

# INTRODUCTION TO RECIPIENT RIGHTS





# About This Course

- This course is a self-guided introduction to the legal rights guaranteed to recipients of community mental health services.
- It will take you about one hour to read and another 10 minutes or so to complete the test.



## Training Requirements

- ✓ All employees, contract employees, and volunteers of Northern Lakes CMH or of any of its contracted providers are required to successfully complete this training no later than within **30 days** of hire or contract initiation.



# Training Requirements

- Additionally, any employee, contract employee or volunteer of NLCMH or of a contract provider who provides or supervises any of the services listed below are required to attend and successfully complete **classroom training** in Recipient Rights no later than within **120 days** after the completion date of this initial training:
  - ➔ Clinical services (e.g., Access, Emergency Services, Targeted Case Management, ACT, Individual, Group, or Home-Based, Therapy, Psychiatry, Psychology, Nursing, etc.) in outpatient or community-based settings.
  - ➔ Habilitation services (e.g., Personal Care, Community Living Supports, etc.) in Specialized Residential, Supported Independent Living, or Independent Living settings.
  - ➔ Rehabilitation services (e.g. Clubhouse, Prevocational Workshop, Supported Employment, Day Program, etc.) in program settings.
  - ➔ Peer- Delivered or Peer Support services in a drop-in center or outpatient settings.



# Training Requirements

**ALSO:**

**ALL** employees, contract employees, and volunteers of NLCMH or of a contract provider are required to successfully complete refresher training in Recipient Rights at least **ANNUALLY**.

If you have questions or for more information on scheduled trainings, please contact the Northern Lakes CMH Training Department at  
231-876-3249

or go to

<http://www.northernlakescmh.org>





# Course Objectives

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As a result of this training you will:

- Have a basic understanding of the rights guaranteed to all citizens
- Have a basic understanding of the additional rights guaranteed to persons receiving public mental health services in Michigan
- Have a basic understanding of your responsibilities to promote and protect these rights
- Understand how to access Recipient Rights policies and procedures and how to obtain more specific information about your responsibilities to protect the rights of recipients
- Understand when and how to report a rights violation
- Understand how to contact the Northern Lakes CMH Office of Recipient Rights

# Why Rights?



*“Over 650 million persons around the world [roughly 10% of the world’s population] live with disabilities in every region in the world, in every country in the world...Persons with disabilities often live on the margins of society, deprived of some of life’s fundamental experiences. Persons with disabilities are still primarily viewed as objects of welfare or medical treatment rather than holders of rights...Despite being theoretically entitled to all human rights, persons with disabilities are still, in practice, denied those basic rights and fundamental freedoms that most people take for granted....Persons with disabilities enjoy the same human rights as everyone else and are able to lead their lives as full citizens who can make valuable contributions to society if given the same opportunities as others.”*

**“From Exclusion To Equality: Realizing the rights of persons with disabilities,”  
Handbook for Parliamentarians on the Convention on the Rights of Persons with Disabilities and  
its Optional Protocol; United Nations Office of the High Commissioner for Human Rights; 2009**

# Promoting and Protecting Rights Is Your Responsibility



In legal terms, the individuals we serve are called **“recipients.”**

You may also sometimes hear people refer to recipients as “consumers,” “clients,” “patients,” “residents,” “persons with disabilities,” or by their specific diagnostic label. In truth, they are human beings, fellow citizens, and our neighbors – real people with real lives.

The Mission of Northern Lakes Community Mental Health is “To promote the behavioral health of individuals, families, and communities through programs that promote recovery, build resilience, create opportunity, and improve quality of life.”

As an employee, contract employee, or volunteer of Northern Lakes Community Mental Health or of any of its contracted providers, one of the most important ways you can help fulfill this mission is to promote and protect the human and legal rights of recipients.

This is your legal and ethical obligation.





# THE OFFICE OF RECIPIENT RIGHTS



# The Office of Recipient Rights

- Under Michigan law, the Department of Community Mental Health and each Community Mental Health Services Program and Licensed Psychiatric Hospital must establish an Office of Recipient Rights.

## **The Northern Lakes CMH Office of Recipient Rights has the Legal Authority and the Responsibility to:**

- **PREVENT** rights violations by acting as a consultant to the Northern Lakes CMH Chief Executive Officer, the Board of Directors, the Recipient Rights Advisory Committee, and to providers of services.
- **MONITOR** all services provided by or under contract with Northern Lakes CMH to ensure that the rights of recipients are being promoted and protected.
- **INVESTIGATE** reports and complaints of apparent or suspected rights violations and determine whether or not a rights violation occurred.
- **ENFORCE** the Michigan Mental Health Code by assuring that remedial action is taken when rights violations are substantiated.

# **The Office of Recipient Rights**

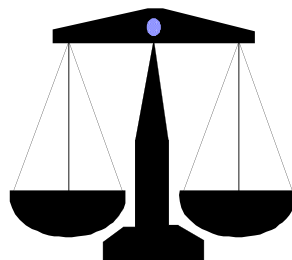
- You should contact the Office of Recipient Rights whenever you have questions about Recipient Rights.
- You must immediately report to the office if you witness or receive information about any occurrence that is or could be a rights violation.

**Northern Lakes Community Mental Health  
Office of Recipient Rights  
105 Hall Street, Suite A  
Traverse City, MI 49684**

**Rights Access Line: 231-935-3873**

**Traverse City: 231-935-4185 FAX: 231-935-3082**

**Cadillac: 231-876-3251 FAX:231-775-1692**

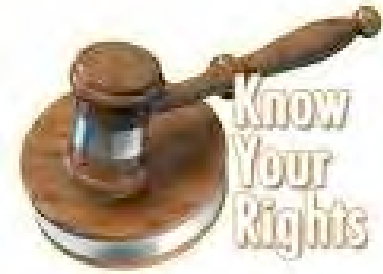




# THE LEGAL BASIS FOR RIGHTS



# What is a right?



- When we talk about “**rights**,” we mean something that an individual or a class of individuals is **guaranteed by law, within limits prescribed by law.**
- **All rights fall into one of three categories:**
  - Something an individual can **DO** by law (freedom to... or freedom of...).  
For example, the right to vote or freedom of speech.
  - Something an individual can **HAVE or RECEIVE** by law (entitlements).  
For example, the right to a free and public education.
  - A **PROTECTION** under law (freedom from...).  
For example, the right to freedom from abuse.

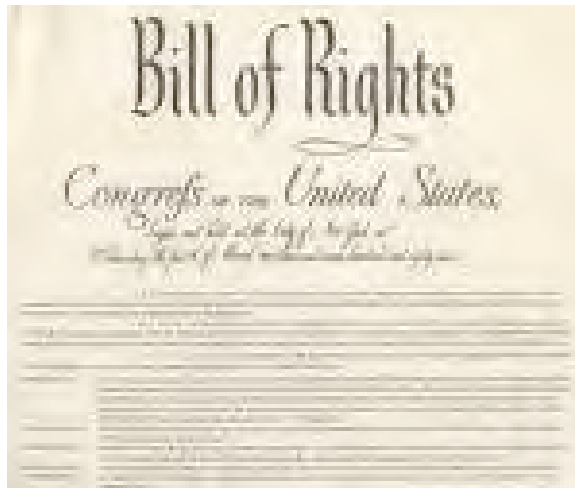
# What is a right?

- It can be freely **EXERCISED**
  - The right can be freely used or applied without impediment.
- It can be legally **ENFORCED**
  - There is a fair process and mechanism by which others can be compelled to honor the right.
- There is a **REMEDY**
  - Actions are taken to correct the rights violation and prevent a recurrence.





# Constitutional Rights



- A recipient has all of the same rights afforded to any person under the Constitution of the United States and the Constitution of the State of Michigan.
- The fact that a recipient is receiving mental health services, even if the recipient has a guardian or is court-ordered to treatment, does not nullify these rights.

# Constitutional Rights include, among others:

- The right to freedom of speech
- The right to freedom of association
- The right to freedom of religion
- The right to due process of law
- The right to equal protection under law
- The right to be paid for one's labor
- The right to privacy
- The right to be free from unreasonable search and seizure
- The right to vote
- The right to a free public education



# Other Important Federal and State Laws

A recipient also has rights guaranteed by any other law, rule, or regulation. Some of these laws of special importance to persons with disabilities include:



## Federal Laws:

- Americans with Disabilities Act (ADA) of 1990 – prohibits discrimination on the basis of disability and requires accommodations in employment, education, housing, public transportation, and other public services.
- Section 504 of the Rehabilitation Act of 1973 - prohibits discrimination on the basis of disability in programs receiving Federal financial assistance.
- Fair Housing Act of 1988 - prohibits housing discrimination on the basis of disability, race, color, religion, sex, familial status, and national origin.



# Other Important Federal and State Laws

## Federal Laws (continued):

- Civil Rights of Institutionalized Persons Act (CRIPA) of 1997 - authorizes investigation of state and local government institutions such as prisons, jails, pretrial detention centers, juvenile correctional facilities, publicly operated nursing homes, and institutions for people with psychiatric or developmental disabilities.
- Voting Accessibility for the Elderly and Handicapped Act of 1984, the National Voter Registration Act of 1993, and the Help America Vote Act (HAVA) of 2002 – all of these laws reinforce the voting rights of persons with disabilities.
- Individuals with Disabilities Education Act (IDEA) – guarantees a free and appropriate public education to children with disabilities in the least restrictive environment.
- Section 42 of the Code of Federal Regulations - governs the provision of services to and the rights of Medicaid beneficiaries.



# Other Important Federal and State Laws

## Michigan Laws:



- Michigan Persons with Disabilities Act of 1976 - defines the civil rights of persons with disabilities and prohibits discriminatory practices, policies, and customs in the exercise of those rights.
- Michigan Estates and Protected Individuals Code of 1998 – defines and guarantees the rights of persons found to be legally incapacitated; allows a person to execute “advance directives,” specifically, a durable power of attorney for medical care and/or for mental health care.
- Michigan Mental Health Code of 1974 - which we will explore in depth in this training.

# Michigan Mental Health Code



- Michigan's law governing public mental health services is called the Michigan Mental Health Code (Public Act 258 of 1974, as amended).
- This law specifies how mental health services must be provided by or under contract with the Department of Community Health, a Community Mental Health Services Program, or a Licensed Psychiatric Hospital. It also creates law governing guardianship for persons with a developmental disability and for voluntary or involuntary commitment of adults and minors in a psychiatric hospital or center.
- Chapter 7 of the Mental Health Code is titled, "Rights of Individuals Receiving Mental Health Services."
- Many of the rights in this chapter are further defined in the Michigan Department of Community Health Administrative Rules, especially those rules in Part 7, which have the force of law.

# Northern Lakes CMH Policies and Procedures



- All of the rights guaranteed in Chapter 7 of the Mental Health Code and Part 7 the Administrative Rules are contained and further clarified in Northern Lakes CMH Policies and Procedures. You are required to read and follow them. Recipient Rights policies are required to be available to you at your workplace and you can also find them on the Northern Lakes CMH website:

<http://www.northernlakescmh.org>

- Not all of the rights spelled out by these policies and procedures are covered by this training, nor are the ones included in this training covered in full. You should refer to policies and procedures and consult with the Office of Recipient Rights whenever you encounter situations where you need specific clarification about how to promote and protect recipient rights.

# Treatment and Support Rights

Chapter 7 of the Mental Health Code guarantees that, in addition to Constitutional and other legal rights, recipients have specific rights pertaining to their mental health treatments and supports.

These include:

- The right to be treated with dignity and respect.
- The right to receive services suited to condition.
- The right to confidentiality.
- The right to a person-centered planning process.
- The right to an individualized written plan of services.
- The right to live in the least restrictive environment.
- The right to give informed consent or to refuse treatment.
- The right to a safe, sanitary, and humane treatment environment.
- The right to be free from abuse or neglect.
- The right to protection from rights violations.
- The right to be notified of these and other rights.





# Rights in Balance

The law recognizes a delicate balance between your obligation to honor a recipient's freedoms and liberties with your obligation to protect the recipient and others from harm.



It is essential that you understand if, when, and how a recipient's rights may legally be restricted or limited in order to avoid committing a rights violation.

# Rights in Balance



- A right is **guaranteed** by law. A right is not a privilege, a gift, or something that the recipient must earn.
- Some rights are **INALIENABLE**:  
These are rights that can never be taken away, restricted, or limited in any circumstance or under any condition.

**Example:** A provider cannot legally restrict or limit a recipient's right to be treated with dignity and respect.

- Other rights are **LIMITABLE**:  
These are rights that must be honored but which may be restricted or limited in certain circumstances and under certain conditions specified by law.

**Example:** A recipient's right to confidentiality may be limited in certain situations.

# Rights in Balance



As a general guideline, a recipient's **LIMITABLE RIGHTS** may be restricted or limited only:

- If required by a **program's written rules** if the restriction or limitation is legally allowed by law, rule, and NLCMH policy;

OR

- If approved in the recipient's **Individual Plan Of Services** if the restriction or limitation is legally allowed and after review and approval by the NLCMH Behavior Treatment Committee;

OR

- In an **emergency safety situation** if necessary to prevent immediate or imminent physical harm to the recipient or others;

AND

- When **positive approaches** are possible and have been tried but are unsuccessful;
- Using the **least restrictive** strategies;
- When **legal justification** for the restriction or limitation is documented in the recipient's record;
- When accompanied by **treatment and support** to eliminate the need for the restriction or limitation;
- When the recipient's **rights are reinstated** as soon as the restriction or limitation is no longer justified.

# ACCESS TO SERVICES



# Access to Services

Individuals who have a legal right to receive Community Mental Health Services include:

- Adults with a **Serious Mental Illness**
- Children and adults with a **Developmental Disability**
- Minors with a Serious **Emotional Disturbance**





# Access to Services

Priority for services is given to persons with the most serious forms of these disorders.



Recipients cannot be denied services based on their **ability to pay** or their insurance status.

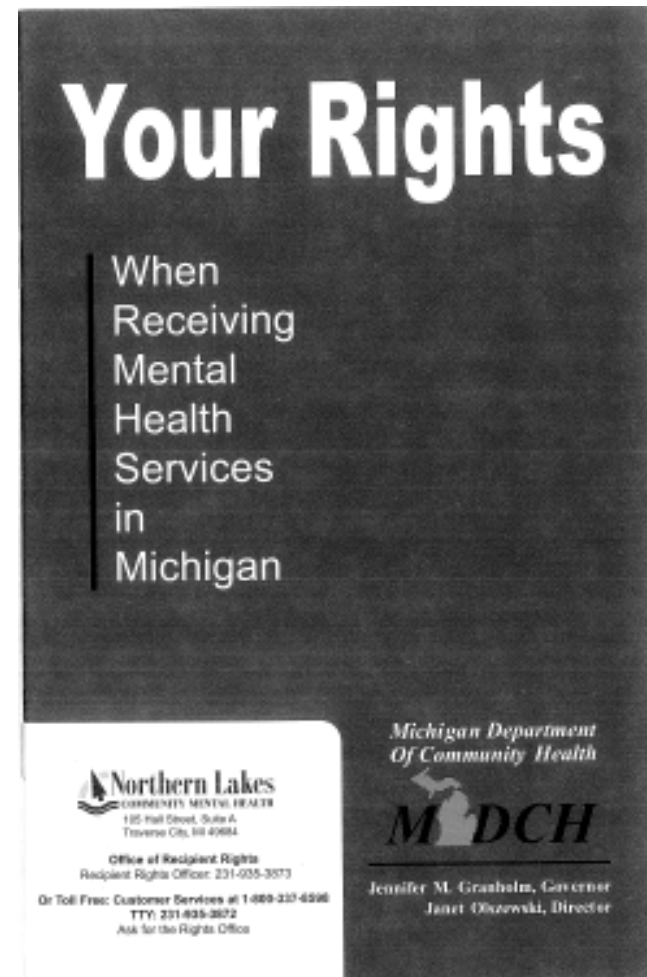


Individuals first applying for services and current recipients requesting additional services, including hospitalization, have the right to be notified both orally and in writing of their right to a **Second Opinion** by a qualified health professional.



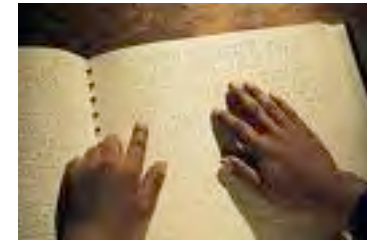
# Notice of rights

- A recipient (and, if applicable, a recipient's legally empowered representative) has the right to be given information about his or her legal rights at the time the recipient **first applies for services** and, at a minimum, **annually thereafter**.
- The recipient has a right to receive this notice **in writing** (a copy of the "Your Rights" booklet must be given to the recipient).
- The recipient also has a right to an **oral explanation** of his or her rights in a manner he or she can understand.

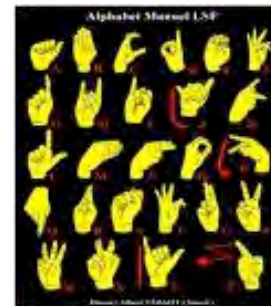


# Notice of rights

- Individuals with limited English proficiency and/or with sensory impairments have the right to be provided material about their rights in their own language or by other means.



- Alternative formats include Spanish, Arabic, Audio, CD ROM, Braille, and translation services.



# Notice of rights

Workforce Members must educate recipients, legal representatives, and family members about recipient rights whenever an issue arises or the individual expresses a question that pertains to rights.



**RIGHTS**

# Choice of Provider



A recipient has the right to a choice of service providers and, upon request, to change providers.

This request must be honored within certain limits established by Northern Lakes CMH policy and procedure.



# TREATMENT AND SUPPORT ENVIRONMENT



# Dignity and Respect

A recipient and a recipient's family members have an inalienable right to be treated with dignity and respect.

**What is dignity?**

- **Dignity** is defined as the unconditional value of an individual.



**What is respect?**

- **Respect** is defined as a demonstrated attitude and communication that promotes an individual's dignity.



# Dignity and Respect

You are expected to conduct yourself in a professional and courteous manner at all times when interacting with recipients and their family members. This sometimes requires being mindful of your personal reactions, beliefs, and values.

Examples of staff not treating recipients or their family members with respect include:

- Rudeness
- Sarcasm
- Teasing
- Making judgmental comments about a recipient's characteristics
- Ignoring or showing disregard for a recipient's requests
- Not honoring a recipient's culture or beliefs
- Applying negative stereotypes to a recipient



# Treatment Environment

A recipient has the right to receive services in an environment that is:



- **Safe** - You must act to ensure the welfare and safety of recipients by carefully monitoring the treatment or support environment for potential hazards, by assessing a recipient's potential for harm to self or others, and by intervening in legal and appropriate ways.
- **Sanitary** - You must maintain good personal hygiene and ensure that all treatment and support environments are maintained in accordance with public health standards.
- **Humane** - Services must be provided in environments where recipients feel safe, valued, encouraged, hopeful, and empowered.

# Treatment Environment

Every recipient has the right to live and receive services in the **LEAST RESTRICTIVE** and the **MOST INTEGRATED** treatment environment appropriate to the recipient's condition.

An integrated setting is one that allows recipients to interact with non-disabled persons to the maximum extent possible.

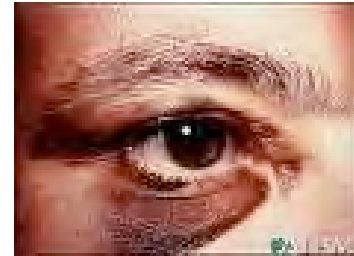
Services must promote the full inclusion and integration of recipients in the broader community and not be used as punishment or confinement.





# Freedom from Abuse and Neglect

**A recipient has the right to be free from any type of abuse or neglect.**



- All Workforce Members are expected to understand how to recognize and respond to a situation involving the apparent or suspected abuse or neglect of a recipient.
- A Workforce Member who engages in any abuse or neglect of a recipient will receive appropriate discipline, up to and including termination.
- Exact legal definitions are found in the Northern Lakes CMH Policy and Procedure Manual, but for the purposes of this training you should understand Recipient Abuse or Neglect as any of the following:

# Recipient Abuse

- Any non-accidental act that causes or contributes to death, serious or non-serious physical harm (including pain), or emotional harm to a recipient.
- Sexual Abuse of a recipient, including any intentional touching of a recipient's or an employee's intimate body parts or the clothing over those body parts for the purpose of arousal or gratification or for revenge, to humiliate, or in anger.
- Unreasonable force on a recipient, with or without harm.
- Exploitation of a recipient's property or funds.
- Treating a legally competent recipient as if he or she is incompetent.
- Using language or other communication to threaten or degrade a recipient.
- Using language or other communication to sexually harass a recipient, including making sexual advances, requests for sexual favors, or any other conduct or communication of a sexual nature toward or about a recipient.

# Recognizing and Avoiding Recipient Abuse

## **Some examples of abuse include:**

- Hitting, slapping, biting, poking, kicking, pushing, pulling, grabbing, tripping, or using weapons on a recipient, or provoking someone else to do the same.
- Yelling, screaming, badgering, swearing at, or making faces at a recipient.
- Engaging in sexual acts with a recipient, with or without the recipient's consent.
- Touching a recipient's intimate bodily parts for reasons other than to provide personal care to the recipient.
- Making sexual comments to a recipient.
- Making remarks or exposing a recipient to a situation that could cause the recipient to suffer emotional distress.
- Any criminal act perpetrated on a recipient.

# Recipient Neglect

For the purposes of this training you should understand Recipient **Neglect** as any of the following:

- Any act or failure to act that was not in compliance with a standard of care required by law, rule, policy, procedure, written guideline, written directive, or a recipient's Individual Plan of Services...
  - that causes or contributes to:
    - Death of a recipient
    - Serious or non-serious physical harm, including pain, to a recipient
    - Emotional harm to a recipient
    - Sexual abuse of a recipient
  - OR
  - that places or could place a recipient at risk of physical harm.
- The **failure to report** the apparent or suspected abuse or neglect of a recipient.

# **Recognizing and Avoiding Recipient Neglect**

## **Examples of neglect include:**

- Leaving a recipient, who has been assessed as requiring supervision, unattended.
- Not administering the proper medication or the correct dosage of a medication, to a recipient.
- Not developing an Individual Plan of Services for a recipient.
- Not providing a service as agreed to and required by recipient's Individual Plan of Services, putting the recipient or other recipients at risk of harm.
- Being aware of the possible abuse or neglect of a recipient but not immediately reporting it to the Office of Recipient Rights.

# CIVIL RIGHTS





# Civil Rights

A violation of any of a recipient's civil rights is also a violation of his or her recipient rights.



A recipient has the right to conduct any personal or business affairs and to exercise any legal right that has not been limited or taken away by a court of law.

# Civil Rights

## You may NOT:

- Prevent a recipient from engaging in a religious practice of his or her choice or require the recipient to participate in a religious practice.
- Interfere with the right of any recipient to have friends of the recipient's choice or enter into a relationship, marry, or to obtain a divorce.
- Discriminate against a recipient on the basis of age, color, height, national origin, physical or mental disability, sex, religion, race, weight, or on any other basis.



# Civil Rights

## You must:

Ensure that recipients have access to accommodations for their disabilities.



Offer assistance to an adult recipient in registering to vote and to participate in the electoral process.

# Civil Rights

## Competency

- An adult recipient who has not been appointed a guardian is:

### **PRESUMED LEGALLY COMPETENT**

This means the person has legal authority to make all life decisions.



# Civil Rights

## Guardianship



- A recipient for whom a court has been appointed a full or limited guardian has the right to make any decision outside of the guardian's authority as stated in a court order.
- A guardian cannot require you to do something that would violate a recipient's rights.
- You are prohibited from petitioning a recipient for any form of guardianship unless it has been determined that the recipient is unable to make informed decisions and there are no alternatives to guardianship available.
- Providers must petition the court to eliminate a guardianship or reduce the scope of the guardianship when a recipient is able to give informed consent.

# Civil Rights

## Court-Ordered Treatment



- A recipient who is ordered by a court to receive treatment (a “person requiring treatment”) is not legally incompetent.
- A recipient who is court-ordered to treatment can still make decisions about treatment and their life in areas outside of the scope of the order, even if this involves choosing to not to comply with the court order.
- You are not an agent of the court. However, you may be required to notify the court if the recipient is not complying with the order.

# CONFIDENTIALITY





# Confidentiality



**A recipient has the right to expect that information about his or her mental health services will be kept CONFIDENTIAL.**

In most cases, information **in the record of** or **known about a recipient** (including any personally identifying treatment information or other data) cannot be disclosed (given out) to anyone without the express consent of the recipient or his or her legally empowered representative.

This informed consent must be documented on an approved **authorization to disclose confidential information** form.



# Confidentiality

You may disclose confidential recipient information outside of Northern Lakes CMH or its contracted provider network **without prior informed consent ONLY** in the following situations:

- In an emergency - to health providers or law enforcement - when there is substantial risk of harm to a recipient or others
- When making a legally required report of child or vulnerable adult abuse or neglect to the Department of Human Services or when reporting criminal abuse of a recipient to law enforcement
- When a court has ordered the information to be released
- To a prosecuting attorney for civil commitment proceedings
- When a mental health professional has a duty-to-warn
- If needed for reimbursement to NLCMH or a provider under contract for the cost of treatment
- If the recipient dies and his or her surviving spouse or other close relative needs the information to apply for and receive benefits
- To Michigan Protection and Advocacy Services for abuse or neglect investigation



# Confidentiality



## **Additionally,**

- You must document each instance when confidential information is disclosed, including:
- The information released
- To whom the information is released
- The purpose claimed by the person for requesting the information and a statement disclosing how the disclosed information is germane to the purpose
- The section of the Mental Health Code, or other state law, under which a disclosure was made
- A statement that the receiver of disclosed information was informed that further disclosure shall be consistent with the authorized purpose for which the information was released

# Confidentiality

You also have the obligation to ensure that confidential information is secure and not open to inspection by persons not authorized to see it.



**Family members** have the right to give information to a provider about a recipient, but information about the recipient may not be shared with the family member without the consent of the recipient or their legally empowered representative.

# Access to Record

- An adult recipient who does not have a guardian appointed for mental health treatment decisions has the right to access his or her mental health records. This request must be honored. If you receive a request from a recipient for access to or copies of his or her record you should refer to NLCMH Confidentiality and disclosure policy and procedures.
- If a recipient gains access to his or her record and objects to anything in it, the recipient has the right to insert a statement into the record correcting or amending the record.



# SERVICES SUITED TO CONDITION



# Services Suited to Condition

A recipient has the right to receive mental health services that are appropriate to his or her individual condition.

These services must be provided in accordance with standards of care or treatment. In Community Mental Health Services, the **standard of care or treatment** means:

*The diagnostic, treatment, and support process that each mental health provider must follow for each recipient, applicable to the unique needs and condition of the recipient, and the clinical and life circumstances surrounding services provided to the recipient.*

Specific standards of care or treatment are found in:

- Laws, rules, and regulations
- NLCMH and provider agency policies and procedures
- Written guidelines
- Written directives
- Each recipient's Individual Plan of Services





# **Examples of not providing Treatment Suited to Condition are:**

- Failing to ensure that an Individual Plan of Services includes services and supports appropriate to a recipient's needs;
- Failing to provide treatments or supports to a recipient as specified in a recipient's Individual Plan of Services;
- Failing to follow policies, procedures, guidelines or directives specifying how services are to be provided;
- Not documenting services provided.

# Informed Consent

A recipient has the right to make informed decisions about the services, treatments, and supports he or she will receive. This happens at many stages of service delivery, including:

- When services are first initiated
- When an preliminary plan of services is developed
- When an individual plan of services is developed or modified
- When releasing confidential information
- When medication is prescribed
- When any other agreement is made with the recipient
- When there are new circumstances that change the risks or benefits



# Informed Consent

You must understand and follow all of the basic elements of the informed consent process:

- **Competency -**

You must determine who has the legal authority to grant or refuse consent (a legally competent adult recipient, the guardian of a recipient with mental health decision-making authority, the parent with legal custody of a minor, or a designated patient advocate for an incapacitated recipient).

- **Knowledge –**

An individual or his or her legally empowered representative must be given detailed information in an understandable manner about the benefits, risks, and alternatives in order to make an informed decision.

- **Understanding -**

An individual must be able to appreciate the personal implications of granting or refusing consent.

- **Voluntariness -**

Consent must be freely given without coercion or threats. A recipient may withdraw consent at any time without negative consequences.

# Informed Consent

In most cases, consent must be documented by a **written agreement** from the recipient or his legally empowered representative. **Verbal consent** is only valid if there is a **third party witness** (other than the person seeking consent) who documents that verbal consent has been granted. Verbal consent should not be used as a substitute for written consent when it can be obtained.



A person who is receiving services under a court order must be offered the opportunity to consent or refuse to consent. Only those treatments specifically required by the court order may be provided if the recipient refuses other services recommended by treatment providers.

# TREATMENT PLANNING RIGHTS



# Person-Centered Planning

A recipient has the right to be an equal and active partner in planning for services. This process is called "Person-Centered Planning," or "PCP" for short.



- Person-Centered Planning is a **process** for planning and supporting a recipient that honors his or her ability and right to be part of his or her community by focusing on the recipient's strengths, abilities, preferences, and choices.
- Person-Centered Planning starts by helping the recipient identify his or her hopes and dreams.
- This results in the development of a plan to help the recipient overcome obstacles to achieving his or her goals.

# Person-Centered Planning

The recipient has a right to decide who he or she would like to be involved in the person-centered planning process. These persons might include family members, friends, and professionals.

The only time any of these persons may be excluded is if there is a documented substantial risk of harm to the recipient or to others, or a substantial disruption of the planning process.



The recipient also has the right to decide when and where there person-centered planning meetings will be held, what topics are discussed, and who will record them. Recipients have the right to choose person who will act as an "independent facilitator" of the person-centered planning process.



# Rights of Minors

Minors under the age of 18 also have the right to person-centered planning, but this also involves the minor's family and focuses on the minor as part of his or her family through "family-centered practice."



- Services provided to minors must be delivered in a way that does not undermine the values of the minor's parents.
- Minors age 14 years of age or older may receive certain mental health services (except for medications and family planning services) for a certain period of time (12 months) without the knowledge or consent of their parent or legal guardian, except in certain circumstances where the minor recipient or others are at substantial risk of harm.

# Individual Plan of Services

Every recipient has a right to an **Individualized Written Plan of Services** (“IPOS”).

- The IPOS is an informed consent to treatment and a contract between Northern Lakes CMH and the recipient and all of the providers of services to the recipient.



The IPOS is so important that the law describes it as **“the fundamental document in a recipient’s record.”**

# Individual Plan of Services

The Individual Plan of Services guides how services, treatments, and supports will be provided to the recipient.



**It is based on:**

- A comprehensive assessment of the recipient's needs

**AND**

- The Person-Centered Planning process.

# Individual Plan of Services

- A preliminary Individual Plan of Services must be developed within 7 days of admission to services.
- A more comprehensive Individual Plan of Services is developed, in most cases, within no more than 30 days.
- A recipient has a right to receive a copy of his or her IPOS within 15 days after it is formally agreed to by the recipient or the recipient's legal representative and the Community Mental Health Services Program.



# Individual Plan of Services

**The Individual Plan of Services must include, among other things:**

- The services (treatments and supports) requested by the recipient;
- Meaningful goals as stated by the recipient;
- Measurable objectives toward these goals;
- Each of the services (treatments and supports) that will be provided to the recipient;
- When these services will start, when they will be provided, who will provide them, and for how long;
- Specific strategies to be implemented by providers to meet any of the recipient's needs and desired outcomes identified during assessment and person-centered planning;
- Any limitations or restrictions on the recipient's rights.

# Individual Plan of Services

The IPOS must be reviewed periodically with the recipient at a frequency specified in the IPOS.

The frequency of review must be individualized.

The review must occur **both orally and in writing** and in a way that the recipient can understand.



# Individual Plan of Services

Recipients have the right to give feedback about the services, supports, and treatments they are receiving and whether changes need to be made to the IPOS.



If a recipient is dissatisfied with services, he or she has the right to review his or her IPOS at any time prior to the scheduled review date. This review must occur through a person-centered planning process as soon as possible but no later than within 30 days of the date the recipient formally requests a review or informally expresses dissatisfaction.

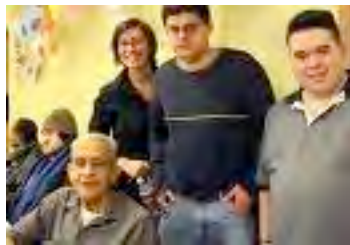


# Individual Plan of Services

The Individual Plan of Services must be kept current and be updated whenever the recipient's needs change, when requested by the recipient, and when new treatment interventions, supports, or services are agreed to.



# **ADDITIONAL RIGHTS IN SPECIALIZED RESIDENTIAL OR OTHER PROGRAM SETTINGS**



# Medication



A recipient has the right to receive medications as ordered by his or her physician(s).

- Only those medications ordered by a physician may be given to a recipient and they must be given as prescribed.
- Medication errors must be properly documented and reported.
- Medication may not be used:
  - ✓ As punishment
  - ✓ For the convenience of staff
  - ✓ As a substitute for other appropriate treatment

# Freedom of Movement

- A recipient's freedom of movement may only be restricted if necessary to prevent physical injury to the recipient, staff, or others.
- Community Mental Health Service settings are not institutions or prisons. Recipients have the right to move freely within, to, and from a residential or other program except when a restriction is authorized in the recipient's Individual Plan of Services or by a program's rules. A program's rules must not limit or restrict a recipient's freedom of movement except as may be allowed by law.



# Freedom of Movement

- Mechanical or chemical **Restraint** of a recipient is strictly prohibited (except in licensed psychiatric hospitals or units and licensed Child Caring Institutions).



- Keeping a recipient alone in a room or other area and preventing him or her from exiting by any means (**Seclusion**) is also strictly prohibited (except in licensed psychiatric hospitals or units and licensed Child Caring Institutions).



# Freedom of Movement

**Physical Management** is a non-violent emergency intervention that may be used only when a recipient or others are at **immediate risk of physical harm**. It may not be used routinely or as a planned behavior management technique.



Only those Workforce Members who have been trained and certified to use Physical Management on a recipient may do so, and only using approved therapeutic de-escalation methods in the least restrictive manner.

# Communication Rights

**A recipient has the right to:**

Private, unimpeded, and uncensored communication by mail and telephone; and to have visitors.

You are prohibited from restricting these rights except as may be allowed by a recipient's Individual Plan of Services or by a residential program's posted rules.



# Entertainment Materials, information and News

**A recipient has the right to:**

- Watch TV, movies, or use other media devices;
- Buy, read, and use magazines, books, and other entertainment materials of his or her choice; and
- To have a newspaper provided if desired.



**unless these items are limited** by his or her Individual Plan Of Services or as generally restricted by program rules.

You are prohibited from preventing a recipient's use of entertainment materials as **censorship**.

**Minors** may be restricted from using materials prohibited by law.



# Personal Property and Money

**A recipient has the right to:**

- Receive, use, and possess personal property.
- Have access to his or her money.



You are required to protect a recipient's property and money from theft, loss, or exploitation.

Certain property may be excluded from a residential facility by posted program rules or restricted by a recipient's Individual Plan of Services.

A recipient's person, living area, or property cannot be searched or taken unless there is a good reason to believe that he or she is in possession of any of the excluded or restricted items.



# Labor and Compensation

- A recipient cannot be required to perform labor.



- A recipient has the right to be paid at least minimum wage for any voluntary labor that contributes to the operation and maintenance of a facility or that benefits a provider.



# Resident Health and Hygiene

Recipients in Residential Programs have the right to:

- Be provided with an opportunity to bathe at least once every 2 days, and
- Be provided assistance and independence in grooming based on their individual needs.



# The Rights Protection System



# Duty to Report



- As an employee, contract employee, or volunteer of Northern Lakes CMH or of a contract provider, you are a mandated reporter of Recipient Rights violations.
- Failure to report a rights violation will result in administrative and potentially disciplinary action, up to and including termination.
- You have a **duty to recognize and immediately report to the Office of Recipient Rights any apparent or suspected rights violation.**

# Duty to Report

- An “**apparent or suspected rights violation**” means any occurrence that you directly witnessed, received a report of, or heard any information about that is or could potentially be a recipient rights violation.
- It is not your responsibility to determine whether or not a violation actually occurred but rather to report those situations or events where a recipient’s rights may have been violated.
- You must also immediately report serious injury or unexplained death to the Office of Recipient Rights.



# Duty to Report



**These 3 simple steps will help you protect the rights of recipients when you witness or hear about a possible rights violation:**

1. **ACT** - Take action to prevent or stop the rights violation from occurring (especially when involving the abuse or neglect of a recipient); and
2. **CARE** - Provide care, comfort and assistance to the recipient; and
3. **REPORT** - Immediately make a verbal report of the apparent or suspected rights violation directly to the Office of Recipient Rights. The verbal report may be made in person or by phone. A written report, including all relevant factual details, must also be submitted directly to the Office of Recipient Rights within 24 hours of the incident.

# Other Duties to Report

**Duty to report criminal abuse, child abuse or neglect, and vulnerable adult abuse.**



In addition to your duty to report recipient rights violations, you are also a mandated reporter of other types of abuse and neglect to other public agencies.

The threshold for reporting these types of abuse or neglect violations is higher than for recipient rights violations. Instead of “apparent or suspected,” you must determine that there is a “reasonable cause to suspect” abuse or neglect before you make a report to these agencies.



# Reporting Criminal Abuse



The Mental Health Code mandates that you have a duty to make an immediate oral and written report to law enforcement if you have reasonable cause to suspect that a recipient has been the victim of criminal abuse.

- **Criminal abuse includes** homicide, assault and battery, and criminal sexual conduct.

- **Criminal abuse does not include** an assault of a recipient by another recipient.

After filing the written report you must place a copy of it in the record of the allegedly abused recipient with your name and the name of the alleged perpetrator removed.

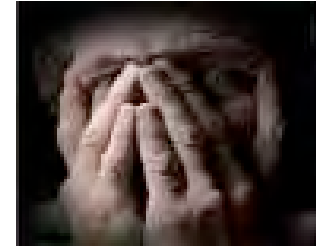
# Child Abuse or Neglect

## Michigan's Child Protection Law mandates:

- You to make an immediate oral and written report to the Department of Human Services if you have reasonable cause to suspect that any minor child has been abused or neglected by any person.
- Child Abuse or Neglect means harm, threatened harm, sexual abuse or exploitation of a child, or negligent treatment of a child by any person responsible for the child's welfare.



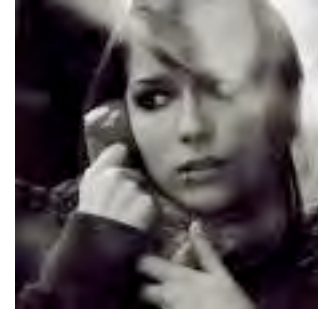
# **Vulnerable Adult Abuse or Neglect**



**The Michigan Social Welfare Act** mandates that you make an immediate oral report to the Department of Human Services if you have reasonable cause to suspect the abuse or neglect of a vulnerable adult.

- A vulnerable adult is someone who is unable to protect him or herself from abuse, neglect, or exploitation because of a mental or physical impairment or because of advanced age.

# Recipient Rights Complaint



- A recipient, or any person on his or her behalf, may file a Recipient Rights Complaint alleging that a recipient's rights have been violated.
- A Rights Complaint may be filed orally or in writing.
- Rights Complaint forms are available at all service locations and must be immediately and confidentially forwarded to the Office of Recipient Rights if received by staff.
- You are required to assist recipients in filing a Recipient Rights Complaint and/or in accessing the Office of Recipient Rights.

# Freedom from Retaliation and Harassment

- Everyone has the right to participate in the rights protection system without fear of retribution, intimidation, or persecution. You are prohibited from retaliating against or harassing any person who makes a report of a Recipient Rights violation, files a Recipient Rights Complaint, or provides information or evidence to the Office of Recipient Rights, and no one is allowed to do the same to you.



- Any Workforce Member who retaliates against or harasses any person participating in Recipient Rights activities will receive disciplinary action, up to and including termination.

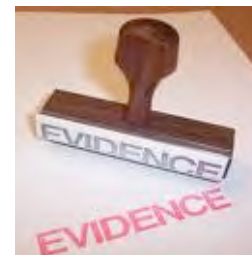
# Recipient Rights Investigation

- After receiving a report or a complaint of an apparent or suspected rights violation the Office of Recipient Rights will determine if it warrants investigation. If the report or complaint includes an allegation that a right protected by the Mental Health Code has been violated and it is within the jurisdiction of the office, an investigation will be immediately initiated.
- The Office of Recipient Rights is required to conduct a fair, impartial, and thorough investigation of the facts pertaining to allegations made in a rights complaint in a manner that protects both the rights of recipients and of staff. The investigation will seek to find all evidence available in order to make a determination about whether a recipient's rights were violated. The standard of proof used in a rights investigation is a preponderance of the evidence.



# Duty to Cooperate with the Office of Recipients Rights

- The Mental Health Code gives the Office of Recipient Rights **unimpeded access** to all staff, all service sites, all recipients, and all evidence necessary to conduct a recipient rights investigation or to monitor services for rights protection.
- You have a responsibility to make yourself available in a timely manner and to answer questions posed to you orally and in writing as requested by staff of the Office of Recipient Rights.



# Remedial Action

- Upon completion of a Recipient Rights investigation, the Office of Recipient Rights will submit a Report of Investigative Findings to your employer with recommendations for actions that must or should be taken to correct the violation and to prevent it from recurring.

## Remedial actions may include any of the following:

- Training
- Policy and procedure changes
- Environmental repairs / enhancements
- Changes to a recipient's individual plan of services
- Disciplinary action
- Employment termination
- Contract action
- Quality improvement projects



**FIX-IT**



# Summary Report

- The Northern Lakes CMH Chief Executive Officer will then submit a Summary Report of the Recipient Rights investigation to the complainant and to the recipient, if different, and to the recipient's guardian or the parent with legal custody of a minor recipient, if applicable.
- If a rights violation was substantiated, the Summary Report will specify what remedial actions have been taken or are planned.



# APPEAL RIGHTS

- A complainant, recipient, a recipient's guardian, or the parent of a minor recipient have the right to appeal the findings and conclusions of the Office of Recipient Rights or the adequacy and effectiveness of the remedial action proposed or taken in response to a substantiated complaint.
- The Northern Lakes CMH Recipient Rights Appeals Committee will review the appeal if it is filed on proper grounds. The Committee can ask for a re-investigation of the complaint and/or for additional or different remedial action. If the investigation is upheld, individuals with standing to appeal may further appeal to the Michigan Department of Community Health Administrative Tribunal.
- A provider does not have appeal rights.



# REVIEW

## REMEMBER:

- Recipients have the same Constitutional rights guaranteed to all citizens.
- Recipients have additional treatment and support rights guaranteed by Federal and State law and rules.
- You have specific responsibilities as a provider of services to promote and protect these rights.
- You have an obligation to understand these responsibilities.
- You can get more guidance on these responsibilities by reading Northern Lakes CMH policies and procedures.
- You can and should contact the Office of Recipient Rights for consultation in order to prevent a rights violation.
- You have a duty to immediately report apparent or suspected rights violations directly to the Office of Recipient Rights.

# **CONGRATULATIONS!**

**You have finished the course content!**

**This course is not complete until you successfully pass the test.  
Your employer is required to keep a record on file of the date you were  
hired, the date you completed of this course, and your test score.**

**Please proceed to the test.**