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<b>Title</b>	<b>Northern Lakes CMH Policies</b>
<b>Part 106</b>	<b>Supports and Services – NLCMH Provided and Contract</b>
<b>Subpart J</b>	<b>Mental Health Code Protected Recipient Rights</b>
<b>Policy No.</b>	<b>106.1019</b>
<b>Subject</b>	<b>Consent for Services to Minors (RR)</b>

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### **Applicability**

Policy applies to all NLCMH activities, operations and sites and to all Workforce Members except members of the governing body. Policy also applies to any Network Provider and its employees, volunteers, or agents that has elected to adopt and adhere to NLCMH policies and procedures pertaining to Recipient Rights under the terms of its Participating Provider Agreement.

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### **Policy**

Northern Lakes CMH and its contracted providers shall assure that consent is sought and granted prior to the provision of any mental health service, treatment, or support to a minor recipient in accordance with the Michigan Mental Health Code [PA 258 of 1974, MCL 330.100a(17)] and Michigan Department of Community Health Administrative Rule 7003.

#### STANDARDS:

- A. In all instances consent for services to minors shall be obtained in accordance with Northern Lakes CMH Policy and Procedure 106.1319, Informed Consent.
- B. A legally emancipated minor shall be presumed to be legally competent and may consent to any mental health service.
- C. Pursuant to Section 707 of the Mental Health Code, a minor fourteen (14) years of age or older may request and receive mental health services and a mental health professional may provide mental health services without the consent or knowledge of the minor's parent, guardian, or person in loco parentis subject to the following limitations and conditions:
  1. Services are limited to those provided on an outpatient basis, excluding pregnancy termination referral services and the use of psychotropic drugs.
  2. The provision of these services is limited to not more than twelve (12) sessions or four (4) months per request for services. The minor's parent, guardian, or person in loco parentis is not liable for the costs of these services.

3. Services provided to a minor without the knowledge or consent of the minor's legal representative shall, to the extent possible, promote the minor's relationship to the parent, guardian, or person in loco parentis, and shall not undermine the values he or she has sought to instill in the minor.
  4. Except with informed consent of the minor, the minor's parent, guardian, or person in loco parentis shall not be informed of the services provided without the consent of the minor unless the mental health professional treating the minor determines that there is a compelling need for disclosure based on a substantial probability of harm to the minor or to another individual, and if the minor is notified of the mental health professional's intent to inform the minor's parent, guardian, or person in loco parentis.
  5. The prohibition on disclosure to the minor's parents without the minor's consent does not relieve a mental health professional from his or her duty to report suspected child abuse or neglect under section 3 of the child protection law, Act No. 238 of the Public Acts of 1975, being section 722.623 of the Michigan Compiled Laws.
  6. After the twelfth session or fourth month of services the mental health professional shall terminate the services or, with the consent of the minor, notify the parent, guardian, or person in loco parentis to obtain consent to provide further outpatient services.
- D: In lieu of the minor's right to consent to mental health services under the conditions listed above, the parent with legal custody of a minor has the authority to consent to mental health treatment (including psychotropic medications) for the minor if the parent's rights have not been otherwise delegated by the parent or limited by a court order with respect to medical decisions, as follows:
1. Pursuant to the Estates and Protected Individual's Code (PA 386 of 1998, MCL 700.5103), a parent or guardian of a minor may delegate powers regarding care or custody of the minor to another person for a period not exceeding 6 months by means of a properly executed power of attorney. A person granted powers under a properly executed power of attorney may consent to mental health treatment (including psychotropic medications), but only during the effective period and only within the scope of the delegated powers.
  2. A guardian of a minor who has been appointed pursuant to the Michigan Estates and Protected Individual's Code (PA 386 of 1998, MCL 700.5205) with the authority make medical decisions has the authority to consent to mental health treatment (including psychotropic medications).
  3. If a parent with legal custody of a minor or a guardian of a minor with medical decision-making powers has voluntarily placed the minor in out-of-home care under the authority of the Michigan Social Welfare Act (PA 280 of 1939 MCL 400.115c), pursuant to the Michigan Child Caring Organizations Act (PA 116 of 1973, MCL 722.124a) only the parent with legal custody or the guardian of a minor as

described above has the authority to consent to mental health treatment (including psychotropic medications).

4. If the court has taken jurisdiction of the minor under the authority of the Michigan Probate Code (Act 288 of 1939, MCL 712A.1 to 712A.32), either as a Temporary Court Ward (for neglect or delinquency) or as a Permanent Court Ward, or has taken permanent jurisdiction of the minor under the authority of the Youth Rehabilitation Services Act (PA 150 of 1973, MCL 803.303 et seq.) either as a Permanent Court Ward or as a State Ward (MCI and MCI-O), the court will designate, by court order, the "care, custody, and control" of the minor to either the Family Division of the Circuit Court or the Department of Human Services (or its designated child placing agency). In these cases, the authority to consent is as follows:
  - a. For all wards, the authority to consent to routine, non-surgical medical care, (which includes mental health treatment, but excluding psychotropic medications), rests with the Court, the DHS or its designated child-placing agency.
  - b. For Permanent Court Wards or MCI Wards, the authority to consent for psychotropic medications rests only with the court-appointed supervising agency.
  - c. For temporary wards, the supervising agency must seek to obtain parental consent for psychotropic medication. If the parent with legal custody is not available, a worker from the supervising agency may sign for psychotropic medication only as a condition of admission for an emergency psychiatric hospitalization. If psychotropic drugs are prescribed for continued use upon discharge from a hospital or as a result of outpatient treatment, parental consent is required. If the parents are unavailable to give consent or refuse to consent, psychotropic medications may not be prescribed or administered to the minor unless the court has specifically granted consent following a motion to this effect from the DHS legal counsel (Refer to the procedures section for a decision-making grid for consent for minors in out-of home placements).

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## Procedures

### CONSENT FOR MINORS IN OUT-OF-HOME PLACEMENTS:

The following is a decision-making grid for determining who has the legal authority to consent to mental health treatment for minors when the minor is in an out-of-home placement:

Type of Ward	Authority to Consent to Mental Health Treatment	Authority to Consent to Psychotropic Medication
Voluntary Placement	Parent, Durable Power of Attorney, Legal Guardian, or minor recipient age 14 or older	Parent or Legal Guardian

Temporary Court Ward (Neglect or Delinquent)	Agency*/ Child Care Institution**	<ul style="list-style-type: none"> <li>• Outpatient – Parent or Legal Guardian</li> <li>• Emergency psychiatric hospitalization only when parent is not available – Agency*</li> </ul>
Permanent Court Ward	Agency*/ Child Care Institution**	Agency*
State Ward/MCI	Agency*/ Child Care Institution**	Agency*
State Wards/MCI-O and Act 150	Agency*/ Child Care Institution**	Agency*

(Reference Source – Childrens Foster Care Manual DHS CFF 722-11)

\* Agency refers to DHS agency, private child placing agency or the Family Division of the Circuit Court.

\*\* Child Care Institution refers to a private child-care or DHS Institution

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