TUSCOLA BEHAVIORAL HEALTH SYSTEMS
RECIPIENT RIGHTS POLICIES
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I have reviewed and approved the Recipient Rights Policies listed above.

Sharon Beals

Sharon Beals, Chief Executive Officer

08/16/2019

Date

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
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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.

RELATED FORMS & MATERIALS

n/a

REFERENCES/LEGAL AUTHORITY

n/a

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

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-001
Subject	Treatment by Spiritual Means	Issue Date	09/29/2008
		Revision Date	07/29/2015
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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 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.

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

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-002
Subject	Seclusion	Issue Date	09/29/2008
		Revision Date	06/16/2016
		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 Tuscola Behavioral Health Systems Rights Office will review the seclusion policies of contracted providers of inpatient services and child caring institutions for compliance with all applicable state and federal regulations.

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:
06/16/2016

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-003
Subject	Recipient Rights System	Issue Date	09/29/2008
		Revision Date	08/16/2019
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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.

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.
   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.

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.
    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. With those service providers who are allowed/required by contract to establish their own rights protection system, ensure that the rights officer/advisor and alternates attend MDHHS-ORR Basic Skills Curricula within three (3) months of hire.
9. Review recipient rights policies and the rights system of each provider under contract with TBHS to ensure the rights system of the provider is in compliance with the Mental Health Code and is of a uniformly high standard.
10. Review and comment as needed on all TBHS and contract provider policies impacting the rights of recipients.
11. Serve as a consultant to the CEO and to TBHS staff in rights related matters.
12. 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.
13. 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.
14. Ensure that those reports of alleged or suspected rights violations that did not warrant investigation are recorded in accordance with Standard J.5. above.
15. 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.
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. 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.

N. Complaint Investigation and Resolution:
1. All allegations or incidents of suspected recipient rights violations of a recipient are to be 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. (When there is a complaint, there must be an acknowledgement letter)
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. The rights office will inform the recipient or other individual of the option of mediation and under what circumstances and when it may be exercised.
11. 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.

12. The rights office will initiate investigation of apparent or suspected rights violations in a timely and efficient manner.
13. 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.
14. 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.
15. 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.
16. The office accurately records investigation activities for each rights complaint.
17. The rights office used a preponderance of evidence as its standard of proof in determining whether a right was violated.
18. 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.
19. 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. Conclusions.
    e. Recommendations, if any.
20. 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.
21. The remedial action taken on substantiated violations is documented and made part of the record maintained by the rights office.
22. 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.
23. 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.
    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.

24. Information in the summary report is provided within the constraints of the confidentiality/privileged communications sections (748, 750) of the Mental Health Code.
25. 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).
26. 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.
27. When either TBHS or provider personnel fail to report suspected violations of rights, appropriate administrative action will be taken.
28. If the summary report included a plan of action, written notice was issued to the potential appellants upon completion of the plan. If the action taken was different than the plan, the notice included the action that was taken and the date it occurred as well as the right to appeal on action only (Personnel Policy II-002-003).
29. The rights office complies with pertinent TBHS policies to assure that investigations were conducted in a manner that does not violate employee rights.
30. 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
- Personnel Policy II-002-003

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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	08/16/2019
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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 consumer'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. Restrictions to access of material for reading, listening or viewing must be specified in the Individual Plan of Service (IPOS) using a person-centered process and approved by the team.

B. Any and all limitations and restrictions must be documented by the provider in the recipient's record and must include the justification of the limitation and date the limitation expires.

C. Any limitation shall be removed when the circumstances clinically justifying the limitation cease to exist.

D. Treatment teams working with consumers in a residential facility must determine if the consumer has an interest in a daily newspaper. If the consumer desires access to a daily newspaper, arrangements will be made to secure the paper requested.

E. A receipt shall be given to the consumer [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 consumer to whom the property belongs is discharged, shall be returned to the consumer.

F. The right of access shall not entitle a minor consumer 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:
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Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-005
Subject	Communication, Telephone, Visiting Rights	Issue Date	09/29/2008
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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

A. Telephone Calls

1. A resident shall be provided reasonable access to a telephone for incoming and outgoing calls, unless the resident is otherwise limited in an approved plan of service.
2. In establishing uniform telephone hours, the residential setting shall provide for the allocation and distribution of reasonable funds for long distance telephone calls for indigent residents.

B. Visits

1. A resident shall be guaranteed regular visiting hours, unless the resident is otherwise limited in an approved treatment plan.

C. Mail

1. A resident shall be provided daily distribution of mail unless the resident is limited and limitations have been incorporated into the resident's approved plan of service.
2. A postal box or daily pickup and deposit of mail shall be provided.
3. Non-letterhead stationery, non-letterhead envelopes, pen/pencils, and reasonable funds for postage shall be furnished upon request for indigent residents, unless the resident is limited and limitations have been incorporated into the resident's plan of service.
4. Incoming and outgoing mail for a resident shall not be opened or destroyed unless a resident, a legally empowered guardian, or the parent of a minor has consented that an

article of mail may be opened by a designated person, or there is reasonable belief that the mail is in violation of a limitation. All instances of opening or destruction of mail by staff shall be recorded in the resident's record. Limitations shall be identified in a plan of service.

5. Mail shall be conveniently and confidentially received and mailed and writing materials and postage will be provided in reasonable amounts.

D. For all limitations, the following criteria shall be met:

1. A limitation is the minimum essential to achieve the purposes proposed. Documentation must support the reasons and evidence to justify the extent of limitation as being minimum amount essential.
2. A limitation is approved by the Interdisciplinary Team.
3. A limitation is supported by documentation, entered in the resident's record/plan of service, establishing the following:
    a. Reasons which justify the limitation, i.e., significant evidence supporting the potential mental or physical harm, the violation of law, or harassment. In the case of telephone harassment, a limitation to prevent harassment shall require a written request from the victim of the harassment, documentation of the frequency or content of past harassment and whether future telephone harassment can reasonably be expected.
    b. A specific expiration date established by the interdisciplinary team stating at which time the limitation will be re-assessed. (Reassessment shall occur no more than thirty days from the enactment of the restriction.)
    c. A resident shall be informed of a limitation on mail, telephone calls, or visits. Upon request, the resident shall be informed of the purpose a limitation is intended to achieve, the persons, or entities involved and additional information deemed necessary.
4. The right to communicate by mail or telephone or to receive visitors shall not be further limited except as authorized in the resident's plan of service.

E. A resident, (parent or guardian if appropriate), shall be able to file a complaint with the Recipient Rights Office regarding limitation of telephone, mail or visiting rights.

F. Current limitations shall be reviewed in conjunction with other reviews of the content of a written plan of service.

G. Limitations on communication do not apply to a resident and an attorney or court or any other individual if the communication involves matters that may be the subject of legal inquiry.

H. If a resident is able to secure the services of a mental health professional, he or she shall 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.

RELATED FORMS & MATERIALS

n/a

REFERENCES/LEGAL AUTHORITY

- Mental Health Code Sections 330.1715, 330.1726, 330.1752.

Revision Dates:
10/14/2009
01/08/2018
08/16/2019

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-006
Subject	Change in Treatment	Issue Date	09/29/2008
		Revision Date	06/16/2016
		Page	1 of 3

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. The Individualized written plan of services (IPOS) is the fundamental document in the recipient's record. TBHS will retain all periodic reviews, modifications, and revisions of the plan in the recipient's record. The person-centered planning process will be used in developing a written IPOS in partnership with the recipient.

B. The plan shall identify, at a minimum, all of the following:
   1. All individuals, including family members, friends, and professionals that the individual desires or requires to be part of the planning process.
   2. The services, supports, and treatments that the recipient requested of the provider.
   3. The services, supports, and treatments committed by TBHS to honor the recipient's request specified in subdivision (2) of this sub-rule.
   4. The person or persons who will assume responsibility for assuring that the committed services and supports are delivered.
   5. 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.

6. How the committed TBHS mental health professionals and supports will be coordinated with the recipient's natural support systems and the services and supports provided by other public and private organization.
7. Any restrictions or limitations of the recipient's rights. Such restrictions, limitations, or intrusive behavior treatment techniques shall be reviewed and approved by a formally constituted committee of mental health professional with specific knowledge, training, and expertise in applied behavioral analysis. Any restriction or 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 such restrictions as well as what actions will be taken as part of the plan to ameliorate or eliminate the need for the restrictions in the future.
8. Strategies for assuring those recipients have access to needed and available supports identified through a review of their needs. Areas of possible need may include any of the following:
    a. food
    b. shelter
    c. clothing
    d. physical health care
    e. employment
    f. education
    g. legal services
    h. transportation
    i. recreation
9. A description of any involuntary procedures and the legal basis for performing them.
10. Specific date or dates when the overall plan, and any of its sub-components will be formally reviewed for possible modification or revision.

C. The plan shall not contain privileged information or communications.

D. Except as otherwise noted in sub-rule E of this rule, 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 TBHS 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.

E. 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 pursuant to the provisions of section 469, 472, 473, 515, 518, or 519 of the act. 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, then the stated objections of the recipient or his or her guardian shall be included in the plan.

F. If the recipient is not satisfied with his/her individual plan of service, the recipient or his/her guardian or parent of a minor recipient may make a request for review to the individual in charge of implementing the plan. The request can be made verbally or in writing through the clinician or Tuscola Behavioral Health Systems Office of Recipient Rights.

G. The above review is to be completed within thirty (30) days and is carried out in a manner approved by Tuscola Behavioral Health Systems.

H. The plan is to be kept current and modified when indicated.

I. The recipient will be informed orally and in writing of his or her clinical status and progress at reasonable intervals established in the IPOS in a manner appropriate to his or her clinical condition.

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 FY 15-16, 6.3.2

Revision Dates:
10/14/2009
01/10/2011
10/03/2012
12/12/2013
07/29/2015
06/16/2016

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
		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

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-008
Subject	Sterilization/Abortion/Contraception	Issue Date	09/29/2008
		Revision Date	06/16/2016
		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 notice to the recipient, their guardian, and parents of minor recipients of the availability of family planning and health information.

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.

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

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-009
Subject	Residential Labor	Issue Date	09/29/2008
		Revision Date	08/16/2019
		Page	1 of 2

POLICY

It shall be the policy of Tuscola Behavioral Health Systems (TBHS) that consumers 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 consumers 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

A. A consumer may perform labor which contributes to the operations and maintenance of the residence for which the residence would otherwise employ someone only if the consumer voluntarily agrees to perform the labor. A consumer may perform labor when engaging in the labor would not be inconsistent with the plan of service for the consumer, and the amount of time or effort necessary to perform the labor would not be excessive.

B. Discharge from the residence or privileges shall in no event be conditioned upon the performance of labor.

C. A consumer who performs labor which contributes to the operation and maintenance of the residence for which the residence 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.

D. A consumer's right to compensation shall be protected by the residence when performing labor which results in an economic benefit to another person or agency other than the residence.

E. A residence may provide for compensation of a recipient when he/she performs labor not governed by C and D above.

F. One-half of any compensation paid to a consumer pursuant to these policies shall be exempt from collection as payment to the residence or TBHS for services rendered. If a fee is charged it will be documented.

G. Labor by a consumer of a personal housekeeping nature or as a condition of residence in an apartment or small group living arrangement, etc. shall not be subject to compensation.

H. The labor of a consumer, whether deemed therapeutic or not inconsistent with the consumer's plan of service, shall require approval by the clinician. Approval shall be noted in the case record.

I. Approval shall not be withheld unless reasons explaining how the labor is inconsistent with the plan of service is stated in the case record.

J. In approving labor, the Clinician sets limits, unless labor is extended for more than six hours of a resident's day. If labor is extended for more than six hours of a resident's day, the TBHS Chief Executive Officer must approve it.

K. Labor shall not interfere with other ongoing treatment or habilitation programs suitable for the consumer.

L. Records of payments to the consumer shall be maintained by the residence.

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.

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

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	06/16/2016
		Page	1 of 2

POLICY

It is the policy of Tuscola Behavioral Health Systems (TBHS) that Consumers 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 consumer, 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. Fingerprints, photographs or audiotapes taken in order to determine the identification of a recipient shall be kept as part of the record of the recipient except that when necessary, the fingerprints, photographs or audiotapes may be delivered to others for assistance in determining the identification of the recipient.

2. For the purpose of determining the identification of a recipient, fingerprints or photographs may be used if conventional methods or inquiries cannot identify the recipient. Whenever possible, fingerprints or photographs from other sources, including government agencies, shall be utilized. Fingerprints, photographs or audiotapes so delivered shall be returned together with copies that were made. Fingerprints, photographs or audiotapes, together with copies, shall be kept as part of the record of the recipient.

3. Fingerprints, photographs or audiotapes 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 identification of the recipient, or on behalf of the public news media, only when prior written consent is obtained from one of the following:
   A. A consumer, if eighteen years of age or older and competent to consent.

B. The guardian of the consumer if legally empowered to execute such consent.
C. A parent, if the consumer is less than eighteen years of age.

4. This consent may be withdrawn at any time by providing verbal or written notice to the provider of service.

5. Fingerprints, photographs or audiotapes 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.

6. Photographs, fingerprints or audiotapes taken in order to provide services to a consumer, including research, and copies thereof will be kept as part of the record of the consumer until no longer necessary as part of treatment, or at the time of discharge, whichever occurs first. Evaluation of whether a photograph, fingerprint or audiotape remains part of treatment shall occur at least annually at the time of the individualized plan of service. At that time photographs, fingerprints, and audiotapes shall be given to the consumer or destroyed.

7. Photographs or audiotapes may be taken for purely personal or social purposes. A photograph or audiotape of a recipient shall not be taken or used under this subsection if the recipient has indicated his/her objection.

8. Photographs or audiotapes may be taken and one-way glass may be used for educational or training purposes only when expressed written consent is obtained as described in "3. A through 3. C." This section does not apply to recipients of mental health services referred to under Mental Health Code Chapter 10, Criminal Provisions, Transfer of Prisoners.

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

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-011
Subject	Personal Property & Funds	Issue Date	09/29/2008
		Revision Date	01/08/2018
		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. Each program and residential, owned or contracted by TBHS, shall provide a reasonable amount of storage space to each recipient for his/her clothing and other personal property.

2. A program or residential setting may exclude certain kinds of personal property per program residential policies/rules. These exclusions must be in writing and posted in each residential setting.
   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. If staff has knowledge of or suspects that a recipient possesses an excludable item, staff must:
   A. Request that recipient places excludable item in the care of program staff, in the presence of a witness.

B. Inform recipient of options regarding participation in programming and notify the Program Supervisor and/or police, when appropriate.

C. Staff is allowed to search when there is a reasonable suspicion that the recipient has brought weapons or contraband items into the residential setting or program. At least two staff persons in the presence of the recipient will conduct the search. Approval by the program supervisor or residential setting supervisor must be obtained prior to the search. The reasons for the search, and the people conducting the search shall be clearly documented in the clinical record.

4. TBHS, the agency in charge of the plan of service, may limit property and/or access to it as follows:
   A. Limitation must be essential in order to:
      1. Prevent theft, loss or destruction of the property, unless the resident signs a waiver.
      2. Prevent the resident from physically harming himself or others.
   B. Any limitation, justification and the time frame it shall be in effect shall be noted in the record of the recipient.
   C. Any limitation adopted shall be removed when the circumstances which justify its adoption ceases to exist.

5. Each program or residential setting shall minimally inventory and account for recipient's personal property when the recipient enters a program/residential setting.

6. A receipt shall 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 program or residential setting. Any personal property or funds in possession of the program or residential facility at the time of the recipient of whom the property belongs is discharged, the property shall be returned to the recipient.

7. Each facility shall 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)]

8. A recipient shall 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.

9. 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.

10. Recipients shall 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.

11. Each program or residential setting shall 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 shall be accounted for and maintained and shall accompany the recipient upon discharge.

12. The right of personal property and funds shall 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

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-012
Subject	Abuse & Neglect	Issue Date	09/29/2008
		Revision Date	08/16/2019
		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 well being, 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 well being 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.

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,

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.

Definitions

"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.

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

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.

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 then 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.

E. The Office of Recipient Rights shall implement approved procedures for investigating complaints/allegations.
   1. Results within 30 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:
0728/2009
10/14/2009
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07/29/2015
06/16/2016
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Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-013
Subject	Appeals	Issue Date	09/29/2008
		Revision Date	11/22/2016
		Page	1 of 4

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

n/a

PROCEDURES

WHO CAN APPEAL

The complainant (person filing the complaint), the recipient (if different from the complainant), a parent or a guardian.

GROUNDS FOR APPEAL

1. The investigative findings of the rights office are not consistent with the facts, law, rules, policies or guidelines.

2. The action taken or plan of action proposed by the respondent does not provide an adequate remedy.

3. An investigation was not initiated or completed on a timely basis.

The Office of Recipient Rights shall advise the complainant that there are advocacy organizations available to assist the complainant in preparing the written appeal and shall offer to refer the complainant to those organizations. In the absence of assistance from an advocacy organization, the office shall assist the complainant in meeting procedural requirements of a written appeal. The office shall also

inform the recipient or other individual of the option of mediation under Section 784, as well as, under what circumstances and when it may be exercised.

WHEN TO FILE APPEAL

In the Summary Report from the Chief Executive Officer, the complainant, recipient, if different, guardian or parent of a minor will be informed they may file an appeal no later than 45 days after receipt of the summary report. The report can be filed with the Appeals Committee with jurisdiction over the Office of Recipient Rights that issued the Summary Report.

WHERE TO FILE APPEAL

Complaints are filed with the Appeals Committee. The TBHS Recipient Rights Advisory Committee serves as the Appeals Committee for the Recipient Rights complaint process.

THE APPEALS PROCESS

Within five (5) business days after receipt of the written appeal, members of the Appeals Committee shall review the appeal to determine whether it meets the criteria for grounds for appeal. Any member of the Appeals Committee that has a personal or professional relationship with an individual involved in the appeal, must remove themselves from participating in the appeal.

The Appeals Committee shall document its decision in writing. If the appeal is denied because the grounds for appeal were not met, the complainant shall be notified in writing within five (5) business days. If the appeal is accepted, written notice shall be provided to the complainant within five (5) business days and a copy of the appeal shall be provided to the respondent and the responsible mental health agency within five (5) business days.

Within thirty (30) days after receipt of a written appeal, the Appeals Committee shall meet in a non-public session and review the facts as stated in all complaint investigation documents and shall do one of the following:

A. TBHS has designated the Recipient Rights Advisory Committee as the appeals committee.

B. A member of the appeals committee who has a personal or professional relationship with an individual involved in an appeal abstains from participating in that appeal as a member of the committee.

C. Within 5 business days after receipt of written appeal, the Appeals Committee will review the appeal to determine whether it meets criteria and notify the appellant in writing whether the appeal was accepted or denied.

D. Within 30 days after the written appeal was received, the Appeals Committee has met in a non-public session and reviewed the facts as stated in all complaint investigation documents. (MHC 784[5])

E. The Appeals Committee will do one of the following in deciding upon an appeal:

a) Uphold the findings of the rights office and the action taken or plan of action proposed by respondent/TBHS.

i. Copies of Appeals Committee decision included a statement of appellant's right to appeal to Step 2 Appeal and the time frame for appeal (45 days from receipt of decision) and ground for appeal (investigative findings of the rights office are inconsistent with facts, rules, policies or guidelines.) when the decision is upheld.

OR

b) Return the investigation to the rights office with request that it be reopened or reinvestigated.
   i. Rights officer/advisor sent reinvestigation RIF to Director within 45 days
   ii. Director's Summary included a statement of appellant's right to appeal to Step 2 Appeal and the time frame for appeal (45 days from receipt of decision) and ground for appeal (investigative findings of the rights office are inconsistent with facts, rules, policies or guidelines.) if the case remained unsubstantiated
   iii. Director's Summary included a statement of appellant's right to appeal to TBHS Appeals Committee and the time frame for appeal (45 days from receipt of decision) and ground for appeal (action taken or plan of action proposed does not provide an adequate remedy) if the case is substantiated

OR

c) Uphold the investigative findings of the rights office but recommended that respondent take additional or different action to remedy the violation.
   i. Written notice of this direction for additional or different action to be taken by the respondent shall also be provided to the RMHA if different than the respondent and the office.
   ii. Respondent shall provide written notice to the Appeals Committee that the action has been taken or justification as to why it was not taken.
   iii. If the action taken by the respondent is determined by the Appeals Committee and/or the appellant still to be inadequate to remedy the violation, the appellant shall be informed by the Appeals Committee of his/her right to file a recipient rights complaint against the RMHA,

OR

d) Recommend that the Board of TBHS request an external investigation by the DHHS Office of Recipient Rights.

OR

e) Recommend that the Chief Executive Officer of TBHS take appropriate supervisory action with the investigating rights officer/advisor; (the Committee confirms that the investigation was not initiated or completed in a timely manner,
f) The Appeals Committee documented its decision and justification of the decision in writing.
g) Within 10 days after reaching its decision, the Appeals Committee provided copies of the decision to the respondent, appellant, recipient, if different than appellant, recipient's guardian, if one has been appointed, TBHS, and the rights office.

Employees of TBHS cannot be members of the Appeals Committee.

RELATED FORMS & MATERIALS

n/a

REFERENCES/LEGAL AUTHORITY

- Mental Health Code Sections 330.1722, 330.1752, 330.1755, 330.1774, 330.1776 through 330.1782, 330.1784 through 330.1788

Revision Dates:
10/14/2009
01/10/2011
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07/29/2015
11/22/2016

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-014
Subject	Informed Consent	Issue Date	09/29/2008
		Revision Date	06/16/2016
		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 signed by the recipient, the parent of a minor or legally empowered guardian to give consent, which assumes and requires competence, knowledge and voluntariness.

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. Comprehension – the individual has the ability to understand what is being proposed with any risks, benefits, and other consequences of the decision.
   2. Knowledge – the individual has received the information a reasonable person needs to make a decision, including what is being proposed, with risks, benefits, and other consequences of making a decision to consent or not consent.
   3. Voluntariness – the individual chooses freely to consent or not consent without force, fraud, deceit, duress, or coercion and is informed that consent, if given, can be withdrawn at any time.

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. When requesting consent for any condition(s) included in Standards B. (above), there shall be an explanation given to the consenting individual which will:
1. Explain what is proposed
2. Explain purpose
3. Explain risks and benefits
4. Offer to answer any questions

D. Requests for informed consent shall be made without the intervention of any element of force, duress, deceit or any other form of coercion.

E. Request for informed consent shall include an explanation that the consenting individual may revoke their consent without reprisal at any time, either verbally or in writing.

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

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

H. 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.
    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.

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 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:
07/28/2009
07/29/20153
06/16/2016

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-015
Subject	Medication Administration/Stop Order	Issue Date	09/29/2008
		Revision Date	06/16/2016
		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, opthamolic and over the counter preparations, such as cough preparations, antihistamines, decongestants, expire weekly, or as otherwise written by the 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-psychotics or anti-convulsants 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, VII-005-001.

16. Specific programs may have their own procedures that may be more specific and restrictive.

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

Revision Dates:
10/14/2009
01/10/2011
07/29/2015
06/16/2016

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-016
Subject	Psychotropic Medications	Issue Date	09/29/2008
		Revision Date	06/16/2016
		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. A single psychotropic agent which offers the most effective treatment for the basic psychiatric disturbance exhibited for the resident shall be selected.
b. Additional agents for associated symptoms, i.e., insomnia, anxiety, and so forth, shall be used only when the primary agent is not controlling them.
c. 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 patient'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 consumer 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.

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 shall 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. Consumer or the consumer'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 consumer 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.
    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 consumer's clinical record.
    c. The initial dosage has to be individually determined by considering the consumer's needs, age, sex, weight, physical condition, and any previous adverse reactions to medication.
    d. Consumers 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. Consumers 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 consumer's condition has stabilized, the medication shall be prescribed at the minimum maintenance dose needed, or the consumer 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 consumer's behavior and on the target symptoms shall be recorded on the progress notes. When a consumer 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. If a consumer's medication is changed, a progress note shall be entered to correspond to that change and include the rationale for that change.
    j. 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 consumer 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 consumer again exhibits extrapyramidal symptoms. The physician shall document in the progress notes the justification for use of an antiparkinsonian agent.

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 consumer 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 regards 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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Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-017
Subject	Services Suited to Condition	Issue Date	09/29/2008
		Revision Date	08/16/2019
		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.

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:

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.
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.

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 15-16
- MDHHS Administrative Rule 330.7199

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Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-018
Subject	Freedom of Movement	Issue Date	09/29/2008
		Revision Date	08/16/2019
		Page	1 of 3

POLICY

It is the policy of Tuscola Behavioral Health Systems (TBHS) that a consumer 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 consumer 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

A consumer's freedom of movement shall not be restricted more than necessary to provide mental health services, to prevent injury to self or 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-servicing convict from a penal institution may be taken. Freedom of movement is restricted or limited only by general restrictions in a residential setting, which may include the following:

1. Threat of homicide or felonious assault.

2. Areas that could cause safety or security problems.

3. Temporary restrictions from areas for reasonable unforeseeable activities, such as repairs or maintenance.

4. Emergencies in case of fire, tornadoes, floods, etc.

5. Access to areas within boundaries like fences, etc.

6. Purpose and description, i.e., doctor's examination rooms for efficient functioning.

7. Residents and their guardians shall be informed of their right to freedom of movement and any restriction or limitation of this right. Verification of this explanation shall be entered into the clinical case record. The resident and guardian shall also receive a copy of the residential setting's restrictions.

8. That a resident shall not be subject to a setting, which increases restraint on personal liberty unless documented in the clinical record and/or plan of service.

9. That general restrictions applicable to all residents or groups of residents, governing access to grounds, buildings or other areas

10. That an individual's plan of service and their progress notes shall contain justification whenever residents move to a more restrictive setting.

11. A recipient will not be transferred to a more restrictive setting unless to prevent injury to himself/herself or to others, or to prevent substantial property damage.

12. That residents and parents or guardian are informed of further individual limitations and justifications for limitations.
    a. Individual limitations must be set for as short a time as necessary to complete evaluation when the residents are first admitted (maximum of 15 working days):
        1. Based on the individual's condition;
        2. Based on the individual's admission status;
        3. Justified and documented in the individual's record;
        4. Explained to the resident and parent or guardian as appropriate.
    b. Individual limitations may also be set when necessary to receive treatment:
        1. To provide mental health services;
        2. To prevent injury to the resident or others;
        3. To prevent the resident from causing substantial property damage.
    c. When freedom of movement is restricted or limited there shall be documentation in the resident's plan of service:
        1. Justification of the limitation;
        2. Authorization of limitation;
        3. Review date of limitation;
        4. A notation in the clinical record of individual limitation as clearly explained to the resident, parent or guardian.

13. That when restrictions and/or limitations on freedom of movement are imposed on a resident during therapy treatment, they shall be governed by other approved and authorized Tuscola Behavioral Health Systems policies and procedures and related home rules.

14. Upon admission the residential setting's manager gives to the resident and parent or guardian, a copy of the residential setting's general policies and procedures on restrictions on freedom of movement and will explain any restrictions on freedom of movement.

15. The treatment team shall:

a. Determine if further limitations on the freedom of movement are needed, guided by the condition/behavior of the resident, and Tuscola Behavioral Health Systems policies and procedures, and residential setting home rules.
b. Documents justification, authorization, duration, and review date for any further individual limitations on freedom of movement in resident's plan of service.
c. Explain to the resident and parent or guardian in understandable terms, further limitations.
d. Any limitations must be:
   1. Justified in record.
   2. Time limited.
e. Any restriction on freedom of movement of a recipient is removed when the circumstance that justified its adoption ceases to exist.

COMPLAINT PROCESS:

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

RELATED FORMS & MATERIALS

n/a

REFERENCES/LEGAL AUTHORITY

- Act 258, Public Acts of 1974
- Mental Health Code Sections 330.1744, 330.1752, 330.1708, 330.1712

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Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-019
Subject	Confidentiality & Disclosure of Information	Issue Date	09/29/2008
		Revision Date	08/16/2019
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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:

The record holder only under conditions hereinafter described may disclose information. Any person receiving confidential information shall disclose the information to others only to the extent consistent with the authorized purpose for which the information was obtained.

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 Records Coordinator.

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

The records, data, and knowledge collected for or by individuals or committees assigned a peer review function including the review function under Section 143a (2) of the Mental Health Code are confidential, are used only for the purpose of peer review, are not public records and are not subject to court subpoena.

1. For case records made subsequent to March 28, 1996, information made confidential by Sec. 748 of the Mental Health Code shall be disclosed to a competent adult recipient upon the recipient's request. Release is done as expeditiously as possible but in no event later than the earlier of 30 days of the request or prior to release from treatment.

2. Except for MHC 748 (4) preceding, if Tuscola Behavioral Health Systems as the holder of the record, for a documented reason, declines to disclose, there shall be a determination whether part of the information can be released without detriment.

3. Parents, guardians, recipients and family members may challenge the accuracy, completeness, timeliness, or relevance of factual information in the recipient's record. The recipient or other empowered representative will be allowed to insert into the record a statement correcting or amending the information at issue. The statement becomes part of the record.

4. When authorized to release information for clinical purposes by the individual or the individual's guardian or a parent of a minor, a copy of the entire medical and clinical record is to be released to the provider of mental health services.

5. The Chief Executive Officer (CEO) of TBHS may make a determination that disclosure of information may be detrimental to the recipient or others.

   If TBHS declines to disclose information, except for case record entries made subsequent to March 28, 1996, because of possible detriment to the recipient or others, the CEO 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 TBHS facility, then the CEO shall make a determination of detriment within three (3) business days from the date of the request. If the record of the recipient is located at another location, then the CEO shall make a determination of detriment within ten (10) business days from the date of the request. The CEO shall provide written notification of the determination of detriment and justification for the determination to the person who requested the information.

6. If a determination of detriment has been made and the person seeking the disclosure disagrees with that decision, he/she may file a recipient rights complaint with the Office of Recipient Rights of TBHS.

7. 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. 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 shall 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.

8. Information shall be provided to private physicians or psychologists appointed by the court 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 shall be permitted to review, on TBHS' 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 330.1750(1) Mental Health Code Privileged Communication.

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.

9. 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 recipient has waived the privilege, except in the following circumstances:

a. If the privileged communication is relevant to a physical or mental condition of the recipient that the recipient has introduced as an element of the recipient's claim or defense in a civil or administrative case or proceeding or that, after the death of the recipient has been introduced as an element of the recipient'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 recipient 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 recipient or the recipient's need for a guardian but only if the recipient was informed that any communication could be used in such a proceeding.

d. In a civil action by or on behalf of a recipient or a criminal action arising from the treatment of the recipient against a TBHS mental health professional for malpractice.

e. If the privileged communications were made during an examination ordered by a court, prior to which the recipient 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 recipient was ordered to undergo to render the recipient 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 recipient to stand trial.

10. A prosecutor may be given non-privileged information or privileged information which may be disclosed if it contains information relating to:
    1. Names of witnesses to acts that support the criteria for involuntary admission.
    2. Information relevant to alternatives to admission to a hospital or facility.
    3. Other information designated in the policies of the provider.

11. TBHS 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.

12. Information shall be provided as necessary for treatment, coordination of care or payment for delivery of mental health services, in accordance with the Health Insurance Portability and Accountability Act of 1996. Public Law 104-191.

13. If required by federal law, TBHS will grant a representative of Michigan Protection and Advocacy Services access to the records of all of the following:
    a. A recipient, if the recipient, or other empowered representative has consented to the access.
    b. A recipient, including a recipient who has died or whose whereabouts are unknown, if all of the following apply:
        1. Because of mental or physical condition, the recipient is unable to consent to the access.
        2. The recipient does not have a guardian or other legal representative, or the recipient's guardian is the state.
        3. Michigan Protection and Advocacy Services 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:
        1. 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.
        2. Upon receipt of the name and address of the recipient's legal representative, Michigan Protection and Advocacy Services has contacted the representative and offered assistance in resolving the situation.
        3. The representative has failed or refused to act on behalf of the recipient.

PROCEDURES:

1. A summary of Section 330.1748 of PA 258 (Mental Health Code) will be included in each recipient's case record.

2. A record shall be kept of all disclosures and shall minimally include the following:
    a. What information was released.
    b. To whom it was released.
    c. Purpose stated by person requesting the information

d. Statement that the persons receiving the disclosed information can only further disclose consistent with the authorized purpose for which it was released.
e. The subsection of Section 330.1748 or other state law, under which the disclosure was made.
f. A statement indicating the information released is germane to the stated purpose.

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 his/her parent with legal custody if a minor, or legally appointed guardian, will be obtained whenever the recipient, parent 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.
   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 records coordinator 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 Records Coordinator.
   b. All request of information will be recorded in the release of information log.
   c. The Records Coordinator 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 Records Coordinator or designee will:
      1. File the original release of information in the legal section of the recipient's chart.
      2. Stamp all pages being sent with the CONFIDENTIAL & COPY stamp.
      3. Records all information being sent on the Information Disclosure Form.
      4. Complete letter to accompany the information being sent.
      5. Insure that the information is consistent with the request.
      6. Insure the information is released within a reasonable time period, 15 days being the accepted practice.
      7. Check to see that no third party information is released.
      8. Send a bill, if appropriate, and send a copy of the bill to finance.

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 DHS 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 DHS Child Protective Services (DHS/CPS) Act 238, Public Acts of 1975, DHS 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.

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

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-020
Subject	Duty to Warn	Issue Date	09/29/2008
		Revision Date	07/29/2015
		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 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 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, inform the recipient 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 potential victim(s) and notify appropriate police authorities, (Village, County, State), after consultation with the Chief Executive Officer and/or Chief Operating Officer or designee.
   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

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-021
Subject	Least Restrictive Environment	Issue Date	09/29/2008
		Revision Date	
		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

The least restrictive environment and intervention will always be considered and practiced to the extent possible in the delivery of services. 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

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-022
Subject	Dignity & Respect	Issue Date	09/29/2008
		Revision Date	07/29/2015
		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 non-patronizing manner using his or her legal name or a version thereof. Adult recipients shall be addressed in terms, which indicate they are adults.

2. 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. Family members shall be given an opportunity to provide information to the treating professionals. They shall also be provided an opportunity to request and receive educational information about the nature of disorders, medications and their side effects, available support services, advocacy and support groups, financial assistance and coping strategies.

3. 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 try new things.

4. 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.

5. 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.

6. 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.

7. 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.

8. A residential program shall ensure that there are frequent changes of bedding and other linen not less than once every week.

9. Soiled bedding shall be changed immediately. Soiled clothing shall be changed as soon as possible and not worn again until laundered.

10. A recipient shall be appropriately dressed and permitted to have and wear his own clothing, which shall be inconspicuously marked with the recipient's name if necessary. Exceptions shall be documented and justified.

11. A recipient is entitled to the standard of care and treatment required by law, rules, policies, and guidelines, written directives and his/or 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.

RELATED FORMS & MATERIALS

n/a

REFERENCES/LEGAL AUTHORITY

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

Revision Dates:
07/28/2009
10/14/2009
10/03/2012
12/12/2013
09/30/2014
07/29/2015

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	10/03/2017
		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 training each year in recipient rights protection. (MHC 755[2][e])
b) The rights officer/advisor attend and successfully complete the Basic Skills Training programs offered by the Department's Office of Recipient Rights within 3 months of hire. (MDHHS Contract 6.3.2.)
c) Continuing Education: minimum 36 contact hours of education or training over 3 years subsequent to Basic Skills, and in every 3 year period thereafter. A minimum of 12 of the required 36 hours must be approved as either Category I or II. (MDHHS Contract Attachment C 6.3.2.3)

RELATED FORMS & MATERIALS

n/a

REFERENCES/LEGAL AUTHORITY

- Mental Health Code Sections 330.1752, 330.1755
- MDHHS/CMH Master Contract FY 15-16

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

Policy Section	Safeguarding the Rights of Recipients	Policy Number	VII-001-024
Subject	Restraint/Physical Management	Issue Date	09/29/2008
		Revision Date	01/08/2018
		Page	1 of 3

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 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 devise 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.

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, the Office of Recipient Rights shall review the restraint policies for that contract for compliance with applicable state and federal regulations.

B. Physical Management

1. When physical management is used, it must incorporate the steps, techniques, methods, and safeguards of using the least restrictive technique as instructed through the Non Abusive Psychological and Physical Intervention (NAPPI) class.

2. When physical management is used, it shall be documented and reported using the Incident Report Form and the Physical Management Intervention Report.

3. 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.

4. 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

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

Policy Section	Recipient Rights	Policy Number	VII-001-025
Subject	Substance Use Disorder - Understanding Recipient Rights	Issue Date	07/28/2009
		Revision Date	07/29/2015
		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 consumer 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 consumers 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.

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

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 Vlll-001-007

Revision Dates:
01/10/2011
12/12/2013
09/30/2014
07/29/2015