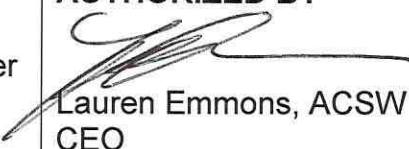


CHAPTER Service Delivery	CHAPTER 02	SECTION 003	SUBJECT 45
SECTION Access to Services		DESCRIPTION Informed Consent	
WRITTEN BY Lisa K. Jolly, B.S. Recipient Rights Officer	REVISED BY Lisa Jolly, B.S. Recipient Rights Officer	AUTHORIZED BY  Lauren Emmons, ACSW CEO	

APPLICATION:

<input checked="" type="checkbox"/> CMH Staff	<input checked="" type="checkbox"/> Board Members	<input checked="" type="checkbox"/> Provider Network	<input checked="" type="checkbox"/> Employment Services Providers
<input checked="" type="checkbox"/> Employment Services Provider Agencies	<input checked="" type="checkbox"/> Independent Contractors	<input checked="" type="checkbox"/> Students	<input checked="" type="checkbox"/> Interns
<input checked="" type="checkbox"/> Volunteers			

POLICY:

It is the policy of Lapeer County Community Mental Health that informed consent shall be obtained from the person served or applicable parent of guardian for participation in mental health services including, but not limited to, treatment plans, medication, surgery, electro convulsive therapy, photographing, audio taping, fingerprinting, videotaping, viewing through one-way glass or disclosing confidential information which requires prior written consent.

STANDARDS:

- A. The person served or guardian signing the consent form shall be given adequate opportunity to read it before signing. In addition, they will be given the opportunity to ask questions about the proposed treatment. When essential to the understanding of the person served, or when otherwise deemed advisable, the consent shall be read, or an oral explanation shall be provided in a language the person served understands (For example a foreign language interpreter or American Sign Language (ASL) interpreter). A note of the explanation and who made it shall be filed in the record of the person served along with the consent form.

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- B. A consent is executed when it is signed by the person served or guardian.

- C. An agreement in writing documenting an informed consent shall not include any language through which the person served, or a person consenting on the behalf of the person served, waives or appears to waive, a legal right, including releasing the agency or its contract agencies from liability for negligence.

PROCEDURES:

- A. In obtaining Informed Consent the primary case holder will do the following:
 - 1. Obtain informed consent prior to the person served receiving services or participating in CMH programs, any assessment or mental health treatment, including medication surgery, or electro-convulsive therapy, but not including necessary emergency services;
 - 2. Obtain informed consent prior to photographing, audio taping, fingerprinting, and viewing through one-way glass;
 - 3. Obtain informed consent prior to disclosing confidential information which requires consent;
 - 4. Verify that the individual signing the consent falls into one of the following categories:
 - a. The person served, if they are 18 years of age or over and does not have a guardian empowered to consent for this specific purpose;
 - b. The guardian of the person served, if the guardian is legally empowered to execute such a consent;
 - c. The parent with legal and physical custody of the person served, if the person served is less than 18 years of age;
 - d. Other individuals specified in section 716 or 717 of the Mental Health Code.
 - 5. Assure that the informed consent

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- a. Is filed in the record of the person served and specifies the date it will expire and cannot exceed 12 months;
 - b. Informed Consent shall be re-obtained if changes in circumstances substantially change the risks, other consequences, or benefits that were previously expected.
6. When requesting consent, provide the individual signing the consent with an explanation of the procedures, risks, other consequences, and other relevant information that the individual needs to make an informed decision. This should include offering to answer any questions.
 7. Explain to the individual signing the consent that they are free to withdraw consent and to discontinue participation or activity at any time without prejudice to the person served/ guardian or the individual consenting.
 8. Use the initial and annual assessment processes to evaluate comprehension and whether the person served is competent to give informed consent, and whether guardianship proceedings should be considered. A report must be made to their supervisor if there is a need to file a petition for guardianship. Behavior Treatment Plan Review Committee (BTPRC) can also be consulted if needed. Evaluation of the ability to give consent shall precede any guardianship proceedings.
 9. When an element of force, duress, deceit, or any other form of coercion is present, requests for informed consent shall not be made without intervention in that coercion.

B. Minors [MHC 330.1707]:

1. A minor 14 years of age or older may request and receive mental health services and a mental health professional may provide mental health services, on an outpatient basis (excluding pregnancy termination referral services and the use of psychotropic drugs), without the consent or knowledge of the minor's parent, guardian, or person in loco parentis.
2. The minor's parent, guardian or loco parentis will not be informed of the services without the consent of the minor, unless the mental health professional treating the minor determines that there is a compelling need for

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disclosure, based upon a substantial probability of harm to the minor or to another individual. The minor must be notified of the treatment professional's intent to inform the minor's parent, guardian, or person in loco parentis.

3. Services provided to the minor are limited to not more than twelve sessions or four months per request for services. After the twelfth session or fourth month of services, the mental health professional will terminate the services, or with the consent of the minor notify the parent, guardian, or person in loco parentis to obtain consent to provide further outpatient services.

DEFINITIONS:

“Informed Consent” means a written agreement executed by a recipient, a minor recipient's parent, or a recipient's legal representative with authority to execute a consent, or a verbal agreement of a recipient that is witnessed and documented by an individual other than the individual providing treatment. All of the following are elements of informed consent:

- a. Legal Competency: An individual shall be presumed to be legally competent. This presumption may be rebutted only by a court appointment of a guardian, or exercise by a court of guardianship powers, and only to the extent of the scope and duration of the guardianship. An individual shall be presumed legally competent regarding matters that are not within the scope and authority of the guardianship. [Administrative Rule 30.7003]
- b. 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 included all of the following:
 - I. The purpose of the procedure
 - II. A description of the attendant discomforts, risks, and benefits that can reasonably be expected.
 - III. A disclosure of appropriate alternatives advantageous to the person served.
 - IV. An offer to answer further inquiries.

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- c. Comprehension: An individual must be able to understand what the personal implications of providing consent will be based upon the information provided under subdivision (b) of this subrule.
- d. Voluntariness: There shall be free power of choice without the intervention of an element of force, fraud, deceit, duress, overreaching, or other ulterior form of constraint or coercion, including promises or assurances or privileges or freedom. There shall be an instruction that an individual is free to withdraw consent and to discontinue participation or activity at any time without prejudice to the person served.

REFERENCES:

Michigan Mental Health Code, Section 330.1718
Administrative Rules, Section 330.7158

Questions regarding this policy and procedure may be addressed to the Chief Executive Officer or to any member of the management team.

LKJ:mgr

This Policy supersedes
#10/09045 dated 10/20/2009.
