

Policy and Procedure Manual Saginaw County Community Mental Health Authority		
Subject: Recipient Rights – Consent for Treatment	Chapter: 02 - Customer Service and Re- cipient Rights	Subject No: 02.02.08
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	Supersedes: 06.02.07.00	
 SAGINAW COUNTY COMMUNITY MENTAL HEALTH AUTHORITY		

Purpose:

The purpose of this policy is to establish a means for people served of mental health services to consent to treatment with Saginaw County Community Mental Health Authority (SCCMHA).

Policy:

It is the policy of SCCMHA that all people served receiving mental health services with SCCMHA will consent to treatment and provide legally valid informed consent prior to initiation of treatment, except as otherwise permitted by law (e.g., emergency services or court-ordered treatment).

Application:

This policy applies to all persons served of SCCMHA including the Service Provider Network.

Standards:

- 1) All individuals consenting to treatment shall be made aware of the purpose of the procedure, risks and benefits, alternative procedures available, other consequences and

relevant information, and offered an opportunity to ask and receive answers to questions, using the informed consent process

- 2) Persons served, their guardians, parents of a minor or loco parentis will be made aware that consent can be withdrawn at any time without prejudice to them. Consent withdrawal is limited only to the extent treatment is mandated by court order.
- 3) All people served of SCCMHA services shall be assumed to be competent and able to comprehend the purpose of treatment, except as described below.
- 4) A legal representative may consent only within the scope and duration of authority granted by the court (written in guardianship documents). Individuals remain legally competent regarding matters outside the scope of the guardianship.
- 5) An evaluation of the ability to give consent shall precede any guardianship proceedings.
- 6) Informed consent will be reobtained if changes in circumstances change the risks, other consequences or benefits that were previously expected.
- 7) A minor 14 years of age or older may request and receive mental health services and a mental health professional may provide services on an out-patient basis (excluding pregnancy termination referral services and use of psychotropic drugs) without the consent or knowledge of the minor's parent, guardian, or loco parentis, 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.
- 8) All minors under 14 years of age and those who have a guardian must have a parent, or their guardian, or loco parentis sign authorization for services before any services may be provided, except in the case of an emancipated minor who may authorize services.
- 9) Services provided to the minor as described in the standard below are limited to not more than 12 sessions or 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, their guardian, or loco parentis to obtain consent to provide further out-patient services.
- 10) Services provided to the minor will, to the extent possible, promote the minor's relationship to the parent, guardian, or person in loco parentis, and will not undermine the values that the parent, guardian, or parent loco parentis has sought to instill in the minor.
- 11) Psychotropic medications may not be prescribed to minors without parental, guardian, or court authorization
- 12) All recipients of mental health services consent will be available in the medical record.

13) The minor's parent, guardian, or parent loco parentis is not liable for the cost of services that are received by a minor.

14) If a person served refuses to sign the consent, but there is court ordered treatment, and SCCMHA does provide the service, a copy of the consent will be kept in the chart or record with documentation of the refusal of the person served to sign the consent.

Definitions:

Assigned Support Staff: Case Manager, Support Coordinator, or Therapist assigned to work with a SCCMHA person served. The Case Manager, Support Coordinator, or Therapist may be a SCCMHA staff person or a member of the SCCMHA Service Provider Network.

Consent: Per Mental Health Code 330.1100(a)(19) means a written agreement executed by a person served, the parent of a minor, a person acting in Loco Parentis, or a legally appointed representative acting within the scope of authority granted by the court, or a verbal agreement of a person served that is witnessed and documented by an individual other than the individual providing treatment.

Informed Consent: is defined by the Administrative Rules 330.7003

(1) All of the following are elements of informed consent:

- (a) Legal competency- An individual shall be presumed to be legally competent. This presumption may be rebutted only by a court appointment of a guardian or exercised by a court of guardianship powers and only to the extent of the scope and duration of the guardianship. An individual shall be presumed legally competent regarding matters that are not within the scope and authority of the guardianship.
- (b) Knowledge - To consent, a person served, or legal representative must have basic information about the procedure, risks, other related consequences, and other relevant information. The standard governing required disclosure by a doctor is what a reasonable patient needs to know in order to make an informed decision. Other relevant information includes all of the following:
 - (i) The purpose of the procedures.
 - (ii) A description of the attendant discomforts, risks, and benefits that can be expected.
 - (iii) A disclosure of appropriate alternatives advantageous to the person served.
 - (iv) An offer to answer further inquiries.
- (c) Comprehension - An individual must be able to understand what the personal implications of providing consent will be based upon the information provided under subdivision (b) of this subrule.
- (d) Voluntariness - There shall be free power of choice without the intervention of an element of force, fraud, deceit, duress, overreaching, or other ulterior form of constraint or coercion, including promises or assurances of privileges or freedom. There shall be

an instruction that an individual is free to withdraw consent and to discontinue participation or activity at any time without prejudice to the person served.

Court ordered treatment: Mental health treatment is ordered by the Saginaw Probate Court, or another county's Probate Court, and must be offered or monitored by SCCMHA.

Loco Parentis: A person or institution that assumes parental rights and duties for a minor.

References:

Administrative Rules 330.7003 (1)(a) -(d); (2)

Michigan Mental Health Code 330.1100

Michigan Mental Health Code 330.1707

Exhibits:

None

Procedure:

ACTION	RESPONSIBILITY
1) All people served of mental health services with SCCMHA, their empowered guardian, parent of a minor or loco parentis will be offered Consent to Treatment form upon intake. Thereafter, the consent to treatment will be as indicated on the individual plan of service (IPOS) signature page. Note: A separate consent may be required for prescribed medications.	1) Assigned Support Staff
2) An adult person served, and a minor if emancipated, shall be presumed legally competent. This presumption may be rebutted only by a court appointment of a guardian or exercised by a court of guardianship powers and only to the extent of the scope and duration of a guardianship. An evaluation of the ability to give consent shall precede any guardianship proceedings. When guardianship is being considered, a formal capacity evaluation shall be completed by a licensed psychologist not directly involved in the individual's treatment.	2) Assigned Support Staff
3) In emergency or crisis situations, the person served will be requested to sign consent to treatment in order to receive mental health	3) Crisis Intervention Services (CIS) Staff person

services. If the person served lacks capacity and no legal representative is immediately available, services may be provided consistently with Michigan law under emergency treatment procedures. 4) Before consenting to receive mental health services, each person served shall be informed of their rights. 5) Staff should be available to answer any questions of the person served. 6) Individuals under court order shall be offered services and given the opportunity to give consent. If a person served under a court order refuses to sign consent to treatment, the appropriate staff person will notify the probate court of the person's served refusal of services. If the person served under a court order refuse to sign the consent to treatment form but continues to keep appointments for mental health treatment, a copy of the consent to treatment with "Refused to sign" written on the person's served signature line, date form was offered, and a witness signature will be kept in the chart or record. Notification to the probate court shall occur within the timeframe of court requirements.	4) Assigned Support Staff or CIS Staff person 5) Assigned Support Staff or CIS Staff person 6) Assigned Support Staff or CIS Staff person
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