

RECIPIENT RIGHTS REFRESHER

THE RIGHT DOOR FOR HOPE, RECOVERY, AND WELLNESS



WHERE DO RIGHTS COME FROM?

- Michigan Mental Health Code a.k.a. Public Act 258 of 1974.
- United States Constitution
- State of Michigan Constitution of 1963.
- American's with Disabilities Act

RIGHTS VS. PRIVILEGE

RIGHTS

- GUARANTEED BY LAW
- CANNOT BE TAKEN AWAY
- EXAMPLE:
 - FREEDOM OF SPEECH
 - RIGHT TO VOTE

PRIVILEGE

- MUST BE EARNED
- CAN BE TAKEN AWAY/LIMITED
- EXAMPLE:
 - DRIVER'S LICENSE
 - DIPLOMA

THE OFFICE OF RECIPIENT RIGHTS

Duties



RIGHTS REPORTING REQUIREMENTS

- Any suspected Rights violations should be reported in a timely manner (within 24 hours)– with the exception of Abuse/Neglect.
- You **MUST** report suspected Abuse/Neglect **IMMEDIATELY!!!**
 - Failure to report immediately can result in you being cited for Failure to Report, which falls under Neglect.
 - If you cannot complete a written complaint immediately, you can still call the rights office to report. A phone call or message can be followed up with a written report at a later date.

REPORTING REQUIREMENTS CONT.

- You have the option to report anonymously.
 - Some worry about causing problems with co-workers for reporting suspected rights violations.
 - The Mental Health Code protects against retaliation and harassment for Rights activities. Retaliation and Harassment will be dealt with by disciplinary action.

COMPLAINT PROCESS

- REMEMBER, ANYONE CAN FILE A RIGHTS COMPLAINT.
- WHAT DOES THE RIGHTS OFFICE LOOK AT WHEN A COMPLAINT IS RECEIVED?
 - IS IT A RIGHT PROTECTED BY THE MENTAL HEALTH CODE?
 - If no, nothing the Rights office can do.
 - IS THE COMPLAINT WITHIN THE JURISDICTION OF THE RIGHTS OFFICE?
 - If No, it will be referred to whichever entity has jurisdiction (licensing, APS, etc)

IF YES TO BOTH....The Rights office can either complete an Intervention or an Investigation

COMPLAINT PROCESS CONTINUED

- INTERVENTION

- Can be done if the solution is clear and the allegation does not involve Abuse or Neglect.
- 30 days to complete.

- INVESTIGATION

- 90 days to complete
- Includes interviews, unimpeded access to any documents.

PREPONDERANCE OF EVIDENCE

- Complaints that are done as interventions or investigations will either be “SUBSTANTIATED” or “NOT SUBSTANTIATED” based on preponderance of evidence. But what does that mean?
- Preponderance of Evidence is based on the greater weight- is it more likely than not that something occurred.
 - Based on QUALITY, not QUANTITY of evidence gathered (documentation, interviews, etc.)
- If SUBSTANTIATED, the employer of the accused must provide a plan of action/correction. This must include measures to prevent violations from happening in the future.
- A copy of the final Summary Report detailing all of this goes out to the complainant, recipient and/or guardian.

RIGHT TO APPEAL

- Who has appeal rights?
 - Complainant
 - Recipient/Guardian
- Under what grounds can they appeal?
 - Investigation not timely
 - Planned action won't remedy the situation/prevent recurrence
 - Rights office did not take into account all the evidence/rules/laws

CIVIL RIGHTS

- When someone is diagnosed with a Mental Illness or Intellectual Disability, it does NOT mean that they lose their rights.
- Guaranteed by the United States Constitution
 - Right to Vote
 - Right to practice their religion AND not have a religion prescribed for them.
 - Freedom of Speech
 - Freedom from Discrimination
 - Privacy/No illegal search or seizure
 - Presumed competent unless deemed otherwise by a court of law

ABUSE AND NEGLECT

- “A recipient of mental health services shall not be subjected to abuse or neglect.” MHC 330.1722 (I)
- Failure to report suspected Abuse or Neglect IS A RIGHTS VIOLATION!
- Abuse and Neglect are broken down into three categories each- Classes I-III.

ABUSE

- Abuse is defined as “a non-accidental act or provocation of another to act...”
 - Abuse Class I causes or contributes to the death, sexual abuse, or serious physical harm.
 - Abuse Class II causes or contributes to non-serious physical harm, the use of unreasonable force, emotional harm, and exploitation.
 - Abuse Class III is the use of language or other means of communication to degrade, threaten or sexually harass.

EXAMPLES OF ABUSE

- Paying a resident in a home to start a fist fight with another resident.
- Asking a recipient for sexual favors in return for extra cigarettes.
- A recipient throws a rock at a staff person's car and the staff person "flips them off."
- A recipient spits in staff's face and staff spits back.
- Staff is having a sexual relationship with a recipient

NEGLECT

- Neglect is defined as “acts of commission or omission that result from a non-compliance with a standard of care...”
 - Basically doing something you are not supposed to do or not doing something you are supposed to do that is required by policy, procedure, law, etc.
- Failure to Report suspected Abuse or Neglect falls under Neglect.
- Neglect Class I- causes or contributes to death, sexual abuse, or serious physical harm
- Neglect Class II- causes or contributes to non-serious physical harm or emotional harm
- Neglect Class III- places or could have placed recipient at risk of physical harm or sexual abuse.

EXAMPLES OF NEGLECT

- A recipient complains of chest pain and staff tells them “it’s just your anxiety, go back to bed.” The recipient is found dead the next morning- cause of death is a heart attack.
- A staff leaves a recipient in the car alone while they run into the store. This is against policy. The recipient gets out of the car, trips and breaks their arm.
- A recipient has a doctors order for position changes every two hours. Staff are too busy during the shift to do this.
- Staff overhears a conversation between a colleague and a recipient about a date that is planned between the two of them. Staff does not report it because “its none of my business.”

CONFIDENTIALITY

- “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 is not open to public inspection.” MHC 330.1748(I)
- Recipients have the right to review their record. If the parent of a minor or the guardian is requesting records, they can be reviewed for detriment.
- Within the agency/provider network
 - Need to know

CONFIDENTIALITY

- Mandatory Disclosure
 - Subpoena
 - Michigan Protection and Advocacy
- Discretionary Disclosure
 - Risk of harm to self or others.
 - As necessary for treatment, coordination of care, or payment of mental health services.

CONFIDENTIALITY EXAMPLES

- Posting a picture of you and a recipient on social media with the caption “Fun day while working with Jane.”
- Going home and telling your family that you saw your neighbor come out of a colleagues office at work.
- Providing information about a recipient to another agency without a signed release of information.

DIGNITY AND RESPECT

- “A recipient has the right to be treated with dignity and respect.” MHC 330.1708(4)
- Dignity: to be treated with esteem, honor, politeness; to be addressed in a manner that is not patronizing, condescending or demeaning; to be treated as an equal; to be treated the way any individual would like to be treated.
- Respect: 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.
- Includes family members of recipients.

DIGNITY AND RESPECT

- Family members also have the right to provide information to treating professionals.
- Family members have the right to request and receive educational materials about the nature of disorders, medications, medication side effects, and supports available.

DIGNITY AND RESPECT EXAMPLES

- Continuing to call someone “sweetie” when they have already told you that they do not like you calling them that.
- A parent yells at you about their child’s services so you yell and scream back at them.
- A recipient voices fears and concerns about an upcoming medical procedure to you and you laugh at them and tell them they are being ridiculous.
- A recipient is in their bedroom with the door closed and you just barge right in without knocking.

THINGS TO REMEMBER...

- Any limitations on rights must have justification and be approved through the Behavior Treatment Committee and in the Plan of Service(remember from Initial Rights Training there are some rights you cannot place limits on- Abuse/Neglect, Civil Rights, etc).
- Anyone can file a rights complaint.
- Better to report, than not report and find out later something was going on.
- When in doubt, ask!

QUESTIONS???

- If you ever have questions, feel free to call or email the Rights office.
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