Recipient Rights

Recipient is defined as a person who receives mental health services.

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HIAWATHA BEHAVIORAL HEALTH

CMHSP Contract/NorthCare
Meets requirement for: MDHHS P7.7.1.1 Reporting Requirements; NorthCare Network Incident, Event, Death Reporting, Notification & Monitoring Policy
Fulfills Topic Requirement- Recipient Rights, Incident Reporting

Updated 06/29/2022

THE RIGHTS OF PERSONS SERVED ADMINISTRATIVE RULES (AR) 330.7009 & MENTAL HEALTH CODE (MHC) 330.1704

- The rights described are some of the rights that we all enjoy and are protected by the Michigan Constitution and the Constitution of the United States. These laws and rules include the Michigan Mental Health Code, "Code", as well as The Michigan Department of Health and Human Services, Administrative Rules.
- In addition to the rights, benefits and privileges guaranteed by other provisions of law, the Michigan Constitution of 1963 and the Constitution of the United States; a recipient shall be permitted, to the maximum extent feasible and in any legal manner, to conduct personal and business affairs and otherwise exercise all rights, benefits and privileges not divested or limited by law.
- A violation of civil rights shall be regarded as a violation of recipient rights and will be subject to remedies established for recipient rights violations.
- A recipient shall be presumed competent unless a Guardian has been appointed.

A recipient has the right to:

- Be secure from search and seizure of their person, home/room, personal possessions
- Own personal property

ASK QUESTIONS! GET CLARIFICATION!

During an individual's Intake appointment and IPOS meeting recipients and their legal representative are given notice of recipient's rights and a Recipient Rights Book including a Complaint form and contact information.

Complaint forms are also posted in public areas in homes under contract with HBH and offices and can be used by anyone on a recipient's behalf.

If you have any questions about this process call 906.635.3762.

ASK QUESTIONS!

The Rights Officer's names, addresses and telephone numbers are posted at all service sites and appear at the end of this course. Please utilize them.

RECIPIENT RIGHTS POLICIES & PROCEDURES (MHC 330.1752)

- All of the Policies and Procedures pertaining to recipient rights are required by law and can be located on the Hiawatha Behavioral Health Intranet under Administrative Policy - Chapter 6 - Recipient Rights or on the Hiawatha Behavioral Health website at www.hbh.org.
- All local contract providers have a Rights Policy Manual located on the premises.

THE MICHIGAN MENTAL HEALTH CODE (MHC) – REQUIREMENTS (MHC 330.1755)

- Section 330.1755 – Requires the establishment of an Office of Recipient Rights in a Community Mental Health
  - (1) Each community mental health services program and each licensed hospital shall establish an Office of Recipient Rights subordinate only to the Executive Director or Hospital Director.
  - A Recipient Rights Advisory Committee monitors the Office of Recipient Rights (ORR); this Committee meets on a quarterly basis and are open to the public.

OFFICE OF RECIPIENT RIGHTS PURPOSE AND FUNCTION

- Consultation and Support;
- Receive & analyze complaints;
- Determine if the complaint contains a right as defined in the Code and/or Rules;
- Intervene/Investigate complaint allegations;
- Advise recipients of advocacy organizations;
- Prevention of Rights violations;
- Education
- Training
- Consultation with recipients, family members and staff
- Monitoring;
- Site Visits
- Rights Protection System Coordination

CIVIL RIGHTS (ADMINISTRATIVE RULES (AR) 330.7009)

- A recipient has the right to:
  - Not be discriminated against because of race, sex, national origin, handicap;
  - Vote;
  - Have an attorney, make a will, marry and divorce;
- A recipient shall be asked if they wish to participate in an official election and, if desired shall be assisted in doing so.

RELIGIOUS EXPRESSION (AR 330.7009 (6))

- A recipient has the right to practice religion of his or her choice.
- Recipients shall have the right to NOT have a religion prescribed for them.
- A recipient has the right to not attend any religious service against his or her wishes.

Recipients have the right to:

- Unimpeded, private and uncensored communication with others by mail and telephone with persons of his/her choice and have privacy during visits;
- Speak freely, and to write, or express opinion without restrictions, this includes sending and receiving mail without censorship;
- Make and receive phone calls in private;
- Writing materials, telephone usage funds and postage shall be provided in reasonable amounts to residents who are unable to procure such items.
- There shall be no limitation upon a recipient's
- communication with an attorney or a court or anyone if the communication involves matters that are or may be the subject of legal inquiry.
- A provider shall establish written policies and procedures for all of the following:
    - Any general program restrictions on access to material for reading, listening, or viewing
    - Determining a residents interest in, and provide for, a daily newspaper.

DUE PROCESS (AR 330.7009 (7))

A recipient has the right to:

- have notice and the opportunity to be heard in court when decisions are made about their life, liberty, property….
- Not to be a witness against them self in a criminal case;
- To petition for redress (remedy) of governmental actions.

ADMISSION / DISCHARGE / TREATMENT RIGHTS IN A RESIDENTIAL OR INPATIENT SETTING

- A recipient has the right to:
- A second opinion regarding the denial of hospitalization;
- To terminate voluntary hospitalization as an adult;
- To object to hospitalization, if a minor;
- A second opinion if/when denied mental health services.
- Restraint or Seclusion;
- Restraint and seclusion is prohibited unless used in a licensed inpatient or child care setting.

STATEMENT CORRECTING OR AMENDING INFORMATION – (MHC 330.1749)

- When a recipient or their legal representative have challenged the accuracy, completeness, timeliness or relevance of factual information they can insert into the record a statement correcting or amending the information at issue.
- The statement shall become part of the record.

CONFIDENTIALITY – PRIVILEGED INFORMATION

(MHC 330.1748, 330.1748A, 330.1750)

- All requests for information must be directed to your supervisor and the Medical Records Technician. Below are some examples of Mandatory, Discretionary and Discretionary with Consent, disclosures:
- Mandatory disclosure:
  - Valid court orders/subpoena's signed by an Honorable Judge.
  - Protective Services requests.
- Discretionary disclosure:
  - Information may be disclosed by the holder of the record without consent for the recipient to apply for or receive benefits.
  - If there is a compelling need for disclosure based upon probability of harm to the recipient or other individuals.

CONFIDENTIALITY – PRIVILEGED INFORMATION CONTINUED (MHC 330.1748, 330.1748A, 330.1750)

- Examples of discretionary disclosure with the recipient or their legal representative's consent involve requests for disclosure:
- The information contains information that will be detrimental to the recipient or others.
- Other individuals or providers.

Please review HBH Policy 6.3 Confidentiality / Disclosure and consult with your supervisor and / or Medical Records and / or the Office of Recipient Rights for more detail or when you have questions regarding confidentiality and disclosure.

CONFIDENTIALITY – PRIVILEGED INFORMATION CONTINUED (MHC 330.1748, 330.1748A, 330.1750)

A recipient has the right to:

- Have all information kept confidential, regardless of whether written or spoken.
- Not have information disclosed without the appropriate consent, except as required or allowed by law.
    - Information shall not be disclosed unless germane to the authorized purpose.

Recipients who are adults and do not have a Guardian are entitled to review their record without exception.

Individuals receiving information shall disclose only to the extent of the authorized purpose.

CONFIDENTIALITY – PRIVILEGED INFORMATION CONTINUED (MHC 330.1748, 330.1748A, 330.1750)

A Recipient with a Guardian and/or those under the age of 18, information can be withheld if determined by a Physician that the information is detrimental to the recipient or others.

Protecting confidentiality means that, when you are not at work, you cannot talk to anyone about what happened with a recipient.

When at work you cannot discuss any information with those not authorized to receive it. There must be a need to know.

All requests to return calls must be returned, regardless of whether there is a Release of Information or not. You are not disclosing information rather you are simply returning a phone call.

A recipient cannot simply agree to have information about him or her released. In order for a release of information to be valid, it must be given with *Informed Consent*.

CONFIDENTIALITY – PRIVILEGED INFORMATION CONTINUED (MHC 330.1748, 330.1748A, 330.1750)

- Sometimes individuals may not be aware that they are
- violating confidentiality.
- Listed below are some examples of how confidentiality and privacy are violated unknowingly:
- Talking about a recipient outside of work.
- Referring to a recipient by name when discussing work with family or friends.
- Giving information over the phone to persons who say they are relatives and/or who say they are authorized to discuss a recipient and/or elements of a recipient's treatment.

CONFIDENTIALITY – PRIVILEGED INFORMATION CONTINUED (MHC 330.1748, 330.1748A, 330.1750)

- Taking photographs or videotapes without written consent for agency and/or media use.
- Listening in on a recipient's phone calls.
- Discussing information from a recipient's record with an employee of another department or agency who is not authorized to receive this information.
- Referring to more than one recipient by full name in an incident report.
- Discussing a recipient with another recipient's family.
- Discussing a recipient's treatment in areas of your workplace where others can hear and have no need to know.
- When a caller is requesting information about a person; neither confirm nor deny the individual is known or not known.

CONFIDENTIALITY – PRIVILEGED INFORMATION CONTINUED (MHC 330.1748, 330.1748A, 330.1750)

- Testifying in court without the recipient's consent and/or without an order from the Honorable Judge.
- Confidentiality is a right of every recipient who receives mental health services. Everyone involved with the delivery of services must work to maintain and protect this right.

  Do not let anyone pressure you, as an employee or a recipient, into disclosing confidential information and make sure you know the policies and procedures regarding confidentiality.

CONFIDENTIALITY – PRIVILEGED INFORMATION CONTINUED (MHC 330.1748, 330.1748A, 330.1750)

- Privileged Communication- A communication that is protected by law from forced disclosure. Privileged communication will not be disclosed, unless the recipient has waived the privilege, in a criminal legislative, or administrative case or proceeding.
  - There are circumstances when privileged information shall be disclosed however please consult your supervisor, medical records and / or the office of recipient rights for further information.
- Example of a privileged communication is communications made by a patient to a psychiatrist or psychologist in connection with the exam, diagnosis or treatment of a patient, or to another person while that person is participating in the exam, diagnosis or treatment, OR Communication made privileged under applicable state or federal laws;

CONFIDENTIALITY CONTINUED: MANDATORY DISCLOSURES

- MI Protection and Advocacy (MPAS) and Disability Rights Michigan (DRM) can access a recipient's medical record **if** it 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.
- Emergency Medical Services – Can receive medical information if the recipient is having a medical emergency and/or cannot provide the information themselves.
- Law Enforcement- if a law enforcement officer presents to your facility requesting information about a specific person(s) contact your supervisor immediately. Do not disclose information at this time.

INFORMED CONSENT 330.1100(A)(19)AR 330.7003

Consent means a written agreement done by a recipient, a minors recipient's parent or a recipient's legal representative with authority. Consent can include a verbal agreement of a recipient that is witnessed and documented by an individual other than the individual providing treatment.

- This means that a Recipient is not pressured in any way to give consent.
- Informed Consent includes the following:

Knowledge: A recipient or their legal representative must have basic information about the procedure, risks and/or other related consequences and information and is able to understand what he or she is agreeing to;

- A recipient who has a Plenary (full) guardian is not legally allowed to give informed consent.

Comprehension: A recipient or their legal representative must understand the purpose of the consent, any discomforts, risks and or benefits that can be expected and/or alternatives.

Voluntariness: A recipient or their legal representative shall have free power of choice without any element of force, fraud, deceit, duress or other form of coercion including promises or assurances of privileges or freedom.

- A recipient or their legal representative shall be informed that an individual is free to withdraw consent and to discontinue participation or activity at any time without prejudice to the recipient.

RIGHTS OF FAMILY MEMBERS (MHC 330.1711)

The recipient's family has the right to:

- Be treated with dignity and respect.
- Be given the opportunity to provide information about their family member.
- Be provided educational information about the nature of disorders, medications and their side effects, available support services, advocacy and support groups, financial assistance and coping strategies.
  - Informational materials regarding the above are located with the Physicians and Registered Nurses.
  - Informational materials are located throughout the sites in the waiting area and can be obtained or requested by anyone.

All Hiawatha Behavioral Health employees, volunteers, contractual service providers and employees of the 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 course or vulgar language in the presence or hearing of recipients and/or the recipient's family members.

FINANCIAL ISSUES IN A RESIDENTIAL OR INPATIENT SETTING (MHC 330.1730)

- A recipient has the right to:
- Have their belongings, including personal funds, in a safe and secure location within the setting;
- Have easy access to their funds and be able to spend or use as he or she chooses;
- Be paid for work that is done.

FREEDOM OF MOVEMENT (MHC 330.1744) LEAST RESTRICTIVE SETTING (MHC 330.1708)

- Mental health services shall be offered in the least restrictive setting that is appropriate and available.
- This right can only be limited as allowed in the Individual Plan of Services (IPOS) following review and approval by the Behavior Treatment Committee (BTC) to prevent injury to self or others or; substantial property damage.

PERSONAL PROPERTY IN A RESIDENTIAL OR INPATIENT SETTING (MHC 330.1728)(AR 330.7139)

A recipient has the right to:

Have access to entertainment materials, information, news….

- A provider must never prevent a recipient from exercising this right, for the reason of, or similar to,
- censorship.

Have and use personal property as well as to have storage space.

- Limitations of this right shall be time limited, monitored, and documented in the Individual Plan of Service.

PHOTOGRAPHS, FINGERPRINTS USE OF ONE-WAY GLASS (MHC 330.1724)

Prior written consent must be obtained prior to:

- Taking a recipient's photograph, taping (ie: audio and/or video), or being viewed through a one-way glass;
- The above methods of viewing will only be used in order to provide services including research) to identify a recipient or for educational and training purposes. Audio and/or video and photographs shall be kept as part of the Recipient's Medical Record and shall be destroyed or returned to the recipient when no longer essential or upon discharge from HBH, whichever occurs first.

PHOTOGRAPHS, FINGERPRINTS USE OF ONE-WAY GLASS (MHC 330.1724)

- Fingerprints, photographs or audio-recordings taken in order to determine the name of a recipient shall be kept as part of the Recipient's Medical Record except that when necessary the fingerprints, photographs or audio-recordings

- Photographs may be taken for purely personal or social purposes and must be treated as the recipient's personal property.
  - Photos will not be taken if the recipient has objected.

- No recipient shall be fingerprinted as part of any program of HBH.

- If fingerprints, photographs or audio-recordings are done and sent out to others to help determine the name of a recipient, the individual receiving the items must be informed that return is required for inclusion in the recipient record.

DIGNITY AND RESPECT (MHC 330.1708)

All recipients of mental health services shall be treated with dignity and respect.

Dignity - To be treated with esteem, honor and politeness. To be treated as an equal; to be treated the way any individual would like to be treated.

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

EXAMPLES OF TREATING PERSONS WITH DIGNITY AND RESPECT INCLUDE:

- Calling a person by their preferred name;
- Knocking on a closed door;
- Using positive language;
- Encouraging and allowing a person to make choices instead of making assumptions about what he or she wants;
- Taking the person's opinion seriously;
- Allowing the person independence.

SUITABLE SERVICES (MHC 330.1708)

A recipient has the right to:

- Be treated with dignity and respect;
- Provide informed consent;
- Have an Individual Plan of Service (IPOS) developed through the person centered planning process;
- To be given a choice of Physician or other mental health professional within the limits of available staff.

SUITABLE SERVICES –CONT.

A recipient has the right to:

- Receive mental health services suited to their condition;
- Receive treatment by spiritual means;
- Receive physical and mental examination;
- Choose a physician or mental health professional.
- Be provided information regarding the availability of family planning and other health information regarding referral to Providers of family planning or other health services.
- Services / preferences of the recipient can be requested at Intake and accomplished during the person centered planning process.

SUITABLE SERVICES – CONT.

A recipient has the right to:

- Be provided notice of clinical status/progress towards goals in the IPOS;
- Not have surgery performed upon him or her without consent;
- Not be subject of electroconvulsive therapy (ECT) without the appropriate consent.
- If an individual is able to secure the services of a mental health professional, the recipient shall be permitted to see the professional at any time.

SUITABLE SERVICES – CONT.

A recipient has the right to:

- be provided opportunity to give informed consent and;
- be provided information about medication side effects prior to the prescribing of medication.
- Individuals administering medications shall be trained by the Medical Professional(s) and competent in medication administration.

INDIVIDUALIZED WRITTEN PLAN OF SERVICES (IPOS) (MHC 330.1712) (ADMINISTRATIVE RULE 330.7199)

- HBH is responsible to ensure that a person centered process is used to develop a Individual Plan of Services (IPOS) in partnership with the recipient. A preliminary plan shall be developed within 7 days of the commencement of services, or
- If a recipient is hospitalized for less than 7 days, before discharge from the hospital.
- The IPOS shall consist of a treatment plan, a support plan or both.
- A treatment plan shall establish meaningful and measurable goals with the recipient.
- The IPOS shall address, as either desired or required by the recipient, the recipient's need for food, shelter, clothing, health care, employment opportunities, educational opportunities, legal services, transportation, and recreation.
- The plan shall be kept current and shall be modified when indicated. The individual in charge of implementing the plan of services shall be designated in the plan.
- Someone dissatisfied or not in agreement with the IPOS can appeal by accessing the HBH Grievance/Dispute Resolution process(Appeal).
- Under certain circumstances an individual chosen or required by the recipient may be excluded from participation in the IPOS process.

SAFE, SANITARY, HUMANE TREATMENT ENVIRONMENT (MHC 330.1708) (ADMINISTRATIVE RULE 330.7171)(ADULT FOSTER CARE LICENSING RULES 400.14401-14403)

- Recipients have the right to receive residential services in a safe, sanitary, and humane treatment environment in the least restrictive setting. Recipients shall:
- Be supplied with toiletry articles , toothbrush and dentifrice as well as the opportunity to bathe at least every two (2) days;
- The regular services of a barber or beautician and the opportunity to shave daily.
- Receive assistance with hygiene and personal grooming practices including but not limited to bathing, tooth brushing, shampooing, hair grooming, shaving and finger and toe nail care.
- Hot water temperature no more than 105 to 120 degrees at the faucet. Assure adequate preparation and storage of food items.

HIAWATHA BEHAVIORAL HEALTH HAS "ZERO TOLERANCE" FOR ABUSE, NEGLECT, OR ANY VIOLATION OF A RECIPIENT'S RIGHT(S).

ABUSE

MHC 330.1100(A)&(C)

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.

- An act or provocation of another to act by an employee, volunteer or agent of the provider that causes or contributes to a recipient's death, sexual abuse, serious or non-serious physical harm or emotional harm.

- The use of unreasonable force on a recipient with or without apparent harm;

- An action taken on behalf of a recipient by a provider who assumes the recipient is incompetent, which results in substantial economic , material or emotional harm to the recipient;

- 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.

- 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.

- Agents of a Provider mean the people who work for agencies that contract with HBH.

ABUSE CLASS I
(AR 330.7001(A))

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, serious or non-serious physical harm or emotional harm to a recipient.

Examples of Abuse Class I include but are not limited to the following:

- Any sexual contact involving an employee, volunteer or agent of a provider and a recipient.
- The use of physical violence such as pushing, hitting, kicking, or holding that causes serious physical harm or the death of a recipient.

SEXUAL ABUSE
(AR 330.7001(S))

Sexual abuse means any of the following:

- Criminal sexual conduct as defined by section 520b to 520e of 1931 PA 318, being MCL 750.520b to MCL 750.520e involving an employee, volunteer, or agent of a provider and a recipient.
- Any sexual contact or sexual penetration involving an employee, volunteer, or agent of a department operated hospital or center, a facility licensed by the department under section 137 of the act or an adult foster care facility and a recipient.
- Any sexual contact or sexual penetration involving an employee, volunteer, or agent of a provider and a recipient for whom the employee, volunteer, or agent provides direct services.

Sexual abuse – Cont.

- Sexual contact means the intentional touching of the recipient's or employee's intimate parts or the touching of the clothing covering the immediate area of the recipient's or employee's intimate parts, if that intentional touching can reasonably be construed as being for the purpose of sexual arousal or gratification, done for a sexual purpose, or in a sexual manner for any of the following:

    1. Revenge
    2. To inflict humiliation
    3. Out of Anger

- Sexual penetration means 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.

ABUSE CLASS II (AR 330.7001(B))

Means any of the following:

1. 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.

2. The use of unreasonable force on a recipient by an employee, volunteer, or agent of a provider with or without apparent harm.

3. 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.

Abuse Class II – Cont.

- 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.
- Exploitation of a recipient by an employee, volunteer, or agent of a provider.
  - Exploitation means 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.

EXAMPLES OF ABUSE CLASS II INCLUDE BUT ARE NOT LIMITED TO THE FOLLOWING:

- Using physical management without having attempted lesser restrictive intervention de-escalation techniques prior to the use of physical management;
- Borrowing money, food or purchasing personal property from a recipient;

Definitions: AR 330.7001

Unreasonable force means physical management or force that is applied by an employee, volunteer, or agent of a provider to a recipient in one or more of the following circumstances:

- There is no imminent risk of serious or non-serious physical harm to the recipient, staff, or others.
- The physical management used is not in compliance with techniques approved by the provider or the responsible mental health agency.
- The physical management used is not in compliance with the emergency interventions authorized in the recipients IPOS.
- The physical management or force is used when other less restrictive measures were possible but not attempted immediately before the use of physical management or force.

Definitions – Cont.

- 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. Physical Management shall not be included as a component of any Behavior Plan or Individual Plan of Services.
  - 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.
  - This right can be limited but only as allowed in the IPOS following review and APPROVAL BY THE Behavior Treatment Committee.
    - Prone immobilization for the purpose of behavioral control is prohibited.

Definitions – Cont.

Time out, defined as a VOLUNTARY response to a therapeutic suggestion to a recipient to remove himself or herself from a stressful situation to another area to regain control.

Non-serious physical harm means 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.

- Bodily Function means the usual action of any region or organ of the body.

Serious Physical Harm means 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 a recipient's bodily functions or caused the permanent disfigurement of a recipient.

ABUSE CLASS III (AR 330.7001(C))

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.

Degrade-To treat humiliatingly: to cause somebody or something a humiliating loss of status or reputation, or cause somebody a humiliating loss of self esteem

- Abase, debase, demean, humble, and humiliate; to deprive of self- esteem or self-worth; to shame or disgrace.
- Degrading behavior is further defined as any language or epithets that insult the person's heritage, mental status, race, sexual orientation, gender and / or intelligence.

Sexual harassment means sexual advances to a recipient, requests for sexual favors from a recipient, or other conduct or communication of a sexual nature toward a recipient.

Threaten-

- To utter intentions of injury or punishment against a recipient.
- To express a deliberate intention to deny the well-being or safety of somebody unless the person does what is being demanded.

EXAMPLES OF ABUSE CLASS III INCLUDE BUT ARE NOT LIMITED TO THE FOLLOWING:

- Examples of behavior that is degrading, and must be reported as abuse; this list is not all inclusive:
- 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

NEGLECT (MHC 330.1100A(19))

Neglect means 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 Services.

- That caused or contributed to the death, sexual abuse of, serious, or non-serious physical harm or emotional harm to a recipient, or
- That placed, or could have placed a recipient at risk of physical harm or sexual abuse.
- The failure to report apparent or suspected abuse or neglect of a recipient.

NEGLECT CLASS I (AR 330.7001(I))

(i) 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 and/or rules, policies, guidelines, written directives, procedures, or individual plan of service and causes or contributes to the death, or sexual abuse of, or serious physical harm to a recipient.

(ii) The failure to report apparent or suspected Abuse Class I or Neglect Class I of a recipient.

EXAMPLES OF NEGLECT CLASS I INCLUDE BUT ARE NOT LIMITED TO THE FOLLOWING:

- Staff allowing a recipient to engage in self injurious behavior.
- Staff not providing necessary level of supervision thus allowing a recipient to receive burns from hot water, stove top/oven…
- Staff not providing the necessary level of supervision and the recipient is able to elope; receive serious physical harm or death.

NEGLECT CLASS II AR 330.7001(J)

- Acts of commission or omission by an employee, volunteer, or agent of a provider that result from noncompliance with a standard of care or treatment required by law, rules, policies, guidelines, written directives, procedures, or Individual Plan of Service (IPOS) and that cause or contribute to non-serious physical or emotional harm to a recipient.
- The failure to report apparent or suspected Abuse Class II or Neglect Class II of a recipient .

EXAMPLES OF NEGLECT CLASS II INCLUDE BUT ARE NOT LIMITED TO THE FOLLOWING:

- Staff not adhering to medical protocols/individual plan of service intended to keep the recipient healthy and safe.
- Staff not reporting suspected Abuse II or Neglect II of a recipient.

NEGLECT CLASS III (AR 330.7001(K))

- Acts of commission or omission by an employee, volunteer, or agent of a provider that result from noncompliance with a standard of care or treatment required by law, rules, policies, guidelines, written directives, procedures, or Individual Plan of Service (IPOS) that either placed or could have placed a recipient at risk of physical harm or sexual abuse.

- The failure to report apparent or suspected Abuse Class III or Neglect Class III of a recipient.

EXAMPLES OF NEGLECT CLASS III INCLUDE BUT ARE NOT LIMITED TO THE FOLLOWING:

- Staff using social media to Tweet, Facebook, or text, etc. while being paid to work;
- Staff sleeping or watching TV;
- Staff not buckling recipient's seat belts or correctly securing the recipient's wheelchair;
- Staff forcing a recipient to remain in a vehicle unattended, while the staff enters an establishment.
- Staff not evacuating the premises when the smoke alarm sounds or turning off the door alarms.

Reporting Abuse and Neglect

- When you see or hear or suspect that a recipient is being abused or neglected, you are obligated by law to take action immediately!
- Protecting the recipient is your primary responsibility.
  - The failure to report abuse or neglect, even if only suspected, may result in you being cited with neglect as well.

- Take action to protect the recipient.
- Report it immediately to Michigan Department of Health and Human Services (MDHHS) - Protective Services at the reporting hotline (855-444-3911), a Recipient Rights Officer, your supervisor, and law enforcement (if applicable). If your supervisor and/or the Recipient Rights Officer is not available, contact the 24 hour Crisis Line for assistance.
- Fill out a complaint form and provide it to the Office of Recipient Rights immediately.

INCIDENT REPORTS

Incident means an occurrence that disrupts or adversely affects the course of treatment and care of an individual or individuals.

Incident reports must clearly state the incident and actions taken as a result of the incident and action taken.

EXAMPLES OF INCIDENTS

- The death of a recipient;
- Any injury of a recipient, serious or non-serious;
- Medical problems such as illness, medication errors, falls, any health issues or accidents requiring medical intervention and or emergency or community care visit
- Environmental emergencies: Natural Disaster, Fire, Utility failure
- Property destruction
- Unauthorized absence/elopement
- Suspected or known criminal offenses; arrests, convictions and/or incarceration

EXAMPLES OF INCIDENTS CONT.

- Suicide, attempted suicide or any self injurious behavior
- Serious challenging, dangerous or abnormal behavior
- Use of Physical Management
- Inappropriate sexual activity including sexual assault
- Unauthorized possession of weapons
- Unauthorized use and or possession of legal or illegal substances

INCIDENT REPORTS THAT INVOLVE MEDICATION ERRORS

Be sure to include the following:

- Name of the medication;
- Prescribed dosage;
- Purpose (Seizures, Anti-Depressant etc.);
- Staff who discovered the error.
- Staff responsible for the error;
- Time Medication should have been administered, time it was administered, or why it was not administered;
- Results of contact with Poison Control, Emergency Room or Medical Professional contact ;
- Side effects - if any.

RIGHTS AND RESPONSIBILITIES

MHC 330.1755(3)(A)

- The Mental Health Code mandates that complainants, staff of the Office of Recipient Rights, and any staff acting on behalf of a recipient will be protected from harassment or retaliation resulting from recipient rights activities and appropriate disciplinary action will be taken if there is evidence of harassment or retaliation.
  - Report any suspicion of harassment or retaliation to the Office of Recipient Rights.

EMPLOYEE RIGHTS WHISTLEBLOWERS ACT

This act protects the employee who reports a rights violation. This law states it is illegal for employers in Michigan to discharge, threaten, or otherwise discriminate against an employee.

KEY POINT - COMMUNICATE

- Telephone Contacts
  - Decrease your response time. Explain when you will get back to the caller, and then do it.
  - Answer every question as if it were the first time. No one asks a question to be humiliated.
  - Do not send people away without an explanation.
  - Remember that every recipient and their family members deserve to be treated with dignity and respect.
  - Advocate for recipients.

BULLARD-PLAWECKI EMPLOYEE RIGHT TO KNOW ACT

- This act requires that you be notified when an employer divulges a disciplinary report, letter of reprimand, or other disciplinary action, about you, to a third party.

- This written notice to the employee shall be sent by mail to their last known address.

THE RECIPIENT RIGHTS COMPLAINT PROCESS
(MHC 330.1776)

When the Recipient Rights Office receives a complaint the following steps are followed:

- The Recipient Rights Officer must provide a written acknowledgment to the complainant (the person who made the complaint) within five business days.

- The Recipient Rights Officer can resolve the complaint through an **Intervention Process** only when the facts are clear and the remedy (if applicable) is clear, easily obtainable, and does not involve statutorily required disciplinary action.

THE RECIPIENT RIGHTS COMPLAINT PROCESS –CONT.

- When an investigation into an alleged violation is started, the rights officer will have access to all documentation and any staff necessary to complete the investigation.
- The officer will interview all parties involved.
- The Mental Health Code requires that an investigation be completed within 90 days from the receipt of the complaint.
- A Status Report is sent to all parties every 30 days to inform everyone of the progress of the investigation/anticipated date of completion.

The Recipient Rights Complaint Process –Cont.

- Within 10 business days from the completion of the investigation, a Summary Report will be given to the recipient, parent of a minor, guardian, with authority (if any) and the complainant when the investigation is completed. The Summary Report will list the allegations charged, contain references to citations of law or policies that may have been violated, and include the investigative findings, conclusions, recommendations, and corrective action plan.

- If substantiated, the decision about what happens to a staff member that has violated the recipient right(s)rests with the employer, not the Office of Recipient Rights.

- Preponderance of the 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 as to quantity (number of witnesses), but as to quality (believability and greater weight of important facts); more than 50 percent.

THE APPEAL PROCESS MHC 330.1784

- Within 45 days of receiving the Summary Report, the recipient, parent of a minor recipient, guardian or complainant may file an appeal with the local Recipient Rights Appeals Committee based on the following:

  - The corrective action plan is inadequate,
  - The investigation was not completed in a timely manner,
  - The findings are not consistent with the law, rules and policies.

Please note the employee accused does not have the right to appeal the decision.

- The local Recipient Rights Appeals Committee has 30 days to complete their review of the appeal and respond to the appellant {the person who filed the appeal}.

AGAIN, ASK QUESTIONS! GET CLARIFICATION!

- As stated earlier in this course you will have questions regarding a recipient's rights or the person(s) that you provide service to may have questions…..

ASK QUESTIONS!

- Do not hesitate to contact a Recipient Rights Officer by telephone, appointment or otherwise.
- Contact information for the Recipient Rights Officer is on the next slide as well as posted in conspicuous areas at all of the service sites.

GOOD LUCK WITH THE TEST!

HIAWATHA BEHAVIORAL HEALTH RECIPIENT RIGHTS

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Department of Health and Human Services – Protective Services Abuse/Neglect hotline 855-444-3911

Test

Upon closing this window, you will be taken to the test.