YOUR RIGHTS

WHEN RECEIVING MENTAL HEALTH SERVICES IN MICHIGAN

12/2012

SECTION 1: GENERAL INORMATION ABOUT RIGHTS

When you receive mental health services, Michigan's Mental Health Code, as well as other laws, safeguard your rights. Staff are responsible to protect your rights when they provide services to you. You are encouraged to ask questions about your treatment and about your rights and to make suggestions that you feel are in your best interest. If you believe your rights have been violated, you should inform the Rights Officer/Advisor at the location where you are receiving services.

Notice

Mental Health Code Sections 706, 706a

When you make a request for, or begin to receive, mental health services, you are to be given information about the rights guaranteed in Chapters 7 and 7A of the Code. This booklet meets that requirement and provides you a summary of the information and rights contained in those chapters. A complete copy of Chapters 7 and 7A are available from your service site.

If you receive services from a community mental health services program, you, or your family, should also be given a pamphlet containing information regarding available resources, advocacy and support groups, and other relevant information, including how to contact Michigan Protection and Advocacy Services, Inc.

Competency

Mental Health Code Section 702

Just because you receive mental health treatment or services does not mean that you are incompetent. You still have the right to have a driver's license, marry and divorce, make a will, buy and sell property, manage your own affairs and decide most things about your life. You will continue to be treated as competent unless a court has decided that you are legally incompetent and has appointed a guardian for you.

A guardian is authorized by a judge to make certain decisions for you. For some people, a guardian makes major decisions; for others, the guardian decides only those specific things listed in a court order. If you have a guardian and you think you should be able to make more decisions for yourself, or you think you don't need a guardian, or that you need a different guardian, then you, or someone on your behalf, may go to the court and ask (petition) for a change of guardianship.

Consent

Mental Health Code Section 100 a [17]; Administrative Rule 330.7003

You must give INFORMED CONSENT in order to receive treatment or to have confidential information about you provided to others by the agency from which you are receiving services. In order to be able to give informed consent you must have:

KNOWLEDGE

You must be told about the risks, benefits, and available alternatives to a course of treatment or medication.

UNDERSTANDING

You must be able to reasonably understand the information you are given including the risks, benefits, available options or alternatives, or other consequences.

Your decision to provide consent must be **VOLUNTARY**. You should not be forced or pressured into a decision. Unless you are a minor or have a guardian, the choice you make should be your and yours only. This consent must either:

- Be in writing and signed by you, your legal representative, or
- Be your verbal agreement which is witnessed and put in writing by someone who is not treating you at the time.

Dignity and Respect

Mental Health Code Section 704, 7

The law requires all mental health service providers to assure that you are treated with dignity and respect. Examples of staff not showing respect include calling you names, making fun of you, teasing, or harassing you.

Your FAMILY MEMBERS also have the right to be treated with dignity and respect. In addition, they must be given:

An opportunity to provide information about you to your treating professionals.

An opportunity to request, and receive, general education information about the nature of mental disorders, medications and their side effects. Information about available support services, advocacy groups, financial assistance, and coping strategies.

Freedom from Abuse and Neglect

Mental Health Code Section 722; Administrative Rule 330.7001, 7035

WHEN RECEIVING MENTAL HEALTH SERVICES YOU HAVE THE RIGHT NOT TO BE PHYSICALLY, SEXUALLY, OR OTHERWISE ABUSED AND THE RIGHT NOT TO BE NEGLECTED. ABUSE MAY TAKE MANY FORMS. IF A STAFF PERSON MAKES ANY PHYSICAL CONTACT WITH YOU FOR SEXUAL PURPOSES, OR IF YOU ARE SEXUALLY HARASSED **IT IS ABUSE.** IF STAFF CAUSE YOU TO BE INJURED IN ANY WAY OR USE UNREASONABLE FORCE IN A PHYSICAL MANAGEMENT SITUATION, OR CAUSE YOU EMOTIONAL HARM, **IT MAY BE ABUSE**. IF YOUR FUNDS ARE MISUSED, **IT IS ABUSE.** IF STAFF ARE VERBALLY ABUSIVE TO YOU, **IT IS ABUSE.** IF STAFF FAIL TO DO SOMETHING THEY ARE SUPPOSED TO DO WHEN THEY ARE CARING FOR YOU, OR IF THEY SOMETHING THEY SHOULDN'T DO AND IT RESULTS IN HARM TO YOU OR HAS THE POTENTIAL TO HARM YOU, THEN THIS MAY BE NEGLECT. **IF YOU FEEL YOU HAVE BEEN ABUSED OR**

NEGLECTED, OR SUSPECT ANOTHER RECIPIENT HAS BEEN, YOU SHOULD REPORT IT IMMEDIATELY TO A STAFF PERSON AND TO THE RECIPIENT RIGHTS OFFICE.

Fingerprints, Photographs, Audiotape, Videotape, and Use of One-Way Glass

Mental Health Code Section 724

You have the right not to be fingerprinted, photographed, recorded on audio or video, or viewed through a one-way glass unless you or your legal representative agree in writing.

- If someone wants to photograph, videotape, or record you for educational, informational, social or treatment purposes, that person must first ask for your permission. If you do object, it will not be done.
- When they are no longer needed, or upon discharge, any fingerprints, photographs, audiotapes, or videotapes in your record must either be given to you, or destroyed.

While doing an investigation to determine if your rights were violated, the Rights Office may need to take your picture. This will be kept in your confidential records maintained in the Rights Office.

Confidentiality

Mental Health Code Section 748, 946

You have the right to have information about your mental health treatment kept private. Information about you and your treatment cannot be given to anyone except as required or allowed by law. Listed here are examples of when confidential information may be released:

- If a law or a court order requires your records be released.
- If you, or your legal representative, consents.
- If needed to get benefits for you or to get reimbursement for cost of treatment.
- If it is needed for research or statistical purposes, with certain safeguards regarding identification.
- If you die and your surviving spouse or other close relative needs the information to apply for and receive benefits.
- If you tell your mental health professional that you are going to harm another person, he/she may have to notify the police and the person who you threaten to harm.

Access to Your Record

Mental Health Code Section 748

You have the right to see your treatment record. Upon request, you or your legal representative may read or get a copy of all or part of your record. There may be a charge for the cost of copying.

If you are an adult and the court has not judged you incompetent (appointed a guardian for you), information entered in your record after March 28, 1996 may not be withheld from you under any circumstances.

If you are denied access to your record, you, or someone on your behalf, may appeal the decision. Contact your rights officer/advisor for information about the appeal process.

If you (or your legal representative) believe(s) your record contains incorrect information, you or they may place a statement in your record which corrects that information. You may not remove what is already in the record.

Environmental Rights

Mental Health Code Section 708

You have the right to treatment in a place which is clean and safe

If you are receiving services from a residential program, the place where you live must have good lighting, enough heat, fresh air, hot and cold water, a bathroom with privacy, personal storage space, and it should be free from unpleasant smells.

Civil Rights

Mental Health Code Section 740; Administrative Rule 330.7009

You cannot be denied your civil rights even though you are receiving mental health services. You have the right to an education, the right to vote*, and the right not to be discriminated against because of your:

Age
Color
Height
National origin
Physical or mental disability
Sex
Religion
Race
Weight

** Information about registration and voting may be obtained from the Recipient Rights Office.*

As a person with a mental disability, your rights may be additionally protected under:

Americans with Disabilities Act (ADA)
Fair Housing Amendments Act
Civil Rights of Institutionalized Persons Act
Individuals with Disabilities Education Act (IDEA)
Rehabilitation Act, Section 504
Michigan Disability Civil Rights Act

Knowing about these laws will help you exercise your rights and prevent discrimination. If you, your advocate, or family members are interested in these laws, or any other laws which affect your rights as a person receiving mental health services, contact your Recipient Rights Office. If you (or someone on your behalf) think that you have been discriminated against, a complaint may be filed with the Recipient Rights Office at any time, even after you are discharged. Additionally, you may file a discrimination complaint with either the:

Michigan Department of Civil Rights
110 West Michigan Avenue, Lansing, Michigan 48913
VOICE: 1-800-482-3604

U.S. Department of Health and Human Services, Office for Civil Rights
233 N. Michigan Ave., Suite 240, Chicago, IL 60601
VOICE 1-312-886-2359 FAX 1-312-886-1807 TDD 1-312-353-5693

To file with either of these agencies you must write to them within 180 days of the time the alleged discrimination occurred. If you are still not satisfied, you may also sue in the State Circuit Court or Federal District Court.

In addition to the Office of Recipient Rights, there are many governmental organizations available to assist you if you think your rights have been violated.

For information on how an individual with a disability may be reasonably accommodated at work, call the Job Accommodation Network at VOICE: 1-800-526-7234 or TTY: 1-877-781-9403.

Federal Laws and Agencies

Title II of the Americans with Disabilities Act (ADA)
If you feel your rights under Title II have been violated by state or local governmental agencies, you may file a complaint with the Department of Justice. This must be done within 180 days from the date of discrimination. For more information or to file a complaint, contact US Department of Justice 950 Pennsylvania Avenue, NW Civil Rights Division, Disability Rights Section – 1425 NYAV, Washington, D.C. 20530. You may also call VOICE: 1-800-514-0301 or TTY: 1-800-514-0383 or send an email to: ADA.complaint@usdoj.gov.

Title III of the Americans with Disabilities Act (ADA)
For violations of Title III by places of public accommodation (e.g., restaurants, doctors' offices, grocery stores, hotels) complaints may be filed with the Justice Department and in certain circumstances cases

may be referred to a mediation program sponsored by the Department. The Justice Department is authorized to bring lawsuits where there is a pattern or practice of discrimination in violation of Title III or where an act of discrimination raises an issue of general public importance. Title III may also be enforced through a private lawsuit. See the address and phone numbers given above.

Fair Housing Amendments Act

For violations of the Fair Housing Amendments Act, you may file a complaint with the U.S. Department of Housing and Urban Development. For more information on filing a complaint, contact the Department of Housing and Urban Development, Chicago Regional Office, Ralph Metcalfe Federal Building, 77 West Jackson Boulevard, Chicago, Illinois 60604, VOICE: 1-312-353-5680, or TTY: 1-312- 353-7143.

Civil Rights of Institutionalized Persons Act

Under the Civil Rights of Institutionalized Persons Act, the Attorney General may initiate a civil rights lawsuit when there is reasonable cause to believe that the conditions are significant enough to subject residents to serious harm and they are part of a pattern or practice of denying residents' constitutional or federal rights including Title II of the ADA and Section 504 of the Rehabilitation Act. To bring a matter to the attention of the Department of Justice, contact the Special Litigation Section, Civil Rights Division, U.S. Department of Justice, 950 Pennsylvania Ave NW, Washington, D.C. 20530, VOICE/TTY: 1-202-514-6255

Individuals with Disabilities Education Act

Under the Individuals with Disabilities Education Act, if a parent disagrees with the proposed IEP, he/she can request a due process hearing from the Michigan Department of Education. To contact MSEMP facilitation and mediation services call 1-800-RESOLVE or complete an online request at **http://msemp.cenmi.org/Services/RequestServices.aspx.**

The state agency's decision can also be appealed to a state or federal court. For more information about this act and your rights, contact the Office of Special Education and Rehabilitative Services, U.S. Department of Education, 400 Maryland Ave., SW, Washington, DC 20202-7100 or you may call VOICE: 1-202- 245-7468.

Section 504 of the Rehabilitation Act

Under Section 504 of the Rehabilitation Act, no qualified individual with a disability in the United States shall be excluded from, denied the benefits of, or be subject to discrimination under any program or activity that either receives federal financial assistance or is conducted by any executive agency or the U.S. Postal Service. If you feel that you have been discriminated against by an agency receiving federal money based on disability, you can file a 504 complaint with an appropriate agency by contacting contact Civil Rights Division NYAV, U.S. Department of Justice, 950 Pennsylvania Ave NW, Disability Rights Section, Washington, D.C. 20530. You may also call VOICE:1-800-514-0301 or TTY: 1-800-514-0383.

Michigan Laws and Agencies

Michigan's Elliott Larsen Act and Michigan Handicapper Civil Rights Act.

If you are a recipient who believes that you have been discriminated against in your job because of your race, gender, marital status, etc., you are protected under Michigan's Elliott Larsen Act. If you believe you have been discriminated against based upon disability, you are protected under the Michigan Handicapper Civil Rights Act. For information regarding either of these laws, or to file a complaint, contact the Michigan Department of Civil Rights, 110 W. Michigan Avenue, Lansing, Michigan 48913, VOICE: 1-800-482-3604, TTY 1-877-878-8464 or send an email to MDCRServiceCenter@michigan.gov.

SECTION II: TREATMENT RIGHTS IN ALL MENTAL HEALTH SETTINGS

Treatment and Support

Mental Health Code Section 705, 707- 719, 744; Administrative Rule 7029, 7135

You have the right:

- To be told why you are being treated and what your treatment is.
- To participate in the development of your plan of service and to involve family members, friends, advocates, and professionals of your choice in the development process. Justification for the exclusion of a person of your choice must be documented in your case record.
- To have your plan of service developed within seven days of commencement of services or before discharge or release if you are hospitalized less than seven days.
- To choose, within certain limitations, the physician or other mental health professionals to provide services for you, if you receive services from a community mental health services program or a licensed hospital.
- To be informed of your progress, both orally and in writing, at reasonable intervals and in a manner appropriate to your condition.
- To not have surgery unless consent is obtained from:

  You

  Your guardian with legal authority to consent to surgery,

  Your parent with legal and physical custody, if you are under 18 years of age,

  A representative authorized to give consent under a durable power of attorney or other

  advance directive,

  OR

  If your life is threatened and there is not time to obtain consent, surgery may be performed without consent after the medical necessity for the procedure has been documented and the documentation has been entered into your record.

Surgery is necessary, no appropriate person can be found to give consent, and the probate court consents to the surgery.

- To be given notice of available family planning and health information services and, if you ask, to have staff provide referral assistance to providers of these services. Your receipt of mental health services does not depend in any way on requesting or not requesting family planning or health information services
- To have staff help you get treatment by spiritual means if you ask for it.
- To receive treatment in a place where you have as much freedom as your condition allows.
- To not have electroconvulsive therapy (ECT) or other procedures intended to produce convulsions or coma, unless consent is obtained from:

  You, if you are over 18 years old and do not have a guardian for medical purposes

  Your guardian who has legal authority to consent to ECT

  Your parent with legal and physical custody if you are under 18 years of age.

  A representative authorized to consent to ECT under a durable power of attorney or other advance directive.

- To receive a second opinion if you have been denied services by making a request to the Executive Director of the Community Mental Health Services Program.

Person-Centered Planning

Mental Health Code Section 712

The Mental Health Code requires a person-centered approach to the planning, selection, and delivery of the supports, services, and/or treatment you receive from the public mental health system (community mental health programs, psychiatric hospitals, and mental health service providers under contract to any of these).

What is person-centered planning?

Person-centered planning means the treatment you receive will be made up of activities which you think will help you, which you assist in developing, and which meet your goals. This process will determine the supports you want or need to achieve your desired future. The staff involved in your treatment will

encourage feedback from you about these supports, the progress you have made, and any changes you think would make your treatment more effective.

There are four basic parts in the person-centered process:

- Identifying the future you desire.

  It is up to you to choose the individuals who will help identify your future and help you plan for it. You will be a part of deciding what information is, or is not, shared at the meeting. You will be able to choose, within reason, the times and place you want to have meetings to plan your treatment, to decide the content of the meetings and how long they will be.

- Planning the future you desire.

  Meetings which are held to plan for your future will attempt to discover what is important to you, to share information about your abilities, strengths, and skills, to learn about your needs and to decide which of your desired goals will be achieved in the short term and which will need to be long-term. Then, you and the support team will determine the strategies for achieving these goals.

- Finding the supports and services it will take to achieve your desired future.

  You will be able to use the resources in your network of family, friends, your community, and the public mental health system which might be available to assist in achieving your desired outcomes. You will be able to choose, from available resources, the supports and services to be delivered, and help decide who will do what, when, and how.

- Getting regular feedback on your treatment.

  It is important for you to receive feedback on your progress. This should be done by informally, and regularly, discussing with your case manager (supports coordinator) how supports and services are being delivered, your satisfaction with their delivery, and progress toward your desired outcomes. The information you provide should be used to make any necessary changes in the supports and services you receive.

You should also have the opportunity to formally express your opinion about supports and services you receive so that improvements in service delivery can be made for everyone.

In addition, you always have the right to make formal complaints about how your supports and services were delivered or about any of the people who might have provided them and taking action to resolve the problem.

Questions You May Want To Ask About Person-Centered Planning

Who must attend the person-centered planning meeting?

You, and your legal representative (a parent if you are a minor or guardian) and your supports coordinator (case manager).

Who also might be included?

You may want to invite family members, co-workers, friends, a teacher, coach, staff, and other people who know you well and with whom you feel comfortable sharing personal information. Your supports coordinator (case manager) may also suggest inviting a nurse, physical therapist, or direct care staff, who has information to help in planning and decision making.

What kinds of outcomes are discussed?

"Outcomes" may include:

Having positive relationships with family members,

Participating in community activities and events,

Doing what you find meaningful and productive with your day, (such as going to school, work, volunteering),

Living in a place alone, or having assistance from people you choose.

Are there limits to person-centered planning?

Person-centered planning does not guarantee that the supports, services, and/or treatment nor the amount of them you might like to have can be provided by the public mental health system. What is actually provided by the public mental health system will depend upon the available resources (such as funding and staffing), rules and regulations that govern the program or funding system, and/or the judgment of the program administrator(s) as to feasibility, appropriateness, and safety of such support, service, or treatment.

SECTION III: YOUR RIGHTS WHEN YOU ARE BEING ADMITTED OR DISCHARGED FROM A PSYCHIATRIC HOSPITAL OR UNIT

Voluntary Admission Process

Mental Health Code Sections 410-420

If you are admitted to a psychiatric hospital or unit on a **VOLUNTARY BASIS** (you admit yourself), or you are admitted by application of your guardian (with your agreement) you have the following rights:

To give written notice of your intent to leave the hospital.

After you put your request in writing, you must be discharged within three (3) days (excluding Sunday and holidays). However, if the hospital director determines you require treatment and petitions the court for your involuntary admission you must remain in the hospital until a determination is made about your treatment by the court.

To be discharged when treatment is complete or when you no longer need the services.

To request a second opinion if the community mental health services program pre-admission screening unit does not think you need to go into the hospital.

As a voluntary recipient, **YOU HAVE THE RIGHT TO WITHDRAW YOUR CONSENT TO TREATMENT AT ANY TIME** if you do not agree with some part of your treatment. If there is not another appropriate treatment to which you do consent, you will be discharged.

Involuntary Admission Process

Mental Health Code Sections 423-450; 1498

If you are **INVOLUNTARILY ADMITTED (COURT ORDERED)** to a psychiatric hospital or unit, you have the following rights:

- To make at least two phone calls.
- To a copy of the application or petition saying you require treatment and to copies of reports by the doctors who examine you.
- To have a physical and mental examination within 24 hours after you are admitted, and again at least once a year.
- To a written statement explaining that you will be examined by a psychiatrist within 24 hours after you are admitted.
- To a written statement explaining your rights.
- To a full court hearing.
- To be represented by an attorney.
- To be present at the hearing.
- To a jury trial.

- To an independent clinical examination.
- To have staff, if you wish, notify your family of your admission to the hospital.
- If the police take you into protective custody and bring you to a preadmission screening unit, to have staff of that unit complete their examination of you within two (2) hours unless there is a documented medical reason for the delay.
- To be examined by two doctors or by a psychologist and a psychiatrist to determine whether you need to be admitted. One of the examinations must be by a psychiatrist and the first examination may be done before you are brought to the hospital.
- To refuse medication before your court hearing unless a physician decides you need it to prevent you from physically hurting yourself or others or if your life is in danger. If you agree to medication or treatment before the court hearing, this does not mean that you are agreeing to the hospitalization.
- To have an independent medical examination before your full court hearing.

Within 72 hours (this does not include Sundays and holidays) after a petition and clinical certification have been filed with the court, you have:

- The right to meet with legal counsel,
- The right to meet with a treatment team member assigned by the hospital director,
- The right to meet with a designated community mental health worker,
- The right to designate an individual of your choice to meet with you and the people indicated above for the purpose of informing you of:
- The proposed plan of service in the hospital.
- The proposed plan of service in the community.
- The nature and possible consequences of the involuntary hospitalization process.
- The right to request that your court hearing be "deferred" (delayed) temporarily (60 or 90 days). You will be treated as a voluntary patient during this time; however, you have the right to demand a hearing at any time during the "deferral" period.

As an involuntary (court-ordered) recipient, YOU DO NOT HAVE THE RIGHT TO REFUSE TREATMENT. However, you do have the right to ask questions about your treatment, participate in the development of your plan of service, and discuss it with your doctor or other mental health professionals. If you think your treatment is not helping, you may ask for a review of your treatment plan.

Questions You May Want to Ask About Your Medication

If you are given medication by your doctor you will need to take it according to his/her instructions. Listed below are some questions you may want to ask of the doctor or nurse so that you can have the information you need to make it as effective as possible.

Why do I have to take this medicine?
What will happen if I do not take it?
Can I be treated without medication?
Before I begin taking any medicine or even if I am not taking medicine, can I have a second opinion?
What is the name of the medicine prescribed for me?
How is it supposed to make me feel? What are the side effects of the medicine? Will it affect any other medical or physical problems I have?
Are there side effects I should report immediately?
Is it similar to or different from the medicine I was taking before this?
How much should I take? How many times a day? What time of day? Before or after meals?
What would happen if I took too much?
Is it all right if I drink alcohol or beer when taking this medicine? Is there any food or other drink I should avoid?
Are there other medicines I should avoid when taking this medicine?
Will this medicine affect my interest and/or my ability to participate in sex?

For women in child bearing years:

Will this affect my menstrual periods?
Should I take birth control pills while taking this medicine?
If I get pregnant while taking this medicine, could it have any effect on my baby?
Should I take it while nursing?
Should I drive or operate machinery while taking this medicine?
Is there anything else I should know about this medicine?
How often will you review with me what the medicine is doing?
How soon will I need to take this medicine?
How long will I need to take this medicine?
If I take this medicine for a long time, what can it do to me?
What is tardive dyskinesia (TD)? Can I get TD from taking this medicine? Can something be done to avoid this?

Court Hearings

Mental Health Code Sections 452; 463

If you are admitted to the hospital involuntarily, you have the following rights regarding court hearings:

- To have your court hearing promptly, but not more than seven days (this does not include Sundays or holidays) after the court receives the application (petition).

- To be present at all court hearings. During this hearing, you have the right to be represented by an attorney. If you cannot afford an attorney, the court will appoint one for you. Your attorney must consult with you, in person, at least 24 hours before the time set for your court hearing. (You may choose to waive the right to attend your hearing by signing a waiver witnessed by your legal counsel and filed with the court.)
- To demand a jury trial.
- To present documents and witnesses and to cross examine witnesses.
- To obtain, at public expense if necessary, an independent clinical evaluation by a physician, psychiatrist, or licensed psychologist of your choice. (You must request this before the first scheduled hearing or at the first scheduled hearing before the first witness has been sworn.)
- To a copy of the court order.

Periodic Review

Mental Health Code Sections 482; 485a

If you have a court order for continuing involuntary treatment, you have the right to regular, adequate, and prompt reviews of your status. These reviews must be done six (6) months from the date of the court order and every six (6) months from there on.

Results of these reviews must be provided to you within five days from the time they are made part of your record and you must be informed of your right to petition for discharge.

If you do petition for discharge following the periodic review, you have the right to a hearing. In addition to that hearing, you may petition the court for a discharge hearing once within each 12 month period from the date of the original order. If, after any of these hearings, the court determines that you no longer require treatment, you will be discharged.

Rights of Minors

Mental Health Code Section 498m

If you are a minor, 14 years of age or older (*between 14 and 17), you have the right to ask for, and receive, outpatient mental health services (not including psychotropic medication or pregnancy termination referral services) without the consent or knowledge of your parent or guardian. These services are limited to 12 sessions or 4 months for each request.*

If you are a minor 14 years of age or older (between 14 and 17), you may write to the court within 30 days of your admission to object to your being hospitalized. You may do so again within 30 days from the time you receive a written review from the clinical staff regarding your need for continued hospitalization.

If you are a minor <u>of any age</u> and have been hospitalized for more than 7 days, you may inform a hospital staff of your desire to object to your hospitalization. Someone from the staff is required to assist you in properly filing your objection to the hospitalization. If nobody does this, then ask to see the rights advisor who will help get someone to assist you.

If you are re-hospitalized for longer than 10 days under a combined hospitalization/alternative treatment order, you must be notified of your right to file an objection to the hospitalization. If you do object, the court must schedule a hearing to determine whether you continue to be a person requiring treatment.

SECTION IV: YOUR RIGHTS WHEN YOU ARE LIVING IN A RESIDENTIAL OR INPATIENT SETTING

The Mental Health Code guarantees that recipients receiving inpatient or residential services will be assured that some basic rights are protected. These rights may be limited due to the nature of your treatment. If such limitations are imposed, they must be agreed to in the plan of service by you or your legal representative. General restrictions that apply to everyone (such as visiting hours, property you may not have, or times the telephone may be used) can be established by a residence or unit. These restrictions must be posted in a place where they can be easily seen.

Mail

Mental Health Code Section 726

You have the right to receive and send mail without anyone else opening or reading it. If you have no income and if you ask you will be given writing materials and a reasonable number of stamps.

Telephone

Mental Health Code Section 726

You have the right to talk on the phone. If you have no income, a reasonable amount of funds will be provided so that you can use the telephone.

Visitors

Mental Health Code Section 715, 726, 748 Administrative Rule 7135

You have the right to see visitors of your choice. You can ask to see your own doctor (if you have one) or visit with your minister, priest, rabbi, or spiritual counselor at reasonable times. You have the right to talk with your attorney, a court, or others, about legal matters without any limitations and at any time.

Entertainment Materials, Information and News

Administrative Rule 7139

You have the right:

To watch TV, have a newspaper provided, buy magazines, and books of your own choice, unless limited by your plan of service or as generally restricted by program rules.

Religion

Mental Health Code Section 704

You have the right:

To practice your religion or faith. You cannot be forced to go to a religious event if you do not want to, nor can you be required to listen to or watch religious programs on radio or TV.

Personal Property

Mental Health Code Section 728; Administrative Rule 7009

You have the right to:

- Wear your own clothes and keep your own things.
- Inspect your personal property at reasonable times.
- Have a receipt given to you and a person you designate for your property held by the facility. This property must be returned to you when you are discharged unless it is something illegal.
- Have a reasonable amount of space to store your personal belongings.
- Not have your belongings searched unless this is part of your plan of service or unless there is a good reason; to watch if your belongings are searched; and to have the reason for the search written in your record.

Your plan of service may further limit this right for the following reasons:

- To protect property you may have brought with you from theft, loss, or destruction.
  If you want to keep your property even though it may not be safe you must sign a waiver which releases the facility from responsibility.

- To prevent you from physically hurting yourself or others.

You, or your legal representative, should be told the reason for the limitation and the date it expires.

Money

Mental Health Code Sections 730- 736

If you are in a state-operated psychiatric hospital, you have the right to:

- Be paid for work you agree to do if you are offered work. However, you will not be paid for personal housekeeping chores (such as making your own bed) or work which is part of a small group living arrangement.
- Not have more than half of any money you earn used to pay for your treatment.
- Have your money kept in an account in your name at the facility and have easy and reasonable access to that account.

- To spend your money as you want. Facility rules may limit the amount of money you can have on you at any one time.
- Have money in the account given to you when you are discharged.

These rights may be limited

- If the U.S. government says you need someone to handle money you receive from Social Security and has assigned you a representative payee, or
- If you have a conservator or guardian who has the authority to limit how you spend your money.

Freedom of Movement

Mental Health Code Sections 740, 742, 744

Freedom of movement is a right, not a privilege. This right cannot be limited or restricted more than is necessary to provide mental health services to you, to prevent you from injuring yourself or others, or to prevent substantial property damage. If you are admitted by order of a criminal court or are transferred from a jail or prison, appropriate security precautions may be taken. If there are limitations on your freedom of movement, the expected length and the reasons for them must be written into your record. The limitations must be removed when the reasons for them no longer exist.

If you are in a psychiatric hospital or licensed child caring institution, you may only be put in a locked room (seclusion):

- To keep you from physically hurting others.
- To keep you from causing substantial property damage.

If you are a resident in an inpatient or residential setting, you may only be physically restrained if facility licensure rules allow and

- To keep you from physically hurting yourself or others.
- To keep you from causing substantial property damage.

SECTION V: RIGHTS OF PERSONS WHO ARE RECEIVING TREATMENT UNDER FORENSIC PROVISIONS OF THE MENTAL HEALTH CODE

Incompetent to Stand Trial (IST) Mental Health Code Section 330.2020 -.2044

If you are admitted to a hospital on an IST (Incompetent to Stand Trial) Order you are under the jurisdiction of the criminal court, not the probate court system. The IST order means that the court has determined that, due to your mental condition, you are unable to understanding the nature and object of the proceedings against you or of assisting in your defense in a rational manner. This order may be valid for up to 15 months during which time you will receive psychiatric treatment. Reevaluation of your

competence will be done by your treating psychiatrist every 90 days and a report will be submitted to the criminal court.

Not Guilty by Reason of Insanity (NGRI) **Mental Health Code Section 330.2050**

If you are found to be Not Guilty of a criminal charge due to reasons of insanity (Not Guilty by Reason of Insanity or NGRI), you will be sent to the Center for Forensic Psychiatry, for a period of not more than 60 days, so that you can be evaluated and a determination made as to whether you are a person who requires mental health treatment. If the Center determines that you do require mental health treatment, the court may direct the prosecutor to file a petition for involuntary hospitalization. If this occurs, you will have a hearing in a probate court to determine if you will be involuntarily hospitalized (See Section III of this book). You will have to stay at the Forensic Center until the probate court hearing. If a petition for involuntary hospitalization is not filed, the prosecutor will notify the Center and you shall be discharged.

SECTION VI: THE RECIPIENT RIGHTS COMPLAINT AND APPEAL PROCESS

Filing a Recipient Rights Complaint

Mental Health Code Section 776

If you believe that **any right listed in this booklet has been violated**, you or someone on your behalf should file a recipient rights complaint. You may file a complaint by calling or visiting the Rights Office, or by completing the recipient rights complaint form and returning it to the Rights Office. For copies of the recipient rights complaint form, please contact your local rights office or go online to: www.michigan.gov/recipientrights and click on the link Recipient Rights Complaint Form. The name and telephone number of the Rights Officer/Advisor for this agency can be found on the front of this booklet and should be clearly posted in the place you are receiving treatment.

Your complaint needs to contain:

- A statement telling the Rights Office what you are complaining about;
- What right(s) you think have been violated;
- What you think will resolve your complaint.

If you want help writing your complaint the Rights Office will help you or refer you to an advocacy organization for assistance.

Investigating Your Complaint

Mental Health Code Section 776

Within five (5) business days after receiving your complaint, the Rights Office will send you a letter which tells you that your complaint was received as well as a copy of the complaint. This letter will also tell you whether your complaint is going to be investigated.

If the Rights Officer/Advisor investigates your complaint, he/she will decide if your rights have been violated and, if necessary, will recommend appropriate action to correct the violation. The Rights Officer/Advisor should finish investigating your complaint no later than 90 days after it was received. You will get a written status report every 30 days until completion of the investigation.

When the investigation is complete, the Rights Officer/ Advisor will submit an Investigative Report to the Agency Director. Within 10 business days after receiving this report, he/she will provide you with a written Summary Report.

The Summary Report will tell you about the investigation, let you know if the Rights Office determined your rights were violated or not, and tell you about any recommendations made by the Rights Office. If it is determined that there was a rights violation, this report will also tell you what action the Director has taken, or will take, to resolve your complaint. It will also provide you with information regarding the appeal process.

Appeal Rights

Mental Health Code Sections 784-786

If you are not satisfied with the **findings of the Rights Office**, with the **action taken** (or the proposed action indicated), or if you think the Rights Office did not start or complete the investigation in a **timely** manner, you have the right to file an appeal. An appeal must be in writing and received by the Appeals Committee within 45 days. If an advocacy organization is not available to help you write your appeal, the Rights Office will assist you.

Within five (5) business days after receiving your appeal, the local appeals committee will review it to see if it meets the requirements, and will notify you in writing whether your appeal was accepted. This committee has 30 days to make a decision on your appeal. They will review the case file provided by the Rights Office and may ask you for more information. Within ten days after their decision is made they will send you a copy of their decision.

If your appeal was based upon your belief that the investigative findings of the Rights Office were not consistent with the facts or relevant laws, rules, policies, or guidelines, and you are not satisfied with the decision of the local appeals committee, you have 45 more days to file a written appeal to the next level. This should be sent to: MDCH Level 2 Appeals, P.O. Box 30807 Lansing, MI 48909. Information on this process will be provided in the response from the local appeals committee. If you are not satisfied with the answer from the Level 2 Appeal, you may appeal to the Circuit Court in the county where you live (or the Ingham County Circuit Court). You only have 21 days to do this and may need to hire an attorney to

help you. Your appeal to the Circuit Court is based on the entire record of your appeal which was put together by the Department.

If your appeal was based upon your belief that the action taken as a result of your complaint was not appropriate, and you are not satisfied with the decision of the local appeals committee, you may file a new complaint against the person who issued the Summary Report.

Mediation

Mental Health Code Section 788

After the investigation of the Rights Office is finished, you have the right to request mediation of your dispute. Mediation is voluntary for all parties. The mediation process involves a meeting between you, a representative of the agency providing your services and a person who is trained to help resolve complaints. If you reach an agreement, you will have to sign a statement which states you and the agency will follow the agreement. During the mediation process, time frames for appeals stop. Therefore, if mediation is not successful, you will still have the right to pursue an appeal. If you wish to request mediation, contact your Rights Office.

SECTION VII: ADVISORY GROUPS AND ORGANIZATIONS THAT MAY ALSO ASSIST YOU

The following groups and organizations are available to assist you in protecting your rights as a recipient of mental health services:

Association for Children's Mental Health (ACMH)
State Office
6017 W. St. Joseph Hwy., Suite #200, Lansing,
Michigan 48917
(517) 372-4016
Fax: (517) 372-4032
Parent Line: (888) ACMH-KID (226-4543)
http://www.acmh-mi.org/

The ARC - Michigan
1325 S. Washington Ave., Lansing, MI 48910-1652
(800) 292-7851 or (517) 487-5426
Fax: (517) 487-0303
http://www.arcmi.org/

Michigan Disability Rights Coalition
3498 East Lake Lansing Road, Suite #100, East
Lansing, MI 48823
In Michigan: (800) 760-4600 or (517) 333-2477
Fax (517) 333-2677
http://www.copower.org/

Michigan Protection & Advocacy Service, Inc.
4095 Legacy Parkway, Suite #300, Lansing, MI 48911
(800) 288-5923 or (517) 487-1755 (Voice or TTY)
Fax: (517) 487-0827
http://www.mpas.org/

National Alliance on Mental Illness (NAMI) - Michigan
921 N. Washington
Lansing, MI 48906
1 (800) 331-4264
http://www.namimi.org/

United Cerebral Palsy of Michigan – UCP Michigan
4970 Northwind Dr., Suite #102, East Lansing, MI,
48823
(800) 828-2714 (Michigan only) or (517) 203-1200
Fax: (517) 203-1203
http://www.ucp.org/ucp_local.cfm/87