



SAGINAW COUNTY
COMMUNITY MENTAL
HEALTH AUTHORITY

Recipient Rights Refresher





SAGINAW COUNTY
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Saginaw County Community Mental Health Authority Office of Recipient Rights

**Judy Sausedo, Joy Mathias
&
Keegan Sakar**



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A copy of the Recipient Rights Training Book can be found here:

[Recipient Rights Training Book](#)



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The Legal Basis of Rights



Know Your Rights!



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The Legal Basis of Rights

- In our democratic society, rights are extremely important; particularly when we think ours have been violated. A right is defined as:
 - That which a person is entitled to have, to do, or to receive from others, within the limits prescribed by law.



Know Your Rights!

The Legal Basis of Rights

- In order to qualify as a “right”, something must be:
 - Defined by law (Michigan Mental Health Code).
 - Has a legal means of protecting it (Office of Recipient Rights).



Know Your Rights!

The Legal Basis of Rights

- The “rights” described in this PowerPoint are some that are protected by:
 - The Constitution of the United States.
 - The Michigan Constitution.
 - **Remember, the people you care for still have these rights even if they are receiving mental health services!**



Know Your Rights!



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Civil Rights



Civil Rights

- The **Right** to be presumed competent unless:
 - A guardian has been appointed.
 - A judicial ruling of incompetency has been made.



- A recipient can conduct personal and business affairs and exercise all rights, benefits, and privileges not divested or limited.



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Civil Rights

- The **Right** to Religious Expression:
 - To practice the religion of one's choice.
 - Not to attend any religious service against one's wishes.
 - Not to be discriminated against based upon one's religious beliefs.





Civil Rights

- The **Right** to Freedom of Speech:
 - To make and receive phone calls, in private.
 - To send and receive mail without censorship.
 - To speak freely and to write, or express, one's views without restrictions.





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Civil Rights

- The **Right** not to be discriminated against because of race, sex, sexual orientation, National origin, or disability.

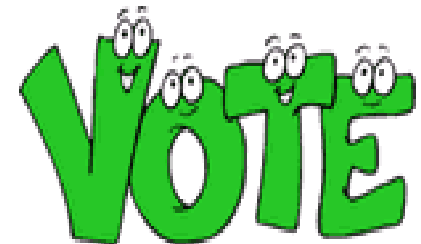




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Civil Rights

- The **Right** to vote even if they have a guardian.
 - A recipient shall be asked if they wish to participate in an official election and, if desired, shall be assisted.

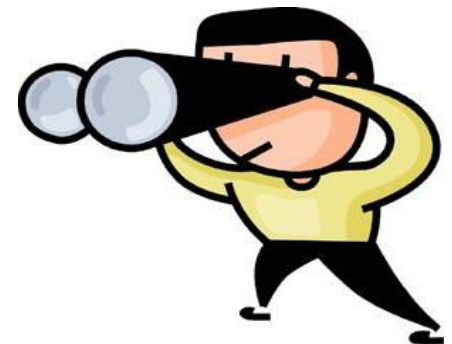




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Civil Rights

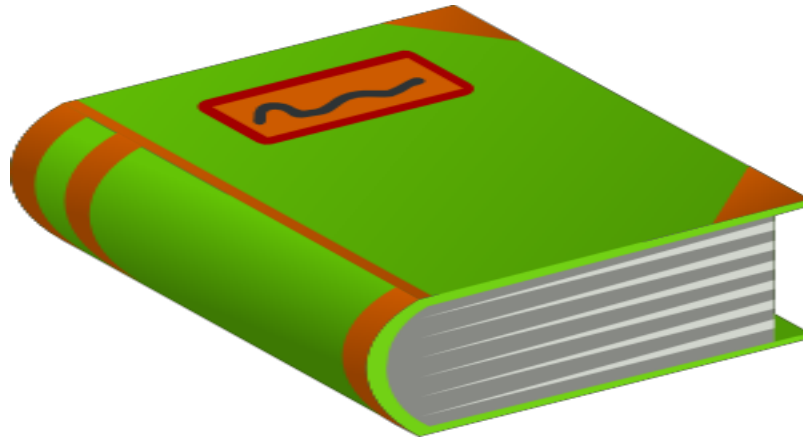
- The **Right** to not be subjected to an illegal search or seizure.
- A violation of civil rights shall be regarded as a violation of Recipient Rights.





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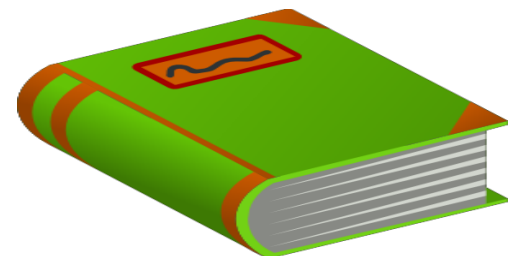
Michigan Mental Health Code





Michigan Mental Health Code

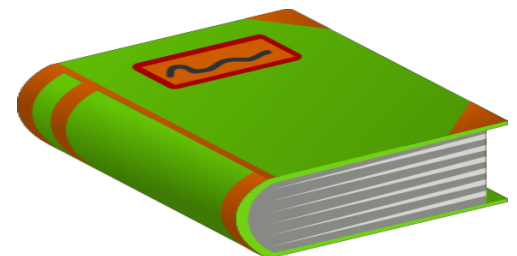
- Michigan Mental Health Code (MMHC)
 - Created in 1974.
 - Implemented in 1975.
 - Prior to the creation of the MMHC, criminals had more rights than consumers of mental health services.





Michigan Mental Health Code

- The MMHC says that persons who receive mental health services in Michigan have some additional rights to ensure they receive mental health services suited to their condition in a humane environment.





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Communications



Communications

- Every recipient is entitled to unimpeded, private and uncensored communication with others by mail, telephone and to visit with the person of their choice.



Communications

- Staff should not open mail for residents without authorization. If necessary, funds must be provided (in reasonable amounts) for postage, stationery, telephone.



Communications

- Restrictions can be made on these rights for individuals but only as allowed in the Individual Plan of Service (IPOS) following review and approval by the Behavior Treatment Plan Review Committee and the special consent of the resident or his/her legal representative.



Communications

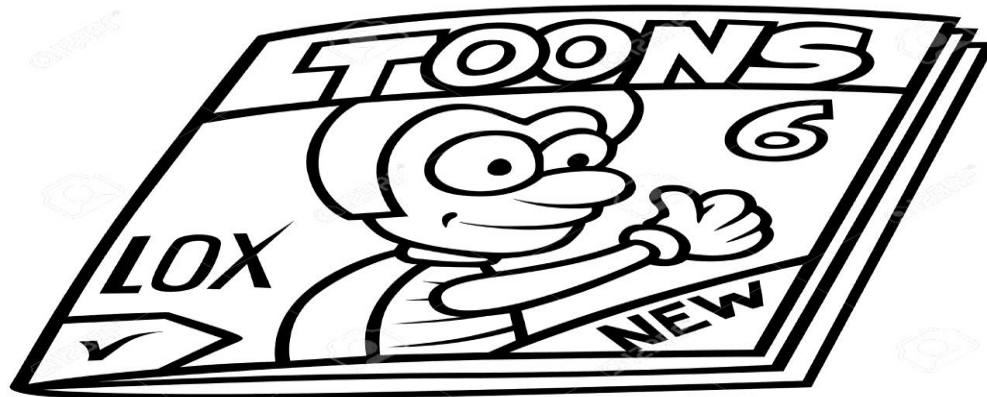
- Communication by mail, telephone and to have visitors shall not be limited if the communications are between a resident and his/her attorney or a court, or between a resident and any other individuals when the communication involves legal matters or may be the subject of legal inquiry.





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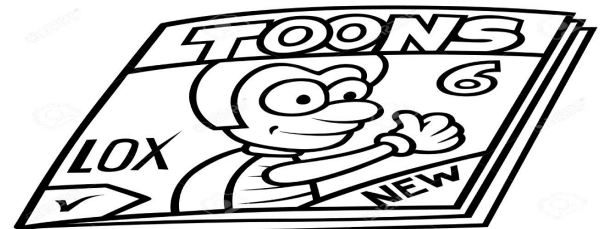
Entertainment Materials, Information, and News





Entertainment Materials, Information and News

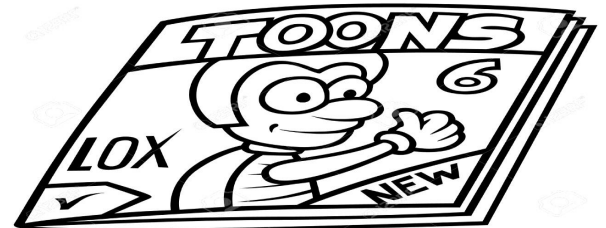
- Every recipient has the right to acquire entertainment materials, information and news at his or her own expense; to read written or printed materials and to view or listen to television, radio, recordings or movies made available at a facility.





Entertainment Materials, Information and News

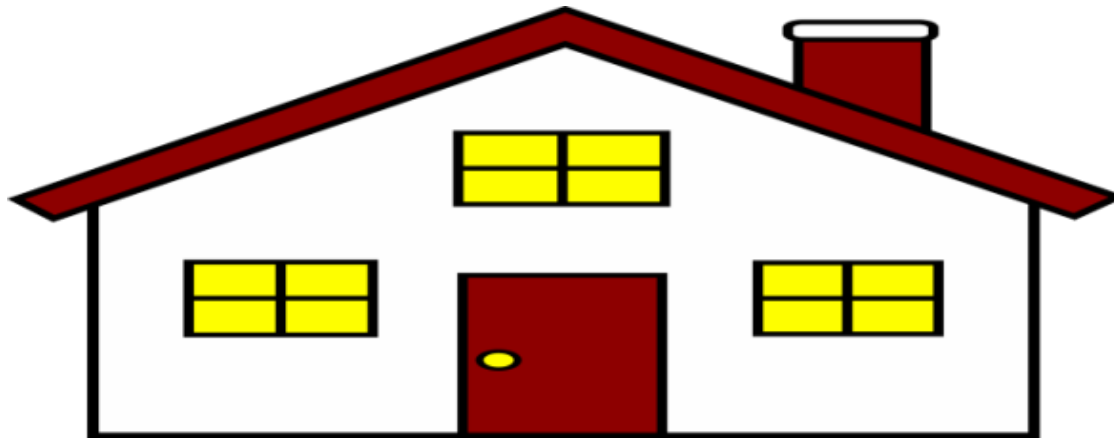
- Provider must **never** censor a resident's reading materials.
- Provider may require that materials acquired by the resident that are of a sexual or violent nature be read or viewed in the privacy of the resident's room.





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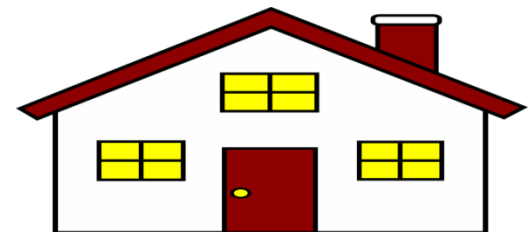
Visits





Visits

- Every recipient is entitled to visit with the person of their choice.
 - Residents **must** be allowed the ability to visit with persons of their choice.
 - The process of removing House Rules due to the new HCBS Waiver Rules has already begun with many providers.

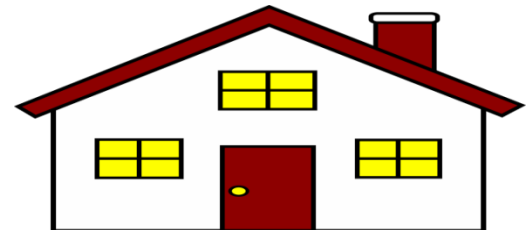




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Visits

- The ability to have visitors shall not be restricted if the communications are between a resident and visitor and pertain to legal matters or legal inquiries.





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Limitations and Restrictions





Limitations and Restrictions

- The MMHC says that some of the rights granted to recipients cannot be limited. These Rights are:
 - Freedom from abuse and neglect.
 - Treatment suited to condition.
 - Dignity and respect.
 - Safe, sanitary, humane treatment environment.
 - IPOS developed using a person-centered planning process.
 - Contact with attorneys regarding legal matters.



Limitations and Restrictions

- The MMHC also provides that some rights can be modified under certain circumstances, primarily for health and safety concerns. These Rights are:
 - Communication by mail, phone, visits.
 - Personal property.
 - Money.
 - Freedom of movement.
 - Confidentiality/privilege.
 - Consent to treatment.





Limitations and Restrictions

- **Limitations** are placed on an individual and can only be made through the person-centered planning process.





Limitations and Restrictions

- In the recipient's record you should find:
 - A description of the behavior and the limitation.
 - A time limit on the limitation.
 - An indication that previous measures to stop the behavior were unsuccessful.
 - An indication that the limitation is the least restrictive or intrusive action possible.
 - Measures to reduce or eliminate the behavior (this is the action you will take when the behavior occurs).





Limitations and Restrictions

- Limitations on recipient rights must be justified for appropriate reasons in the Individual Plan of Service, with documentation of attempts that were made to avoid the limitation and steps that will be taken to remove them.





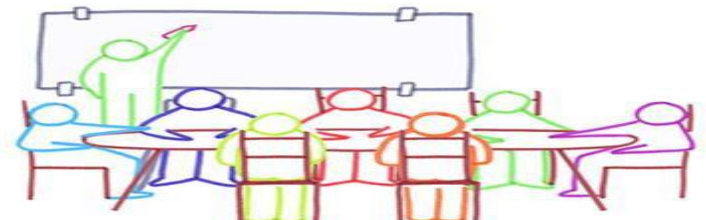
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Person Centered Planning



Person Centered Planning

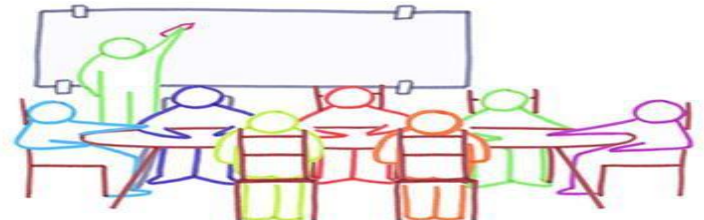
- The purpose of person-centered planning (PCP) is to provide a process for individuals to define the life **THEY** want and to determine what needs to be in place for the achievement of that life.
- Minimally, the PCP must address the need for food, shelter, clothing, health care, employment opportunities, education opportunities, legal services, transportation and recreation.





Person Centered Planning

- A formal review of the plan with the beneficiary and his/her guardian or authorized representative shall occur **not less than annually** through the PCP process to review progress towards goals and objectives and to assess beneficiary satisfaction.





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Dignity and Respect

- The additional rights specified by the MMHC are intended to protect and promote the basic human dignity of recipients. You have the responsibility to treat recipients and their family members with dignity and respect.



Dignity and Respect

- **Dignity:** To be treated with esteem, honor, politeness; to be addressed in a manner that is not patronizing, condescending or demeaning; to be treated as an equal; to be treated the way any individual would like to be treated.





Dignity and Respect

- **Respect:** To show deferential regard for; to be treated with esteem, concern, consideration or appreciation; to protect the individual's privacy; to be sensitive to cultural differences; to allow an individual to make choices



Dignity and Respect

- That means you are responsible for the following:
 - Your own acts, either intentional or accidental.
 - Your failure to act appropriately or quickly.
 - Reporting abusive actions of staff to the supervisor, Case Holder, and the Rights Officer immediately.
 - Reporting unsafe conditions or rights violations to the appropriate agency Intervening to stop abusive actions of other staff.



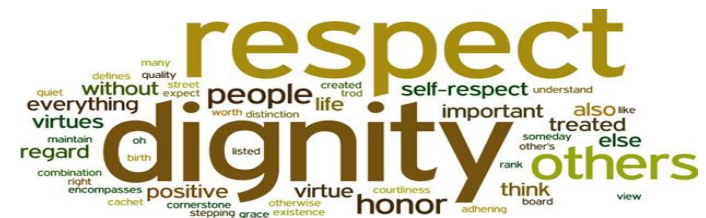
Dignity and Respect

- **Examples of how you can promote the dignity and respect of recipients:**
 - Calling a person by his or her preferred name.
 - Knocking on a closed door before entering.
 - Using positive language.
 - Encouraging the person to make choices instead of making assumptions about what he or she wants.





- Family members of recipients shall be treated with dignity and respect. Family members shall be given an opportunity to provide information to the treating professional.





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Confidentiality



Confidentiality

- **It is appropriate to disclose information about a recipient when:**
 - The person agrees, signs a written consent, and the person who requested the information has a legitimate need for the information.



Confidentiality

- To mental health, or other public agencies, when there is a strong chance that the recipient or others will be seriously hurt if no action is taken; Duty to Warn & Protect
- For further information on Duty to Warn & Protect, please see the full ORR Training Packet





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Confidentiality

- **Informed Consent**

- **Confidentiality** is a right of every person receiving mental health services.





Confidentiality

- **Informed Consent**

- All information in a person's record, and any information about the person discovered while providing services, is confidential. Consent of the recipient, or the recipient's guardian, is required **BEFORE** giving out any information.



Confidentiality

- This means the recipient:
 - Has the legal capacity to give consent - **Legal Competency.**
 - Is not pressured in any way to give consent – **Voluntariness.**
 - Is able to understand what information he/she is agreeing to release – **Knowledge.**
 - Understands the risks, benefits, and consequences of agreeing or not agreeing to the release of the information requested – **Comprehension.**



Confidentiality

- **Here are some examples of how you may unknowingly violate confidentiality:**
 - Talking about recipients outside of work.
 - Referring to recipients by name when discussing work with family, friends, or on social media.
 - Giving information over the phone to persons who say they are relatives without verification.





Confidentiality

- Taking photographs, video recordings, or voice recordings (taping) without permission.
- Listening in on a recipient's phone calls.
- Discussing information in a recipient's record with staff from another home or with other mental health or service professionals who are not authorized to receive the information.



Confidentiality

- Referring to a recipient by name in another recipient's record.
- Referring to a recipient by name in an incident report for another recipient **IF** they are from another county.
- Referring to a recipient by full name when speaking with another recipient's family, friends, or teachers.





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Confidentiality

- Talking about recipient information in public or common areas.
- Using recipient information in emails outside secured systems or without encryption.





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Guardianship





Guardianship

- **Plenary/Full Guardian:** A guardian who possesses the legal rights and powers of a **full guardian**
 - of the person.
 - of the estate.
 - or both.





Guardianship

- **Partial/Limited Guardian**
 - A guardian who possesses fewer than all of the legal rights and powers of a full or plenary guardian, and whose rights, powers, and duties have been specifically detailed by court order.
 - A **partial guardian** shall not be appointed for a term greater than 5 years.





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Abuse and Neglect



Abuse & Neglect

- It is important to understand what is meant by abuse and neglect, recognize a situation that is abusive or neglectful, and to know what the law requires you to do when you become aware that a recipient has been abused or neglected.





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Abuse





Examples of Abuse

- Sexual Abuse: Any sexual contact between an employee and a recipient for whom that employee provides direct services. This includes:
 - Engaging in sexual intercourse with a recipient, **even if** the recipient says it's okay.



- Sexual Abuse (cont.):
 - Oral sex, of any nature, with a recipient, **even if** the recipient says it's okay.
 - Touching the intimate parts of a recipient for sexual gratification, **even if** the touching occurs over the recipients' clothing, **even if** the recipient says it's okay.



Examples of Abuse

- Hitting, slapping, biting, poking, kicking a recipient, or any action which would cause pain to a recipient.
- Use of weapons on a recipient.
- Swearing at, using foul language, racial or ethnic slurs, or using other means of communication to degrade or threaten a recipient.





Examples of Abuse

- Sexually harassing a recipient.
- Making remarks or committing an act which could be emotionally harmful to a recipient.
- Using the recipient's "bridge card" to purchase something for yourself.





Examples of Abuse

- Using a recipient's funds for your own purposes, for use in the home in general, or for other recipients.
- Encouraging or prompting others (staff or recipients) to commit any actions that could be described as abusive.
- Physical Management – Unreasonable Force.





Types of Abuse

- **Class I Abuse:**

- Hurting or causing someone to be hurt that lead to death, sexual abuse, or serious physical harm.
- Any type of sexual contact or sexual penetration as defined later in the definition section.





Types of Abuse

- **Class II Abuse:**

- Hurting or causing someone to be hurt that lead to non-serious physical harm or doing something that could cause a recipient to suffer pain.
- Doing something to someone that caused or contributed to emotional harm.
- Taking an action on behalf of a recipient by a provider who assumes the recipient is incompetent, even though a guardian has not been appointed, that results in substantial economic, material, or emotional harm to the recipient.





Types of Abuse

- **Class II Abuse:**

- Exploitation (misuse or misappropriation of a Recipient's funds or property) by an employee, volunteer, or agent of a provider.
- The use of physical management on a recipient, when there is NOT an imminent risk of physical harm to a recipient, staff or others, this is considered unreasonable force.





Types of Abuse

- **Class III Abuse:** Use of language or other means of communication to degrade, threaten, or sexually harass a recipient.

Other means of communication:

- Body language.
- Facial expressions.
- Posture.





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Neglect



Examples of Neglect

- Leaving a recipient, who is not able to care for him or herself, unattended.
- Driving with recipients in a vehicle and not following the Michigan Vehicle Code.



Examples of Neglect

- Not providing the proper medication, the correct dosage of a medication, or leaving the medication cabinet unlocked, when required by laws or other written standards.
- Not providing services as outlined in the IPOS that places the recipient at risk of harm or results in harm.



Examples of Neglect

- Not providing services as outlined in the Individual Plan of Service that places the recipient at risk of harm or results in harm.
- Being aware of, or suspecting, that an abusive or neglectful situation is occurring and not reporting it to the Rights Office and to your supervisor.



Types of Neglect

- **Neglect Class I** means either of the following:
 - Doing or not doing something that is noncompliant with a standard of care or treatment required by law or other written standard that causes or contributes to the death, sexual abuse, or serious physical harm.
 - Not reporting apparent or suspected Abuse Class I or Neglect Class I.



Types of Neglect

- **Neglect Class II** means either of the following:
 - Doing or not doing something that is noncompliant with a standard of care or treatment required by law or other written standard that causes or contributes to non-serious physical harm or emotional harm.
 - Not reporting apparent or suspected Abuse Class II or Neglect Class II.



Types of Neglect

- **Neglect Class III** means either of the following:
 - Doing or not doing something that is noncompliant with a standard of care or treatment required by law or other written standard, which either placed or could have placed someone at risk of physical harm or sexual abuse.
 - Not reporting apparent or suspected Abuse Class III or Neglect Class III.





Types of Neglect

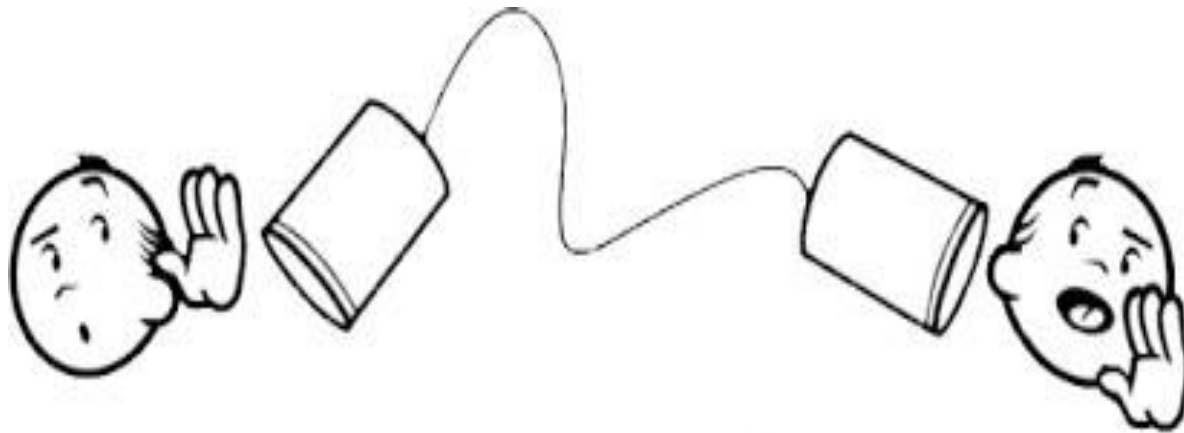
- No actual harm has to occur to a recipient for Class III Neglect to be substantiated.
- It is only required that the recipient be placed at risk of harm.





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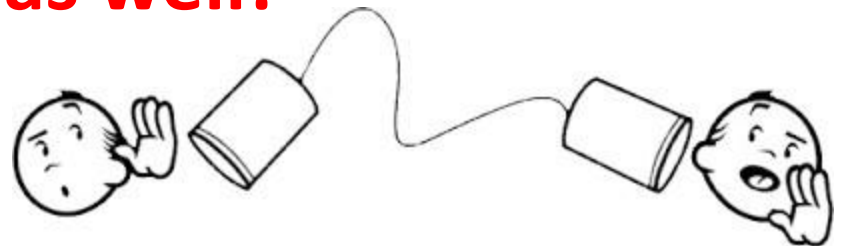
Reporting Abuse and Neglect





Reporting Abuse & Neglect

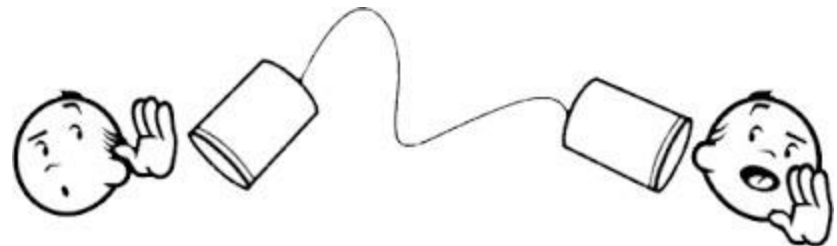
- When you see or hear about a recipient being abused or neglected, it is important that **you take action quickly.**
- Protecting the recipient is your primary responsibility. **Your failure to report abuse or neglect could result in your being charged with neglect, as well!**





Reporting Abuse & Neglect

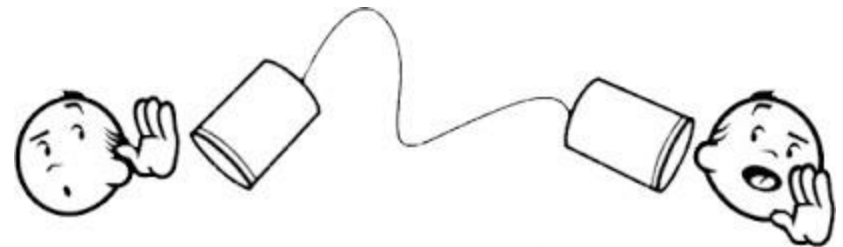
- It is your personal responsibility to **IMMEDIATELY and DIRECTLY report Abuse or Neglect or ANY potential Rights complaints to the ORR and to any and all applicable agencies as required by law.**
- You should also immediately report it to your designated supervisor.





Reporting Abuse & Neglect

- **To report suspected and/or apparent Abuse and/or Neglect, make a verbal report by calling the Office of Recipient Rights:**
 - (989) 797-3462
 - (989) 797-3583



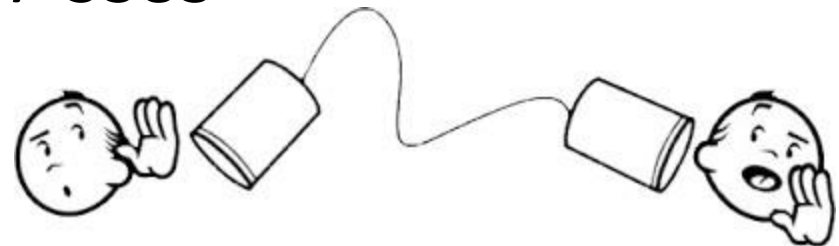


Reporting Abuse & Neglect

- **Incidents involving a death or significant physical or psychological injury or serious rights complaint should be immediately reported by phone to the SCCMHA ORR:**

Judy Sausedo & Joy Mathias – (989) 797-3462

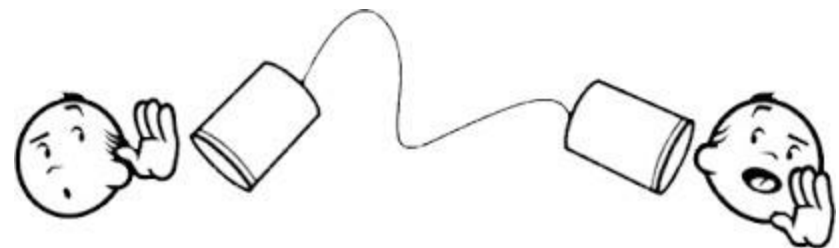
Keegan Sarkar – (989) 797-3583





Reporting Abuse & Neglect

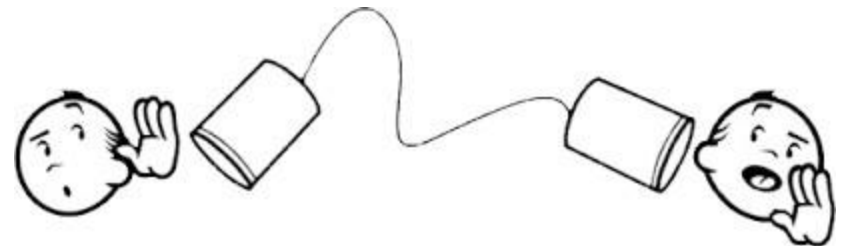
- Any complaint not involving Abuse or Neglect will be verbally reported to the SCCMHA ORR within 24 hours. Here are a few examples:
 - Dignity & Respect
 - Mental Health Services Suited to Condition
 - Confidentiality
 - Personal Property





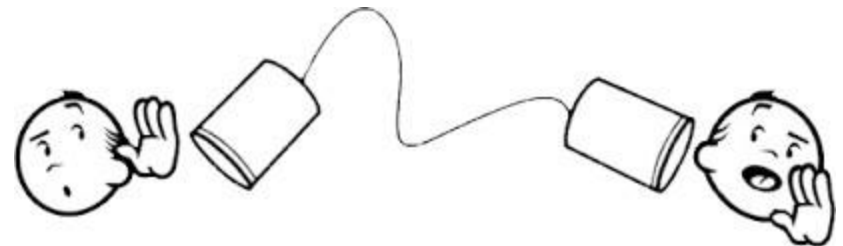
Reporting Abuse & Neglect

- Filling out an Incident Report does not satisfy your requirement to **directly report of the ORR**.
- All individuals shall have unimpeded access to the ORR.
- Immediately take action to protect, comfort, and get any necessary treatment for any injured person in your care.



Reporting Abuse & Neglect

- Don't be anonymous; you must leave your name when you report.
- Remember we are all Mandated Reporters by law.





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APS/CPS Reporting



APS/CPS Reporting

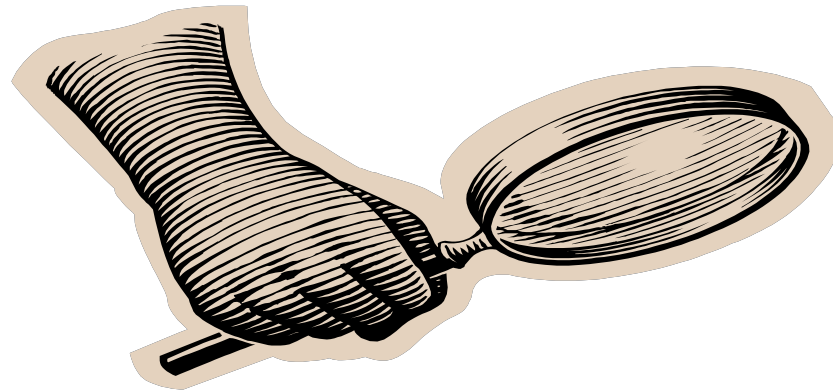
- To report to APS/CPS, please call Central Intake at 1-855-444-3911
 - When reporting to Adult Protective Services (APS), or Child Protective Services (CPS), Saginaw County Community Mental Health employees are required to submit the reporting verification to the SCCMHA Quality department for processing at 989-272-0290.





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Appeals Process



Appeals Process

- Unless they were the complainant, staff is not eligible to file an appeal even if they were the subject of the investigation.
- If the action of your local rights office does not solve the problem, you can contact the Michigan Department of Health & Human Services Office of Recipient Rights. If you wish to do so write, or call:

**Office of Recipient Rights
Michigan Department of Health & Human Services
Elliott-Larsen Building
Lansing, MI 48913
1-800-854-9090**





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The End

