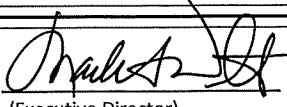


Policy & Procedure

ACCMHS

Allegan County Community Mental Health Services
P.O. Box 130, 3283 122nd Avenue, Allegan, MI 49010

POLICY/PROCEDURE TITLE: Consent to Treatment POLICY/PROCEDURE #: 1306 Section: Recipient Rights Developed and maintained by: Recipient Rights Officer Scope: <input checked="" type="checkbox"/> ACCMHS Staff <input type="checkbox"/> MH/IDD, <input type="checkbox"/> Housing, <input type="checkbox"/> SUD, <input type="checkbox"/> Integrated Health, <input checked="" type="checkbox"/> ACCMHS Contract Providers <input type="checkbox"/> Other _____	Approved By:  (Executive Director)					
	Approved By: _____ (Medical Director; <i>as applicable</i>)					
	DATES					
	<table border="1"><tr><td>First Effective</td><td>12/1986</td></tr><tr><td>Revised</td><td>03/2020</td></tr><tr><td>Supersedes</td><td>03/2019</td></tr></table>	First Effective	12/1986	Revised	03/2020	Supersedes
First Effective	12/1986					
Revised	03/2020					
Supersedes	03/2019					

PURPOSE

To provide procedure for assuring written informed consent is obtained from the legally empowered individual prior to the initiation of services.

APPLICATION

All Allegan County Community Mental Health Services (ACCMHS) staff and contract agency staff as specified by contract.

DEFINITIONS

A) Consent

A written agreement executed by a consumer, a minor consumer's parent or a consumer's legal representative with authority to execute consent, or a verbal agreement of a consumer that is witnessed and documented by an individual other than the individual providing treatment.

B) Empowered Guardian

A person who has been designated by the county probate court as guardian with the specific authority to give consent.

C) Informed Consent

Requires the following:

1) Legal Competency

A consumer 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 guardianship. A consumer shall be presumed legally competent regarding matters that are not within the scope and authority of guardianship.

2) Knowledge

To consent, a consumer 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:

- The purpose and procedures.
- A description of the attendant discomforts, risks, and benefits that can reasonably be expected.
- A disclosure of appropriate alternatives advantageous to the consumer.
- An offer to answer further questions.

- 3) Comprehension
A consumer must be able to understand what the personal implications of providing consent will be based upon the information provided.
 - 4) Voluntariness
There shall be free power of choice without the intervention of an element of force, fraud, deceit, duress, overreaching, or other ulterior form of constraint or coercion, including promises or assurances of privileges or freedom. There shall be an instruction that a consumer is free to withdraw consent and to discontinue participation or activity at any time without prejudice to the consumer/legal representative.
 - 5) Written
Consent must be an agreement in writing which includes the basic elements of consent.
- D) Parent
when used in these procedures refers to:
- 1) a parent of a minor child.
 - 2) a person with whom the child resides and from whom the child receives care and support, who has legal authority to make decisions on behalf of the child.
 - 3) a representative from the Juvenile Court, or MDHHS Protective Services with proper court authority.

POLICY

It is the policy of ACCMHS that written informed consent is obtained from a consumer of services or applicant for service, from his/her empowered guardian or from a parent, if a minor, prior to providing treatment, changing treatment, or providing medical services.

A minor 14 years of age and older may request and consent to limited outpatient services without the consent or knowledge of their parent.

PROCEDURE

The following procedures are established for obtaining consent and for evaluating comprehension. These procedures specify under specific circumstances the types of information which shall be disclosed and steps which may not be taken without endangering voluntariness. An evaluation of the ability to give consent shall precede any guardianship proceedings.

- I) Intake
 - A) At the time of intake and/or initial evaluation, each consumer shall be asked to sign the Consent for Mental Health Services and Acknowledgment of Recipient Rights Information Form. The consenting individual shall be made aware of the procedures, risks, and other consequences and relevant information. The consumer/guardian will be informed that the consent can be withdrawn at any time without prejudice. This form will be placed in the case record.
 - B) If a consumer cannot read or understand the material provided:
 - 1) The provider shall make a reasonable attempt to assist the recipient in understanding the materials.
 - 2) A note describing the explanation of the materials and who provided the explanation shall be entered in the consumer's medical record.
 - C) If a consumer refuses to sign:
 - (a) the reason and/or circumstances shall be documented on the form by the staff involved, and

- (b) the Case Manager/Supports Coordinator/Therapist assigned to the case shall consult with the Team Supervisor, Program Coordinator/Supervisor or his/her designee regarding the appropriate action to take.
 - D. Copies of all legal documents empowering an individual to provide consent for another (guardianship authority, divorce document, power of attorney, etc.) will be requested at intake and placed in the medical record.
 - E. Recipients ordered by a court of law to receive mental health services on an involuntary basis represent a special classification. An informed consent for services need not be obtained prior to providing service, but efforts shall always be made to obtain written consent whenever possible before services are initiated. A copy of the court order will be requested and placed in the record.
- II. Individual Service Plan
- A) The consumer or legal representative shall sign the Individual Plan of Service (IPOS), indicating their consent to the treatment including medical services described therein. The consumer/guardian will be informed that the consent can be withdrawn at any time without prejudice.
 - B) The consenting individual shall be made aware of the procedures, risks, and other consequences and relevant information. This shall be done each time the IPOS is changed and re-obtained if changes in circumstances substantially change the risks, other consequences, or benefits that were previously expected.
 - C) If a consumer or legal representative refuses to sign the IPOS (consent to treatment):
 - (a) the reason shall be documented on the IPOS form, and
 - (b) the Case Manager/Supports Coordinator/Therapist shall consult with his/her Team Supervisor, Program Coordinator/Supervisor, or his/her designee to determine the appropriate action to take.
- III. Electroconvulsive Therapy or Other Procedures
- A. A consumer shall not be the subject of electroconvulsive therapy or a procedure intended to produce convulsions or coma unless consent is obtained from the following:
 - 1. The consumer, if he or she is 18 years of age or older and does not have a guardian for medical purposes.
 - 2. The consumer's parent who has legal and physical custody of the consumer, if the consumer is less than 18 years of age.
 - 3. The consumer's guardian, if the guardian has power to execute consent to procedures.
 - 4. The consumer's designated representative, if a durable power of attorney or other advanced directive grants the representative authority to consent to procedures.
 - B. If a guardian consents to a procedure, the procedure shall not be initiated until two (2) psychiatrists have examined the consumer and documented in the consumer's medical record their concurrence with the decision to administer the procedure.
 - C. If a parent or guardian of a minor consents to a procedure described in this section, the procedure shall not be initiated until two (2) child and adolescent psychiatrists, neither of whom may be the treating psychiatrist, have examined the minor and documented in the minor's medical record their concurrence with the decision to administer the procedure.
 - D. A minor or an advocate designated by the minor may object to the administration of a procedure. The objection shall be made either orally or in writing to the probate court. The procedure shall not be initiated before a court hearing on the minor's or advocate's objection.
 - E. At least 72 hours, excluding Sundays or holidays, before the initiation of a procedure, a minor shall be informed that he or she has a right to object to the procedure.

- F. If a procedure is considered advisable for a recipient and an individual eligible to give consent for the procedure is not located after diligent effort, a probate court may, upon petition and after a hearing, consent to administration of the procedure in lieu of the individual eligible to give consent.

IV. Minors

- A. Minors, 14 years of age or older, may request and receive mental health services and a mental health professional may provide mental health services without the consent or knowledge of his/her parent, guardian, or person in loco parentis. Those services exclude pregnancy termination referral services or the use of psychotropic drugs.
- 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 the minor or another individual, and if the minor is notified of the treating professional's intent to inform.
- C. Services provided to a 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. Services provided to a minor under this section shall, to the extent possible, promote the minor's relationship to the parent, guardian, or person in loco parentis, and shall not undermine the values that the parent, guardian, or person in loco parentis has sought to instill in the minor.
- E. Minors receiving services without the consent or knowledge of a parent outlined above may consent to release of information consistent with ACCMHS policy.
- F. The minor's parent, guardian, or person in loco parentis is not liable for the costs of services that are received by a minor.

V. Revocation of Consent

- A. If a consumer/legal representative revokes a consent the responsible Case Manager/Supports Coordinator/Therapist shall request that it be in writing on the original consent form. If the consumer/legal representative refuses to put the revocation in writing, the Case Manager/Supports Coordinator/Therapist shall document such on the original consent form.
- B. A consumer/legal representative is free to withdraw consent and to discontinue participation or activity at any time without prejudice to the consumer and/or legal representative.

VI. Competency Evaluation

- A. During the course of treatment, the Case Manager, Supports Coordinator, or Therapist shall determine if the consumer is able to understand the nature of a procedure/service, the potential risks, consequences and other relevant information concerning the proposed service.
- B. If it is determined that the consumer is unable to understand the above areas then the Case Manager/Supports Coordinator/Therapist shall take the necessary steps to secure a psychological evaluation of competency.
- C. The Case Manager/Supports Coordinator/Therapist may petition the court for guardianship only in those areas that the consumer needs assistance, and only after all alternatives to guardianship have been explored and dismissed.

REFERENCE

Michigan Mental Health Code
Administrative Rules
CARF Standards