONS

Agent Selection:

- A single psychotropic agent which offers the most effective treatment for the basic psychiatric disturbance exhibited for the recipient shall be selected.
- Additional agents for associated symptoms, i.e., insomnia, anxiety, and so forth, shall be used only when the primary agent is not controlling them.
- Generally, only one psychotropic agent should be prescribed at one time. When two or more psychotropic agents are used, the physician shall document in the progress notes the justification as well as the rationale for the concomitant use of two or more psychotropic agents.

Baseline Studies: Baseline studies for psychotropic drug use shall be related to the pharmacology of the specific drug used. The exact laboratory test required shall be determined by clinical judgment after considering the recipient's medical and drug histories, pharmacology of the drug used and the anticipated duration of drug use.

Chemotherapy: The treatment of mental illness and other disorders by the use of medication. Chemotherapy treatment shall be provided by a licensed physician.

Consent: Informed consent from a recipient and/or guardian/parent is necessary to administer psychotropic medication.

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

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-016
Subject	Psychotropic Medications	Issue Date	09/29/2008
		Revision Date	09/24/2024
		Page	2 of 4

Side Effects: A written summary of the most common side effects is provided to the recipient and/or guardian/parent before initiating a course of psychotropic drug treatment. The written summary shall provide the most common adverse side effects associated with the drug prescribed.

PROCEDURES

Before initiating a course of psychotropic drug treatment for a recipient, the prescriber or a licensed health professional acting under the delegated authority of the prescriber will do both of the following:

- a) Explain the specific risks and most common adverse side effects associated with the drug, and
- b) Provide the individual with a written summary of those common adverse side effects.

A provider may administer chemotherapy to prevent physical harm or injury after signed documentation of the physician is placed in the recipient's clinical record and when the actions of a recipient or other objective criteria clearly demonstrate to a physician that the recipient poses a risk of harm to himself, herself, or others.

Psychotropic medications shall be prescribed only by a person licensed by the Michigan Department of Licensing and Regulatory Affairs to do so and in accordance with MDHHS guidelines.

Psychotropic medications shall not be administered unless:

- 1. The individual gives informed consent.
- 2. Administration is necessary to prevent physical injury to self or another.
- 3. Court order.

Behavior treatment plan review committee (BTPRC) approval, in specialized residential settings shall be obtained prior to the usage of the medication, and at least every 90 days thereafter. Dosage changes do not need re-approval, however, changes between drug classes do.

PROCEDURES:

- 1. Recipient or the recipient's guardian shall have the right to accept or refuse chemotherapy treatment.
- 2. Medication shall not be used as punishment, for the convenience of staff or as a substitute for other appropriate treatment.
- 3. In instances where medication is used as a behavioral control technique, it must be accompanied by a suitable behavioral modification program to deal with the primary problem.
- 4. The use of chemotherapy must be a part of the individual plan of service and must be a recommendation of the interdisciplinary team.
- 5. Initial administration of psychotropic chemotherapy may not be extended beyond 48 hours, unless there is consent. The initial period of treatment shall be as short as possible, shall be terminated as soon as there is little likelihood that the recipient will quickly return to an actively dangerous state, and shall be the smallest possible dosage needed.
- 6. Criteria for determining present dangerousness shall be:
 - a. Exhibiting evidence of physical harm to themselves or others.

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-016
Subject	Psychotropic Medications	Issue Date	09/29/2008
		Revision Date	09/24/2024
		Page	3 of 4

- b. Exhibiting substantial property damage.
- 7. Minimal duration and safe termination shall be determined by consulting the Physicians' Desk Reference (PDR) recommendations.
- 8. Documentation of the use of psychotropic medications shall be recorded in the clinical record.
- 9. **DOSAGE:**
 - a. Dosage levels shall not ordinarily exceed those specified in one of the following: manufacturer's recommendations [package insert], Physician's Desk Reference, American Society of Health System Pharmacists Formulary Service, American Medical Association/Drug Evaluation.
 - b. If dosage levels are in excess of the maximum, the medical rationale shall be documented in the recipient's clinical record.
 - c. The initial dosage has to be individually determined by considering the individual's needs, age, sex, weight, physical condition, and any previous adverse reactions to medication.
 - d. Recipient shall be advised of side effects and requested to report the occurrence of side effects to the physician or case manager/nurse who will consult with the physician.
 - e. Recipients shall be checked and routinely monitored for the presence of any condition affecting therapy.
 - f. Medical orders shall be reviewed every 90 days and either rewritten or discontinued.
 - g. After the desired clinical result is obtained and the recipient's condition has stabilized, the medication shall be prescribed at the minimum maintenance dose needed, or the recipient may be titrated off the medication. In specialized residential settings the individual plan of service shall contain a specific plan to reduce the medication at least annually, unless clinical evidence justified that this is contraindicated.
 - h. The effects of the medication on the recipient's behavior and on the target, symptoms shall be recorded on the progress notes. When a recipient has stabilized and there is need for long-term care for maintenance medication, the physician shall document such in the progress notes. Any exceptions shall be documented in the progress notes as to the rationale.
 - i. Medication errors and adverse drug reactions are immediately and properly reported to the physician and recorded in the recipient's record.
 - j. If a recipient's medication is changed, a progress note shall be entered to correspond to that change and include the rationale for that change.
 - k. The use of psychotropic agents on a PRN basis for behavioral control/chemical restraint is not approved.
- 10. **ANTIPARKINSONIAN AGENTS:**
 - a. Routine concomitant use of anti-psychotic agents with antiparkinsonian agents is not justified and its use is discouraged. The presence of an extrapyramidal reaction should be documented before an antiparkinsonian agent is prescribed. Past experiences can be taken into consideration.
 - b. In those instances where a recipient experiences an extrapyramidal reaction, antiparkinsonian agents may be used. Frequently, the antiparkinsonian agents can be discontinued after three weeks without reappearance of symptoms. Antiparkinsonian agents shall not be reinstated unless the recipient again exhibits extrapyramidal symptoms. The physician shall document in the progress notes the justification for use of an antiparkinsonian agent.

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-016
Subject	Psychotropic Medications	Issue Date	09/29/2008
		Revision Date	09/24/2024
		Page	4 of 4

11. TARDIVE DYSKINESIA:

- a. Each program, for the appropriate class of drugs, shall develop a clinical plan for assessing tardive dyskinesia. An example of such a plan would be Sovner's Abnormal Involuntary Movement Scale [AIMS], or any other program that monitors this disorder.
- b. This assessment shall be performed at least quarterly.
- c. When a recipient is to receive maintenance medication for more than three months, the physician shall weigh the benefits of continued treatment against the risks of long-term anti-psychotic chemotherapy. The physician shall then document the basis of the decision to either continue or discontinue the medication.

12. Non-psychotropic drugs prescribed to modify, or control inappropriate behavior are to be treated as psychotropics in regard to obtaining informed consent and BTRPC approval in specialized residential settings.

COMPLAINT PROCESS:

A recipient or another individual on behalf of the recipient has the right to file a complaint for decisions concerning psychotropic medications. Complaint can be filed with TBHS Recipient Rights Office.

RELATED FORMS & MATERIALS

n/a

REFERENCES/LEGAL AUTHORITY

- Mental Health Code Sections 330.1718, 330.1719, 330.1752
- MDHHS Administrative Rules 330.7001, 330.7158

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09/24/2024



Recipient Rights Policies

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-017
Subject	Services Suited to Condition	Issue Date	09/29/2008
		Revision Date	09/20/2022
		Approved By	<i>Shawn Beals</i>
		Page	1 of 5

POLICY

It is the policy of Tuscola Behavioral Health Systems (TBHS) to encompass the Person-Centered philosophy, in which a recipient is entitled to treatment suitable to his or her condition, medical care, and medication for mental and physical health, as needed.

PURPOSE

The purpose of this policy is to safeguard the recipient's right to receive services suited to his or her condition.

APPLICATION

This policy shall be applicable to all Tuscola Behavioral Health Systems (TBHS) Programs, both direct and contracted.

DEFINITIONS

n/a

PROCEDURES

DENIAL OF SERVICES: If an applicant for mental health services has been denied mental health services, the access staff will inform the applicant, his or her guardian, or a minor applicant's parents that a second opinion may be requested. The applicant, his or her guardian, if one has been appointed, or the applicant's parent or parents if the applicant is a minor, may request a second opinion of the Chief Executive Officer. The Chief Executive Officer shall secure the second opinion from a physician, licensed psychologist, registered professional nurse, or master's level social worker, or master's level psychologist.

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

If a preadmission screening unit denies hospitalization to a recipient, the recipient may request a second opinion from the Chief Executive Officer. The Chief Executive Officer shall secure the second opinion to be performed within 3 days; excluding Sundays and holidays. The Chief Executive Officer in conjunction with the Medical Director shall review the second opinion if this differs from the opinion of the preadmission screening unit (PSU). The Chief Executive Officer's decision to uphold or reject the findings of the second opinion is confirmed in writing to the requestor; this writing contains the signatures of the Chief Executive Officer and Medical Director or verification that the decision was made in conjunction with the Medical Director.

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-017
Subject	Services Suited to Condition	Issue Date	09/29/2008
		Revision Date	09/20/2022
		Page	2 of 5

Tuscola Behavioral Health Systems or service providers under contract will ensure that a recipient is given a choice of physician or mental health professional within the limits of available staff.

PERSON CENTERED PLAN: Tuscola Behavioral Health Systems will ensure that a person-centered planning process is used to develop a written Individual Plan of Service in partnership with the recipient. Individuals will be asked if there is anyone, they would like to have attend the team meeting. Justification for exclusion of individuals chosen by the recipient to participate in the Individual Plan of Service process shall be documented in the case record.

PHYSICIAN SUPERVISION: The physician must review and approve, by written signature, the recipient's individual plan of service. The physician must also review and approve, by written signature, the continuing treatment at periodic intervals as noted in the plan and more frequently if needed.

PHYSICIAN APPROVED INDIVIDUAL PLAN OF SERVICE: The integrated, comprehensive individual plan of service must cover all relevant aspects of the recipient's treatment and services. The individual plan of service must contain:

1. Clearly stated goals and measurable objectives, derived from a comprehensive assessment, completed in preparation for developing the individual plan of service, stated in terms of specific and observable changes in behavior, skills, attitudes, or circumstances, and described in terms of attaining a more satisfactory state with the recipient, rather than just alleviating undesirable conditions.
2. The planned treatment activities and how they will assist in the recipient's goal attainment.
3. Measurable time frames for attainment of each goal and objective.
4. Evidence that recipient (and/or legally empowered representative) input was considered when developing the individual plan of service. If the goals will result in major changes in lifestyle, there must be evidence that such changes were mutually planned and agreed to by the recipient and the staff member.

Physician approval and signature must be obtained. Approval is based on a review of current written assessments including adequate clinical information and documentation. The clinic must not submit a claim for services that were not approved by the physician.

For either outpatient clinic, skill building services, or specialized residential, the Individual Plan of Service must be developed and approved annually, or more often, if necessary.

TREATMENT PLANNING AND MONITORING: Each recipient must receive services consisting of specialized and generic training, treatment, health, and related services designated to support the individual to function as independently, and with as much self-determination as possible, and to prevent or decelerate any loss of optimal functional status. The services must:

1. Be identified in a coordinated, comprehensive individual plan of service.
2. Be based on comprehensive assessments or evaluations.
3. Contain programs and methodologies for attaining stated treatment goals and objectives.
4. Be monitored, reviewed, and modified, as necessary, at regular intervals, as noted in the plan, including at least an annual review.

The treatment planning and monitoring process consists of the following required components:

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-017
Subject	Services Suited to Condition	Issue Date	09/29/2008
		Revision Date	09/20/2022
		Page	3 of 5

1. Assessments and evaluations, including annual and/or periodic reviews.
2. Treatment planning.
3. Treatment implementation.
4. Treatment monitoring, and interdisciplinary treatment planning.

Each recipient or guardian has the right to request the opinion of a consultant at his or her expense, or to request an in-house review of their individual treatment plan by the program supervisor.

ASSESSMENTS AND EVALUATIONS: Comprehensive assessments and evaluations are conducted to determine the need for services and to provide current relevant information and recommendations for the treatment planning process. Such services will include annual and/or periodic reviews. The Clinical Assessment will include assessments of the recipient's need for food, shelter, clothing, health care, employment opportunities, where appropriate, educational opportunities, where appropriate, legal services and recreation. The Individual Plan of Service will identify any restrictions or limitations of the recipient's rights and include documentation describing attempts to avoid such restrictions as well as what action will be taken as part of the plan to ameliorate or eliminate the need for the restrictions in the future.

Treatment planning is based on background information, as well as current valid comprehensive assessments or evaluations of functional development; and behavioral, social, health, and communication status. Treatment planning must reflect the recommendations of the assessment process. The individual plan of service must identify the recipient's needs, treatment goals and objectives, and treatment programs to meet the goals and objectives, and coordination with other agencies.

A functional assessment/analysis of a recipient's challenging behaviors will be conducted. When a plan is developed to address challenging behaviors, restrictions, limitations or any intrusive behavior techniques, it will be reviewed and approved by the Behavior Treatment Plan Review Committee.

All ongoing care and services will be based on the identified treatment needs, desires, personal goals of the individual being served, independent of the utilization decisions made by external entities. This includes writing goals, objectives and treatment plans; designing programs and data collection methodologies; attending interdisciplinary team meetings, if applicable; and related documentation.

Participation by the recipient, his/her parent (if the recipient is a minor), or the recipient's legal guardian is required unless the participation is unobtainable or clinically inappropriate.

In an effort to maximize treatment success, all recipients and families (including support network, employers, etc.) will be evaluated for type and need for supportive educational services. The supportive educational services include, but are not limited to:

1. Facilitating the family and recipient's understanding for their needs, care options and consequences of those care choices.
2. Encouraging participation of all concerned parties in the decision-making process concerning their choices.
3. Participation by the service provider in the formal educational process through collaboration with the school service provider and procurement of appropriate records.
4. Promoting continued education for minor recipients.

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-017
Subject	Services Suited to Condition	Issue Date	09/29/2008
		Revision Date	09/20/2022
		Page	4 of 5

5. Facilitating informed long-term planning for those with lifelong disabilities.

The focus of the educational component is to maximize therapeutic benefit and promote successful life skills.

Documentation of the education needs, and services will be monitored, reviewed and modified as necessary and at regular intervals including at least an annual review.

TREATMENT MONITORING: These activities are for purposes of determining and documenting the recipient's progress toward treatment goals and objectives. Activities include:

1. Professional treatment monitoring consisting of reviews of treatment plans and/or services conducted by relevant professionals/clinicians, as required by the plan of service.
2. Periodic reviews consisting of activities of the primary clinician and the physician, and other relevant professionals, as indicated.
3. Treatment must be monitored regularly. There must be clear documentation in the record of how the treatment activities have assisted in progress toward the goals and objectives of treatment.
4. Except for services delivered in a day program or skill building setting, there must be entries in the clinical record within 24 hours of every service encounter indicating the recipient's progress. Entries should clearly delineate the recipient's status toward each objective implemented. For recipients of service in a day program setting, there must be entries in the clinical record at least weekly by the person providing the service. If daily data is provided that depicts a lack of progress or regression, a weekly note presenting or discussing possible causes should be provided to assist in professional treatment monitoring.

PERIODIC REVIEWS: As defined in the plan, the physician, the other qualified professional staff supervising the treatment, and the person performing the case management function must review the treatment plan, revising as necessary.

This review provides an analysis of the recipient's progress and discusses trends from past months. The periodic review must be approved and signed by the physician, the professional(s) who supervise the treatment and the case manager (if case management is provided). Reviews are the result of program observation, record review, and staff/client interviews. The recipient should participate in the periodic review process.

The supervising professional(s) complete written progress reports at the frequency designated by the interdisciplinary team in the individual plan of service. These progress reports will be reviewed by the primary clinician and incorporated into a single comprehensive periodic summary that addresses each goal and objective in the individual plan of service. The periodic summary will then be co-signed by the supervising professional(s) and the final approval and authorization for continuing treatment will be provided by the physician's signature on the periodic summary.

INTERDISCIPLINARY TREATMENT PLANNING: Except for persons who receive only outpatient and/or case management services, or as otherwise specified under psychosocial rehabilitation or home-based services programs, each recipient's plan of service must be developed by an interdisciplinary team representing the professions, disciplines, and/or service areas relevant to and/or desired by, the individual.

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-017
Subject	Services Suited to Condition	Issue Date	09/29/2008
		Revision Date	09/20/2022
		Page	5 of 5

Appropriate staff must participate in interdisciplinary team meetings including participation by other agencies serving the recipient. Participation by the recipient, his/her parent [if the recipient is a minor] or the recipient's legal guardian is required unless that participation is unattainable or clinically inappropriate.

Interdisciplinary treatment planning is required for recipients who attend day programs, specialized residential, or who are recipients of an enrolled Assertive Community Treatment (ACT) program and may be applicable to other recipients according to clinical judgment. Interdisciplinary team members must meet license and/or certification requirements of their professional field. These teams must:

1. Evaluate the recipient's needs.
2. Provide written assessments.
3. Recommend an individualized plan of service to meet the recipient's identified needs.
4. Review according to intervals established in the individual plan of service, the recipient's responses to the program and revise the program accordingly.

The interdisciplinary team must also review, revise as necessary, and approve the recipient's treatment plan according to regular intervals as established in the plan or at other times, such as when significant changes have been recommended by any of the mental health professionals supervising treatment. At a minimum, team treatment planning must be done annually.

COMPLAINT PROCESS:

A recipient or another individual on behalf of a recipient may file a complaint for a decision regarding services suited to condition with TBHS Recipient Rights Office.

RELATED FORMS & MATERIALS

n/a

REFERENCES/LEGAL AUTHORITY

- Mental Health Code Sections 330.17409, 330.1705, 330.1712, 330.1713, 330.1752
- MDHHS/CMH Master Contract FY 21-22
- MDHHS Administrative Rule 330.7199

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TUSCOLA BEHAVIORAL HEALTH SYSTEMS
Recipient Rights Policies

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-018
Subject	Freedom of Movement	Issue Date	09/29/2008
		Revision Date	09/24/2024
		Approved By	<i>Judith Majors</i>
		Page	1 of 2

POLICY

It is the policy of Tuscola Behavioral Health Systems (TBHS) that a recipient has a right to the least restrictive conditions necessary to achieve the purposes of treatment and habilitation with due safeguards for safety of persons and property. Any restriction on freedom of movement of a recipient is removed when the circumstance that justified its adoption ceases to exist.

PURPOSE

The purpose of this policy is to safeguard the recipient's right to live, work or play in the least restrictive environment.

APPLICATION

This policy shall be applicable to all Tuscola Behavioral Health Systems (TBHS) Programs, both direct and contracted.

DEFINITIONS

n/a

PROCEDURES

- 1) The freedom of movement of a recipient shall not be restricted more than is necessary to provide mental health services to him or her, to prevent injury to him or her or to others, or to prevent substantial property damage, except that security precautions appropriate to the condition and circumstances of an individual admitted by order of a criminal court or transferred as a sentence-serving convict from a penal institution may be taken.
- 2) Any limitation to the freedom of movement of a recipient must be justified in the record and be time limited.
- 3) Any restriction on freedom of movement will be removed when the circumstance that justified its adoption ceases to exist.

COMPLAINT PROCESS:

A recipient or another individual on behalf of the recipient has the right to file a complaint for limitations on freedom of movement. Complaints can be filed with the TBHS Recipient Rights Office.

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-018
Subject	Freedom of Movement	Issue Date	09/29/2008
		Revision Date	09/24/2024
		Page	2 of 2

RELATED FORMS & MATERIALS

n/a

REFERENCES/LEGAL AUTHORITY

- Mental Health Code Sections 330.1744

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TUSCOLA BEHAVIORAL HEALTH SYSTEMS
Recipient Rights Policies

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-019
Subject	Confidentiality & Disclosure of Information	Issue Date	09/29/2008
		Revision Date	09/24/2024
		Approved By	<i>Auli Majisto</i>
		Page	1 of 9

POLICY

It is the policy of Tuscola Behavioral Health Systems (TBHS) that information in the record of the recipient, and other information acquired in the course of providing mental health services to a recipient, shall be kept confidential and shall not be open for public inspection.

PURPOSE

The purpose of this policy is to safeguard recipient's information.

APPLICATION

This policy shall be applicable to all Tuscola Behavioral Health Systems (TBHS) Programs, both direct and contracted.

DEFINITIONS

Confidential Information: Identifiable information that identifies the recipient or that provides a basis for identifying the recipient that is transmitted or maintained in any form or medium such as, but not limited to:

- a. Computers
- b. Fax machines
- c. Cell phones
- d. Shadow charts or notes that are kept by employees outside of the medical record but do not fall under the definition of psychotherapy notes.

Privileged Communication: A communication made to a psychiatrist or psychologist in connection with the examination, diagnosis, or treatment of a recipient, 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 law or federal law.

PROCEDURES

STANDARDS:

It is the policy of TBHS that the preferred method of releasing information is to be in written form. Information may be released via telephone in the situation where the individual releasing the information can be reasonably sure that the individual receiving the information is who he/she says they are. This method is only to be used in an emergency and is limited to clinical staff and/or the Medical Records Personnel.

Any information being released via the fax machine will require a sample fax to be sent ahead of the actual information to assure that the faxed information is being sent correctly. TBHS will accept

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-019
Subject	Confidentiality & Disclosure of Information	Issue Date	09/29/2008
		Revision Date	09/24/2024
		Page	2 of 9

releases via the fax machine, on an emergency basis only, but the receiver should still request an original release from the sender.

- 1) Information in the record of a recipient, and other information acquired in the course of providing mental health services to a recipient, shall be kept confidential and is not open to public inspection. The information may be disclosed outside the department, community mental health services program, licensed facility, or contract provider, whichever is the holder of the record, only in the circumstances and under the conditions set forth in this section or section 748a.
- 2) If information made confidential by this section is disclosed, the identity of the individual to whom it pertains shall be protected and shall not be disclosed unless it is germane to the authorized purpose for which disclosure was sought. When practicable, no other information shall be disclosed unless it is germane to the authorized purpose for which disclosure was sought.
- 3) An individual receiving information made confidential by this section shall disclose the information to others only to the extent consistent with the authorized purpose for which the information was obtained.
- 4) For case record entries made subsequent to March 28, 1996, information made confidential by this section will be disclosed to a competent adult recipient, upon the recipient's request, if the recipient does not have a guardian and has not been adjudicated legally incompetent. The holder of the record shall comply with the adult recipient's request for disclosure as expeditiously as possible but in no event later than the earlier of 30 days after receipt of the request or, if the recipient is receiving treatment from the holder of the record, before the recipient is released from treatment.
- 5) Except as otherwise provided in this section or section 748a, when requested, information made confidential by this section shall be disclosed only under 1 or more of the following circumstances:
 - (a) Under an order or a subpoena of a court of record or a subpoena of the legislature, unless the information is privileged by law.
 - (b) To a prosecuting attorney as necessary for the prosecuting attorney to participate in a proceeding governed by this act.
 - (c) To an attorney for the recipient, with the consent of the recipient, the recipient's guardian with authority to consent, or the parent with legal and physical custody of a minor recipient.
 - (d) If necessary in order to comply with another provision of law.
 - (e) To the department if the information is necessary in order for the department to discharge a responsibility placed upon it by law.
 - (f) To the office of the auditor general if the information is necessary for that office to discharge its constitutional responsibility.
 - (g) To a surviving spouse of the recipient or, if there is no surviving spouse, to the individual or individuals most closely related to the deceased recipient within the third degree of consanguinity as defined in civil law, for the purpose of applying for and receiving benefits.
- 6) Except as otherwise provided in subsection (4), if consent is obtained from the recipient, the recipient's guardian with authority to consent, the parent with legal custody of a minor recipient, or the court-appointed personal representative or executor of the estate of a deceased recipient, information made confidential by this section may be disclosed to all of the following:

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-019
Subject	Confidentiality & Disclosure of Information	Issue Date	09/29/2008
		Revision Date	09/24/2024
		Page	3 of 9

- (a) A provider of mental health services to the recipient.
- (b) The recipient or his or her guardian or the parent of a minor recipient or another individual or agency unless in the written judgment of the holder the disclosure would be detrimental to the recipient or others.

7) Information may be disclosed by the holder of the record under 1 or more of the following circumstances:

- (a) As necessary in order for the recipient to apply for or receive benefits.
- (b) 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.
- (c) As necessary for the purpose of outside research, evaluation, accreditation, or statistical compilation. The individual who is the subject of the information shall not be identified in the disclosed information unless the identification is essential in order to achieve the purpose for which the information is sought or if preventing the identification would clearly be impractical, but not if the subject of the information is likely to be harmed by the identification.
- (d) To a provider of mental or other health services or a public agency, if there is a compelling need for disclosure based upon a substantial probability of harm to the recipient or other individuals.

8) If required by federal law, the department or a community mental health services program or licensed facility shall grant a representative of the protection and advocacy system designated by the governor in compliance with section 931 access to the records of all of the following:

- (a) A recipient, if the recipient, the recipient's guardian with authority to consent, or a minor recipient's parent with legal and physical custody of the recipient has consented to the access.
- (b) A recipient, including a recipient who has died or whose location is unknown, if all of the following apply:
 - (i) Because of mental or physical condition, the recipient is unable to consent to the access.
 - (ii) The recipient does not have a guardian or other legal representative, or the recipient's guardian is the state.
 - (iii) The protection and advocacy system has 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.
- (c) A recipient who has a guardian or other legal representative if all of the following apply:
 - (i) 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.
 - (ii) Upon receipt of the name and address of the recipient's legal representative, the protection and advocacy system has contacted the representative and offered assistance in resolving the situation.
 - (iii) The representative has failed or refused to act on behalf of the recipient.

9) 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), are confidential; shall be used only for the purposes of peer review, are not public records, and are not subject to court

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-019
Subject	Confidentiality & Disclosure of Information	Issue Date	09/29/2008
		Revision Date	09/24/2024
		Page	4 of 9

subpoena. This subsection does not prevent disclosure of individual case records under this section.

- 10) The holder of an individual's record, if authorized to release information for clinical purposes by the individual or the individual's guardian or a parent of a minor, shall release a copy of the entire medical and clinical record to the provider of mental health services.
- 11) Privileged communications shall not be disclosed in civil, criminal, legislative, or administrative cases or proceedings, or in proceedings preliminary to such cases or proceedings, unless the patient has waived the privilege, except in the circumstances set forth in this section.
- 12) Privileged communications shall be disclosed upon request under 1 or more of the following circumstances:
 - (a) If the privileged communication is relevant to a physical or mental condition of the patient that the patient has introduced as an element of the patient's claim or defense in a civil or administrative case or proceeding or that, after the death of the patient, has been introduced as an element of the patient's claim or defense by a party to a civil or administrative case or proceeding.
 - (b) If the privileged communication is relevant to a matter under consideration in a proceeding governed by this act, but only if the patient was informed that any communications could be used in the proceeding.
 - (c) If the privileged communication is relevant to a matter under consideration in a proceeding to determine the legal competence of the patient or the patient's need for a guardian but only if the patient was informed that any communications made could be used in such a proceeding.
 - (d) In a civil action by or on behalf of the patient or a criminal action arising from the treatment of the patient against the mental health professional for malpractice.
 - (e) If the privileged communication was made during an examination ordered by a court, prior to which the patient was informed that a communication made would not be privileged, but only with respect to the particular purpose for which the examination was ordered.
 - (f) If the privileged communication was made during treatment that the patient was ordered to undergo to render the patient competent to stand trial on a criminal charge, but only with respect to issues to be determined in proceedings concerned with the competence of the patient to stand trial.
- 13) In a proceeding in which subsections (1) and (2) prohibit disclosure of a communication made to a psychiatrist or psychologist in connection with the examination, diagnosis, or treatment of a patient, the fact that the patient has been examined or treated or undergone a diagnosis also shall not be disclosed unless that fact is relevant to a determination by a health care insurer, health care corporation, nonprofit dental care corporation, or health maintenance organization of its rights and liabilities under a policy, contract, or certificate of insurance or health care benefits.
- 14) Privileged communications may be disclosed under section 946 to comply with the duty set forth in that section.
- 15) Unless section 748(4) of the act applies to the request for information, the director of the provider may make a determination that disclosure of information may be detrimental to the recipient or others. If the director of the provider declines to disclose information because of possible detriment to the recipient or others, then the

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-019
Subject	Confidentiality & Disclosure of Information	Issue Date	09/29/2008
		Revision Date	09/24/2024
		Page	5 of 9

director of the provider 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 at the resident's facility, then the director of the provider will make a determination of detriment within 3 business days from the date of the request. If the record of the recipient is located at another location, then the director of the provider shall make a determination of detriment within 10 business days from the date of the request. The director of the provider will 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 with the office of recipient rights of the department, the community mental health services program, or licensed hospital, whichever was responsible for making the original determination.

16) Information shall be provided to attorneys, other than prosecuting attorneys, as follows:

- (a) 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.
- (b) 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.
- (c) An attorney will 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.

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

- (a) 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 will 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 under section 750(1) of the act.
- (b) 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.

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-019
Subject	Confidentiality & Disclosure of Information	Issue Date	09/29/2008
		Revision Date	09/24/2024
		Page	6 of 9

18) A prosecutor may be given nonprivileged information or privileged information that may be disclosed pursuant to section 750(2) of the act if it contains information relating to participation in proceedings under the act, including all of the following information:

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

19) The holder of a record may disclose information that enables a recipient to apply for or receive benefits without the consent of the recipient or legally authorized representative only if the benefits shall accrue to the provider or shall be subject to collection for liability for mental health service.

PROCEDURES:

- 1) A summary of section 748 of the act shall be made a part of each recipient file.
- 2) A record shall be kept of disclosures and shall include all of the following information:
 - (a) The information released.
 - (b) To whom the information is released.
 - (c) The purpose claimed by the person for requesting the information and a statement disclosing how the disclosed information is germane to the purpose.
 - (d) The subsection of section 748 of the act, or other state law, under which a disclosure was made.
 - (e) A statement that the receiver of disclosed information was informed that further disclosure shall be consistent with the authorized purpose for which the information was released.
- 3) Confidential information may be disclosed to providers of mental health services, to the recipient or to any individual or agency if consent has been obtained from:
 - (a) Recipient
 - (b) Recipient's guardian with authority to consent
 - (c) Parent with legal custody of a minor recipient
 - (d) Court approved personal representative or executor of the estate of a deceased recipient.
- 4) A Release of Confidential Information Form, signed by the recipient or parent(s) with legal custody if a minor, or legally appointed guardian, will be obtained whenever the recipient, parent(s) of a minor, or guardian will consent to and there is a need for having confidential information released to another person or agency.
- 5) A Release of Confidential Information Form will contain:
 - (a) Recipient's name and birth date.
 - (b) Name of the program authorized to release the information.

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-019
Subject	Confidentiality & Disclosure of Information	Issue Date	09/29/2008
		Revision Date	09/24/2024
		Page	7 of 9

- (c) Agency or person to whom the information is to be released.
 - (d) The specific information to be disclosed and the format used to release the information.
 - (e) The purpose for which the information is to be used and the need for this use.
 - (f) The date when the information is to expire.
 - (g) A notice to the receiver of the disclosed information that further disclosure must be consistent with the authorized purpose and within the time period for which the information was released.
 - (h) Verification that the person authorizing the release has been informed of the conditions under which the information may and shall be released as set forth in Section 330.1748 of PA 258.
- 6) The separate programs of Tuscola Behavioral Health Systems, including contract agencies, may share information within its own system of services without compromising the recipient's right to confidentiality if there is a compelling need to know or they are part of the treatment.
- 7) All recipients will be given an opportunity to object to disclosure consented to on their behalf, such as by a parent or guardian.
- 8) Confidential information shall not be released from a recipient's record when that information requested is found in documents from or correspondence with other agencies for which the recipient's original consent to release the information is not valid. This information must be requested from the other agencies.

When information is requested from another agency, the Medical Records Personnel will:

- (a) Determine whether the release of information has the necessary signatures and is valid.
 - (b) Send requisition letter with the release of information.
 - (c) File a copy of the release of information in the legal section of the chart, along with a copy of accompanying letter.
- 9) When information is released from the agency, the following procedure will be followed:
- a) Any release of information request is to be directed to the Medical Records Personnel.
 - b) All request of information will be recorded in the release of information log.
 - c) The Medical Records Personnel will determine if the release of information has the necessary components.
 - d) If the release is determined to be invalid, or no recipient exists, then it shall be returned promptly with a copy of the refusal letter, and the deficiencies appropriately noted.
 - e) The Medical Records Personnel or designee will:
 - i. File the original release of information in the legal section of the recipient's chart.
 - ii. Stamp all pages being sent with the CONFIDENTIAL & COPY stamp.
 - iii. Records all information being sent on the Information Disclosure Form.
 - iv. Complete letter to accompany the information being sent.
 - v. Ensure that the information is consistent with the request.
 - vi. Ensure the information is released within a reasonable time period, 15 days being the accepted practice.
 - vii. Check to see that no third-party information is released.
 - viii. Send a bill, if appropriate, and send a copy of the bill to finance.

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-019
Subject	Confidentiality & Disclosure of Information	Issue Date	09/29/2008
		Revision Date	09/24/2024
		Page	8 of 9

- 10) When releasing information to the local police or protective services, staff will:
- a) Immediately report to their supervisor all information provided by a recipient which reveals that substantial or serious physical harm may come to the recipient or to another person in the near future.
 - b) Staff will, if appropriate, notify local law enforcement authorities or DHHS Protective Services and the Office of Recipient Rights. All employees, volunteers and contract service providers are required to comply with the mandatory provisions for the reporting of abuse, neglect and other prescribed conduct set forth in DHHS Child Protective Services (DHS/CPS) Act 238, Public Acts of 1975, DHHS Adult Protective Services Act 519, Public Acts of 1982 and state/local police agencies reporting Act 32, Public Acts of 1988.
- 11) When releasing information to the news media, staff will:
- a) Obtain written consent by the recipient (or parent of a minor or a guardian) before disclosing any information, even if the recipient is not to be identified in the media.
- 12) When requested, confidential information shall be disclosed only under one or more of the following circumstances:
- a) Order of subpoena of a court of record or legislature for non-privileged information.
 - b) To a prosecutor as necessary for the prosecutor to participate in a proceeding governed by the MHC.
 - c) To the recipient's attorney with consent of the recipient, the recipient's guardian with authority to consent, or the parent with legal and physical custody of a minor recipient.
 - d) To the Auditor General.
 - e) When necessary to comply with another provision of law.
 - f) To the MI Department of Health and Human Services in order for the department to discharge a responsibility placed upon it by law.
 - g) To a surviving spouse, or if none, closest relative of the recipient in order to apply for and receive benefits only if spouse or closest relative has been designated the personal representative or has a court order.
- 13) Within 14 days after receipt of written request from DHHS/CPS pertinent records and information are released.

COMPLAINT PROCESS:

A recipient or another individual on behalf of a recipient has a right to file a complaint regarding confidentiality and disclosure of information. Complaint can be made to the TBHS Recipient Rights Office.

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-019
Subject	Confidentiality & Disclosure of Information	Issue Date	09/29/2008
		Revision Date	09/24/2024
		Page	9 of 9

RELATED FORMS & MATERIALS

- Authorization of Release of Confidential Information
- Disclosure of Information Letter
- Disclosure of Confidential Information for Resident/Client Record

REFERENCES/LEGAL AUTHORITY

- Mental Health Code Sections 330.1748, 330.1749, 330.1750, 330.1752
- MDHHS Administrative Rule 330.7051
- Compliance Policy: HIPAA Privacy, X-003-012

Revision Dates:

07/28/2009
10/14/2009
01/10/2011
10/03/2012
12/12/2013
07/29/2015
06/16/2016
08/16/2019
09/20/2022
03/21/2023
09/24/2024



TUSCOLA BEHAVIORAL HEALTH SYSTEMS
Recipient Rights Policies

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-020
Subject	Duty to Warn	Issue Date	09/29/2008
		Revision Date	10/25/2022
		Approved By	<i>Sharon Beale</i>
		Page	1 of 2

POLICY

It is the policy of Tuscola Behavioral Health Systems (TBHS) to take appropriate action when a threat of physical violence is made by a recipient. Mental Health professionals have the duty to warn identified potential victims or take reasonable precautions to provide protection from violent recipient behavior if the recipient has communicated an actual and foreseeable threat of physical violence by specific means against a clearly identified or reasonably identifiable victim.

PURPOSE

The purpose of this policy is to safeguard others when a clearly identified threat of a violent behavior occurs from a recipient receiving TBHS services.

APPLICATION

This policy shall be applicable to all Tuscola Behavioral Health Systems (TBHS) Programs, both direct and contracted.

DEFINITIONS

Duty to Warn: Appropriate action taken when there is a threat against a clearly identifiable or reasonably identifiable potential victim and serious intent with foreseeable peril is present as indicated by, but not limited to the following:

1. **Threat of physical violence.**
2. **A reasonably identifiable third person.**
3. **Apparent intent.**
4. **Ability to carry out the threat.**
5. **Foreseeable future.**

PROCEDURES

1. When assessing and responding to recipient threats of harm to others, information will be elicited through non-threatening inquiry.
2. If, in the judgment of the worker, there is a clear threat to (a) specific person(s) or a specific class of people, the following steps are to be taken:
 - A. Notify/consult with supervisor. Supervisor will be responsible for notifying the Chief Operating Officer and the Chief Executive Officer or designee.
 - B. Notify identified potential victim(s) and notify appropriate police authorities, (Village, City, County, State), after consultation with the Chief Executive Officer and/or Chief Operating Officer or designee.

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-020
Subject	Duty to Warn	Issue Date	09/29/2008
		Revision Date	10/25/2022
		Page	2 of 2

- C. Evaluate for involuntary or voluntary hospitalization.
 - D. Document everything, giving rationale for every decision.
3. If the third party who is threatened is a minor or is considered incompetent by other than age, the worker must:
 - A. Follow #2.
 - B. Communicate with the Department of Health and Human Services.
 - C. Communicate with the parent or legal guardian.
 4. In all such cases, treatment must be continued. Documentation must be comprehensive and concise, giving rationale for every decision.

COMPLAINT PROCESS:

A recipient or another individual on behalf of a recipient may file a complaint for a decision regarding information concerning Duty to Warn. Complaint can be file with the TBHS Recipient Rights Office.

RELATED FORMS & MATERIALS

n/a

REFERENCES/LEGAL AUTHORITY

- Enrolled House Bill No. 4237 of 1989.
- Mental Health Code Sections 330.1748, (7c), 330.1946

Revision Dates:

07/29/2015
10/25/2022



TUSCOLA BEHAVIORAL HEALTH SYSTEMS
Recipient Rights Policies

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-021
Subject	Least Restrictive Environment	Issue Date	09/29/2008
		Revision Date	09/24/2024
		Approved By	<i>[Signature]</i>
		Page	1 of 1

POLICY

It is the policy of Tuscola Behavioral Health Systems (TBHS) that services will be selected and provided that will represent the least restrictive intervention and environment available.

PURPOSE

The purpose of this policy is to safeguard a recipient's right to the least restrictive environment.

APPLICATION

This policy shall be applicable to all Tuscola Behavioral Health Systems (TBHS) Programs, both direct and contracted.

DEFINITIONS

Least Restrictive Environment and Intervention: The one which represents the least departure from normal patterns of living that can be effective in meeting the individual's needs.

PROCEDURES

Services will be offered in the least restrictive setting that is appropriate and available. The case record will indicate that the least restrictive intervention and environment have been achieved for the individual.

COMPLAINT PROCESS:

A recipient or another individual on behalf of a recipient may file a complaint for a decision regarding information concerning Least Restrictive Environment. Complaints may be made to the TBHS Recipient Rights Officer.

RELATED FORMS & MATERIALS

n/a

REFERENCES/LEGAL AUTHORITY

- Mental Health Code revised 330.1708 and 330.1752

Revision Dates:
09/24/2024



TUSCOLA BEHAVIORAL HEALTH SYSTEMS
Recipient Rights Policies

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-022
Subject	Dignity & Respect	Issue Date	09/29/2008
		Revision Date	09/24/2024
		Approved By	<i>Audi Majeska</i>
		Page	1 of 3

POLICY

It is the policy of Tuscola Behavioral Health Systems (TBHS) that the worth, dignity, and uniqueness of all recipients and their family members, as well as, their rights and opportunities, shall be respected and promoted. The privacy of recipient interests and rights shall be observed.

PURPOSE

The purpose of this policy is to safeguard the recipient's right to privacy and human dignity.

APPLICATION

This policy shall be applicable to all Tuscola Behavioral Health Systems (TBHS) Programs, both direct and contracted.

DEFINITIONS

Dignity: (as defined by Webster Dictionary) The quality or condition of being esteemed, honored, or worthy. (MDHHS clarification of language) To be treated with esteem, honor, politeness; to be addressed in a manner that is not patronizing or condescending; to be treated as an equal; to be treated the way any individual would like to be treated.

Respect: (as defined by Webster Dictionary) To feel or show deferential regard for: ESTEEM. (MDHHS clarification of language) 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.

PROCEDURES

1. A recipient and any family member of a recipient shall be addressed in a respectful and dignified manner.
2. Adult recipients shall be addressed in terms, which indicate they are adults.
3. All departments' employees, volunteers, contractual service providers and employees of contractual service providers shall treat recipients and their family members with dignity and respect, being sensitive to conduct that is or may be deemed offensive to the other person. Staff shall refrain from coarse or vulgar language in the presence or hearing of recipients/family members.
4. Family members will be given an opportunity to provide information to the treating professionals. They will also be provided an opportunity to request and receive educational information about

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-022
Subject	Dignity & Respect	Issue Date	09/29/2008
		Revision Date	09/24/2024
		Page	2 of 3

the nature of disorders, medications and their side effects, available support services, advocacy and support groups, financial assistance and coping strategies.

5. A recipient's privacy shall be respected and honored by courtesies such as knocking on closed doors before entering, ensuring privacy for telephone calls and visits, 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, allowing the person to do things independently or trying new things.
6. A recipient is entitled to adequate, clean and private bathing and toileting facilities. Toilets and bathing facilities shall be accessible and have appropriate devices for use by physically handicapped recipients.
7. Recipients requiring assistance with dressing, toileting, bathing or other personal hygiene shall be assisted in a timely manner by staff of the same gender, whenever possible.
8. Intimate personal hygiene for adult recipients shall be provided by a person of the same sex, unless a same sex staff is not present or in the event of an accident which requires immediate attention. Where same sex care is routinely unavailable, a waiver shall be signed by the recipient/guardian.
9. A recipient is entitled to live in a home which is clean, free of odors and hazards, and which complies with health, safety and fire regulations.
10. A residential program shall ensure that there are frequent changes of bedding and other linen not less than once every week.
11. Soiled bedding shall be changed immediately. Soiled clothing shall be changed as soon as possible and not worn again until laundered.
12. A recipient shall be appropriately dressed and permitted to have and wear their own clothing, which shall be inconspicuously marked with the recipient's name if necessary. Exceptions shall be documented and justified.
13. A recipient is entitled to the standard of care and treatment required by law, rules, policies, and guidelines, written directives and those within their individual plan of service.

COMPLAINT PROCESS:

Recipients or another individual on behalf of a recipient, have the right to file a complaint for decisions concerning privacy and human dignity. Complaint can be filed with the TBHS Recipient Rights Office.

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-022
Subject	Dignity & Respect	Issue Date	09/29/2008
		Revision Date	09/24/2024
		Page	3 of 3

RELATED FORMS & MATERIALS

n/a

REFERENCES/LEGAL AUTHORITY

- Mental Health Code Sections 330.1704, 330.1708, 330.1711, 330.1752

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07/28/2009
10/14/2009
10/03/2012
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07/29/2015
07/29/2020
10/02/2020
09/24/2024



TUSCOLA BEHAVIORAL HEALTH SYSTEMS
Recipient Rights Policies

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-023
Subject	Recipient Rights Officers Qualifications & Training	Issue Date	09/29/2008
		Revision Date	09/24/2024
		Approved By	<i>Audie Rojas</i>
		Page	1 of 2

POLICY

It is the policy of Tuscola Behavioral Health Systems (TBHS) to hire Recipient Rights Officers who are qualified with education, training, and experience to fulfill the responsibilities to safeguard rights of recipients receiving mental health services and to assure regular training for the recipient rights staff.

PURPOSE

The purpose of this policy is to assure TBHS Recipient Rights Officers possess proper qualifications and required trainings.

APPLICATION

This policy shall be applicable to all Tuscola Behavioral Health Systems (TBHS) Programs, both direct and contracted.

DEFINITIONS

n/a

PROCEDURES

HIRING:

A Recipient Rights Officer shall minimally possess a high school diploma, some college classes preferred, BA degree preferred in human services field, management, public administration, social services, or a law degree.

TRAINING:

Rights office training requirements:

- a) Staff of the rights office receive annual training in recipient rights protection. (MHC 755[2][e])
- b) The rights officer/advisor attend and successfully complete the Basic Skills Training curriculum offered by MDHHS Office of Recipient Rights within the first 90 days of employment. (MDHHS Contract 6.3.2.)
- c) All staff employed or contracted to provide recipient rights services will complete a minimum of 36 contact hours of education or training over 3 year period. The 36 contact hours obtained must be in rights-related activities and must fall within one or more of the categories identified by MDHHS. At least 3 credits must be earned each calendar year. A minimum of 12 of the required 36 hours must be obtained in programs classified as Category I or II. No more than 12 credits in a 3 year period may be earned through the use of online learning resources. (MDHHS Contract Attachment C 6.3.2.3)

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-023
Subject	Recipient Rights Officers Qualifications & Training	Issue Date	09/29/2008
		Revision Date	09/24/2024
		Page	2 of 2

RELATED FORMS & MATERIALS

n/a

REFERENCES/LEGAL AUTHORITY

- Mental Health Code Sections 330.1752, 330.1755
- MDHHS/CMH Master Contract FY 23-24

Revision Dates:

07/28/2011
01/10/2011
11/30/2011
10/03/2012
12/12/2013
07/29/2015
06/16/2016
10/03/2017
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09/20/2022
09/24/2024



TUSCOLA BEHAVIORAL HEALTH SYSTEMS
Recipient Rights Policies

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-024
Subject	Restraint/Physical Management	Issue Date	09/29/2008
		Revision Date	09/24/2024
		Approved By	<i>Audie Majeska</i>
		Page	1 of 4

POLICY

It is the policy of Tuscola Behavioral Health Systems (TBHS) that the use of restraint in all agency programs or sites directly operated or under contract with Tuscola Behavioral Health Systems is prohibited unless permitted by statute and agency policy.

PURPOSE

The purpose of this policy is to safeguard recipient's right from restraint. TBHS' Office of Recipient Rights will provide or coordinate the protection of recipient rights for all directly operated or contracted services. The Office will review and approve the restraint policy and the rights system of each provider of mental health services under contract with Tuscola Behavioral Health Systems. For any contracted site allowed to follow their own rights system, i.e., child-caring institution, or inpatient settings, policies will be reviewed for compliance with applicable state and federal rules and regulations.

APPLICATION

This policy shall be applicable to all Tuscola Behavioral Health Systems (TBHS) Programs, both direct and contracted.

DEFINITIONS

Behavior Treatment Plan Review Committee (BTPRC): A specially constituted committee whose primary function is to oversee the proposed use of any intrusive and restrictive techniques that might be considered for usage as a last resort with recipients of public mental health services.

Direct Care Staff: A mental health employee who is trained to provide direct care to recipients in programs offered by Tuscola Behavioral Health Systems on a regular basis.

Drug Induced Restraint: The use of medication which is administered to a recipient for the sole purpose of preventing physical injury or substantial property damage when the acts of the recipient (or some other objective criteria) clearly demonstrates that the recipient is in immediate danger to self or others or is in danger of causing substantial property damage.

Medical Procedures: May also include the period of convalescence under the supervision of a physician, dentist, or other medical specialist.

Physical Management: "Physical management" means 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 (AR 7001m). Physical management may only be used in situations when a recipient is presenting an imminent risk of serious or non-serious 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: 1) Physical

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-024
Subject	Restraint/Physical Management	Issue Date	09/29/2008
		Revision Date	09/24/2024
		Page	2 of 4

management shall not be included as a component in a behavior treatment plan; and, 2) Prone immobilization of a recipient for the purpose of behavior control is prohibited unless implementation of physical management techniques other than prone immobilization is medically contraindicated and documented in the recipient's record.

Physician: May also include a psychiatrist, dentist, local community physician, medical specialist and a physician's assistant.

Qualified Professional: A mental health professional, specifically a responsible case manager/supports coordinator, program director, or emergency on-call worker as designated by the Chief Executive Officer.

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.

PROCEDURES

A. Drug-Induced Restraint (Chemical Restraint)

1. A physician must authorize each drug-induced restraint. It is considered to be the most restrictive intervention used to control behavior which is dangerous to self or others or substantial property damage.
 - a. This procedure is to be used only when less restrictive techniques have been ineffective in reducing aggressive behavior and only if restraint is essential in order to prevent the recipient from physically harming him/herself or others or in order to prevent him/her from causing substantial property damage. Consideration of less restrictive measures shall be documented in the medical record.
 - b. It is to be used for emergencies only and not as a standard course of treatment.
2. All medications used for the purpose of drug-induced restraint are only to be administered following:
 - a. Verbal or written order from a TBHS physician, which may be obtained by the program RN.
 - b. The program RN is responsible to submit a verbal order form to the physician for signature within seventy-two (72) hours of the order and document such.
3. The following information shall be documented in the progress note of the recipient's program/clinical case record when he/she has been administered a drug-induced restraint:
 - a. Date and time administered.
 - b. Full justification for the drug-induced restraint including why the measure was necessary and why a less restrictive measure would not have sufficed.
 - c. Who was notified of its administration?
4. The Interdisciplinary Team shall review the total amount of time the recipient was administered a drug-induced restraint along with the circumstances and behavior which necessitated the use of the drug-induced restraint. This information shall be documented in the periodic case management report.

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-024
Subject	Restraint/Physical Management	Issue Date	09/29/2008
		Revision Date	09/24/2024
		Page	3 of 4

5. The interdisciplinary team shall develop a plan that addresses the recipient's aggressive behavior. The Behavior Treatment Plan Review Committee shall complete the initial review and monitor at least quarterly.
6. For all contractual providers of inpatient services, will follow all applicable state and federal regulations.

B. Physical Management

1. Physical management may only be used in situations when a recipient is presenting an imminent risk of serious or non-serious 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.
2. When physical management is used, it must incorporate the steps, techniques, methods, and safeguards of using the least restrictive technique as instructed through the WELLE class.
3. When physical management is used, it shall be documented and reported using the Incident Report Form and the Physical Management Intervention Report.
4. Each instance of physical management requires full justification for its application and the results of each periodic examination shall be placed promptly in the record of the recipient.
5. When physical management is required to manage behavior beyond an infrequent emergency use, the case shall be referred to the Behavior Treatment Plan Review Committee (BTPRC). The interdisciplinary team shall develop a plan utilizing the person-centered process that addresses the recipient's aggressive behavior. The BTPRC shall complete the initial review and monitor at least quarterly.

COMPLAINT PROCESS:

A recipient or another individual on behalf of a recipient has the right to file a complaint for decisions regarding restraint with the TBHS Recipient Rights Office.

RELATED FORMS & MATERIALS

n/a

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-024
Subject	Restraint/Physical Management	Issue Date	09/29/2008
		Revision Date	09/24/2024
		Page	4 of 4

REFERENCES/LEGAL AUTHORITY

- Mental Health Code Sections 330.1700, 330.1740, 330.1752
- MDHHS Administrative Rule 330.7001(m)
- MDHHS Administrative Rule 330.7243
- TBHS Clinical Policy IV-004-005

Revision Dates:

07/28/2009
10/14/2009
01/10/2011
12/12/2013
06/16/2016
01/08/2018
09/20/2022
09/24/2024



Policy Section	Recipient Rights	Policy Number	VII-001-025
Subject	Substance Use Disorder - Understanding Recipient Rights	Issue Date	07/28/2009
		Revision Date	09/20/2022
		Approved By	<i>Sharon Beards</i>
		Page	1 of 3

POLICY

It is the policy of Tuscola Behavioral Health Systems to ensure that each recipient of Substance Use Disorder Services receives written information related to recipient rights, confidentiality and disclosure during the admission process to enable recipients to understand the policies and procedures that regulate daily treatment activities and the recipient's rights to treatment.

PURPOSE

To establish standards for the structure and operation of the Substance Use Disorder Rights system of Tuscola Behavioral Health Systems and to ensure that recipients receive written information regarding their rights while receiving mental health and substance use disorder services.

To ensure compliance with the Michigan Department of Health and Human Services Administrative Rules.

APPLICATION

This policy shall be applicable to all Tuscola Behavioral Health Systems (TBHS) Programs that provide services to recipients with co-occurring mental health and substance use disorders.

DEFINITIONS

Co-occurring Disorders: Are defined as one or more diagnosable mental illness (es), severe emotional disorder(s), or developmental disorder(s) occurring for an individual who also experiences a diagnosable substance use disorder. Diagnosable illnesses are defined by the Diagnostic and Statistical Manual, current edition (DSM V).

PROCEDURES

1. During admission the recipient will read or have read to him/her the recipient rights booklet, discharge policy, conduct and program rules, expectations and program schedules. The staff conducting the intake will ask if there are any questions and will provide further explanation if necessary.
2. The recipient will be asked to sign a statement of understanding regarding these rights, responsibilities, and rules. This shall occur at the time of assessment and upon admission at the service provider.
3. If the recipient is incapacitated (confused, disorientated, or under the influence of a chemical) they will receive and understand their rights as outlined above no more than 72 hours after admission. The staff doing the intake shall document the reason for the delay in the record.

Policy Section	Recipient Rights	Policy Number	VII-001-025
Subject	Substance Use Disorder - Understanding Recipient Rights	Issue Date	07/28/2009
		Revision Date	09/20/2022
		Page	2 of 3

4. The staff conducting the intake will document in the record that the above procedures have been followed and that the recipient has signed the statement of understanding.
5. The statement of understanding will become part of the recipient's record.

Administrative Rule Requirements

1. As part of the admission procedure to a program, a recipient shall receive all of the following (AR 325.14302, Rule 302, 6d):
 - a. If incapacitated (confused, disoriented, or under the influence of a chemical), receive the procedures described in this sub rule as soon as feasible, but not more than 72 hours after admission to an approved service program (AR 325.14302, Rule 302, 6a). The staff doing the intake will document the reason for the delay in the record.
 - b. A written description of the rights of recipients of substance abuse services (AR 325.14302, Rule 302,6b).
 - c. A written description of any restriction of the rights based on program policy (AR 325.14302, Rule302, 6c).
 - d. An oral explanation of the rights in language which is understood by the recipient (AR325.14302, Rule 302, 6d)
 - e. A form approved by the office which indicates that the recipient understands the rights and consents to specific restrictions of rights based on program policy. The recipient shall sign this form. One copy of the form shall be provided to the client and one copy shall become part of the client's record. (AR325.14302, Rule 302, 6e).
2. A recipient of prevention services shall be notified of his or her rights by a notation on any program announcement, brochure, or other written communication that describes the program services to recipients or to the general public. Such notification shall state the following: "Recipients of substance abuse services have rights protected by stated state and federal law and promulgated rules. For information contact the Center for Substance Abuse Services, Recipient Rights Coordinator, P.O. Box 30035 North Martin Luther King, Jr. Blvd., Lansing Michigan 48909." (AR325.14302, Rule 302.7).
3. When a prevention service maintains case records that include the recipient's name and information about the recipient's substance use or abuse, the recipient shall be provided with the notification in sub rule (7) of the rule and a summary of specific rights. Phone callers shall be informed that a summary of recipient rights will be mailed to them on request if such records are maintained (AR 325.14302, Rule 302, 8).
4. Rights of recipients shall be displayed on a poster provided by the office in a public area of all licensed programs. The poster shall indicate the program rights advisor's name and phone number (AR 325.14302, Rule 302, 9).
5. The administrator of the office, with approval of the coordinating agency, shall designate a staff member of a local coordinating agency to act as the coordinating agency recipient rights

Policy Section	Recipient Rights	Policy Number	VII-001-025
Subject	Substance Use Disorder - Understanding Recipient Rights	Issue Date	07/28/2009
		Revision Date	09/20/2022
		Page	3 of 3

consultant. The designation shall be renewed annually. The coordinating agency recipient rights consultant shall conduct recipient rights activities according to procedures outlined by the office (AR 325.14302, Rule 302, 10).

RELATED FORMS & MATERIALS

n/a

REFERENCES/LEGAL AUTHORITY

- Michigan Department of Health and Human Services Administrative Rules
- TBHS Clinical Policy IV-002-001
- TBHS Consumer Services Policy VIII-001-007

Revision Dates:

01/10/2011
12/12/2013
09/30/2014
07/29/2015
09/20/2022



TUSCOLA BEHAVIORAL HEALTH SYSTEMS
Recipient Rights Policies

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-026
Subject	Person Centered Plan	Issue Date	03/21/2023
		Revision Date	09/24/2024
		Approved By	<i>[Signature]</i>
		Page	1 of 4

POLICY

It is the policy of Tuscola Behavioral Health Systems (TBHS) that all recipients have the right to have their individual plan of service developed through a person-centered planning process regardless of age, disability, or residential setting.

PURPOSE

The purpose of this policy is to define the values, principles, and essential elements of the person-centered planning process.

APPLICATION

This policy shall be applicable to all Tuscola Behavioral Health Systems (TBHS) Programs, both direct and contracted.

DEFINITIONS

Person-Centered Planning: A process for planning and supporting the individual receiving services that builds upon the recipient's capacity to engage in activities that promote community life and honor the individual's preferences, choices, and abilities. The Person-Centered planning process involves families, friends, and professionals as the recipient desires or requires.

PROCEDURES

Person Centered Planning (PCP)

1. The person-centered planning process is used to develop a written individual plan of services in partnership with the recipient.
 - a. Recipient decides the date, time, place, and individuals invited to the PCP meeting.
 - b. 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 case record.
2. A preliminary plan shall be developed within 7 days of the commencement of services.
3. The individual plan of services shall consist of a treatment plan, a support plan, or both.
 - a. A treatment plan shall establish meaningful and measurable goals with the recipient.

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-026
Subject	Person Centered Plan	Issue Date	03/21/2023
		Revision Date	09/24/2024
		Page	2 of 4

4. The individual plan of services shall address, as either desired or required by the recipient, at a minimum, all of the following:
- a. All individuals, including family members, friends, and professionals that the individual desires or requires to be part of the planning process.
 - b. The services, supports, and treatments that the recipient requested of the provider.
 - c. The services, supports, and treatments committed by the responsible mental health agency to honor the recipient's request specified in subdivision (b) of this subrule.
 - d. The person or persons who will assume responsibility for assuring that the committed services and supports are delivered.
 - e. When the recipient can reasonably expect each of the committed services and supports to commence, and, in the case of recurring services or supports, how frequently, for what duration, and over what period of time.
 - f. How the committed mental health services and supports will be coordinated with the recipient's natural support systems and the services and supports provided by other public and private organizations.
 - g. Limitations of the recipient's rights. Limitations of the recipient's rights, any intrusive behavior treatment techniques, or any use of psycho-active drugs for behavior control purposes shall be reviewed and approved by 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 1 of whom shall be a licensed physician/psychiatrist. Both of the following apply:
 - (i) Limitations of the recipient's rights, any intrusive treatment techniques or any use of psychoactive drugs where the target behavior is due to an active substantiated Axis 1 psychiatric diagnosis listed in the Diagnostic and Statistical Manual of Mental Disorders need not be reviewed and approved by a specially constituted body described in this subdivision.
 - (ii) Any limitation shall be justified, time-limited, and clearly documented in the plan of service. Documentation shall be included that describes attempts that have been made to avoid limitations, as well as what actions will be taken as part of the plan to ameliorate or eliminate the need for the limitations in the future.
 - h. Strategies for assuring that a recipient has access to needed and available supports identified through a review of his or her needs. Areas of possible need may include any of the following:
 - (i) Food.
 - (ii) Shelter.
 - (iii) Clothing.
 - (iv) Physical health care.
 - (v) Employment.
 - (vi) Education.

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-026
Subject	Person Centered Plan	Issue Date	03/21/2023
		Revision Date	09/24/2024
		Page	3 of 4

- (vii) Legal services.
- (viii) Transportation.
- (ix) Recreation.

- i. A description of any involuntary procedures and the legal basis for performing them.
 - j. A specific date or dates when the overall plan, and any of its subcomponents will be formally reviewed for possible modification or revision.
5. The plan shall not contain privileged information or communications.
 6. The individual plan of service shall be formally agreed to in whole or in part by TBHS and the recipient, his or her guardian, if any, or the parent who has legal custody of a minor recipient. If the appropriate signatures are unobtainable, then two TBHS staff shall document witnessing verbal agreement to the plan. Copies of the plan shall be provided to the recipient, his or her guardian, if any, or the parent who has legal custody of a minor recipient.
 7. Implementation of a plan without agreement of the recipient, his or her guardian, if any, or parent who has legal custody of a minor recipient may only occur when a recipient has been adjudicated. However, if the proposed plan in whole or in part is implemented without the concurrence of the adjudicated recipient or his or her guardian, if any, or the parent who has legal custody of a minor recipient, then the stated objections of the recipient or his or her guardian or the parent who has legal custody of a minor recipient shall be included in the plan.
 8. If a recipient is not satisfied with his or her individual plan of services, the recipient, the person 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.
 9. A recipient shall be informed orally and in writing of his or her clinical status and progress at reasonable intervals established in the individual plan of services in a manner appropriate to his or her clinical condition.
 10. The plan shall be kept current and shall be modified when indicated. Once a plan has been developed through the PCP process, it shall be kept current and modified when needed (e.g., reflecting changes on intensity of the person's needs, changes in the individual's condition, or changes in preferences of support). The individual and the clinician shall work on and review the plan of services on a routine basis as part of their regular conversations. An individual or his/her parent or legal representative may request and review the plan at any time. A formal review of the plan with the individual and his/her parent or legal representative, if any, shall occur not less than annually.

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-026
Subject	Person Centered Plan	Issue Date	03/21/2023
		Revision Date	09/24/2024
		Page	4 of 4

RELATED FORMS & MATERIALS

N/A

REFERENCES/LEGAL AUTHORITY

- Mental Health Code Section 330.1712, 330.1714 AR 330.7199

Revision Dates:
04/12/2023
09/24/2024