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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>106.1022</b>
<b>Subject</b>	<b>Right to Access and Correct Record (RR)</b>

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### **Applicability**

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

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### **Policy**

Northern Lakes CMHA and its contracted providers shall grant recipients and their legally empowered representatives access to information in the record of a recipient within the constraints allowed by the Michigan Mental Health Code [PA 258 of 1974, MCL 330.1748] and by the Health Insurance Portability and Accountability Act of 1996 (HIPAA) [45 CFR Parts 160, 162 and 164; 42 CFR Part 2 as provided in Northern Lakes CMH Policy 102.206].

Upon gaining access to this information, recipients and their legal representatives shall be given an opportunity to insert a statement of correction into the record as allowed by the Michigan Mental Health Code [P.A. 258 of 1974, MCL 330.1749).

#### STANDARDS:

#### **ACCESS TO RECORD:**

1. a. If a consumer is open all requests for access to or disclosure of a recipient's record shall be directed to the recipient's primary worker, who shall complete a request for records form and be responsible for obtaining the written informed consent of the appropriate person with the legal authority to grant consent.  
  
b. If a consumer is closed all requests for access to or disclosure of a recipient's record shall be directed to the appropriate Operations Manager, or a receptionist, who shall complete a request for records form and be responsible for obtaining the written informed consent of the appropriate person with the legal authority to grant consent.

2. All requests for access to a recipient's record shall be honored as expeditiously as possible and without delay, but in no event later than 30 days after receipt of the request or prior to termination of services.
3. Case record entries made subsequent to the effective date of March 28, 1996 shall be disclosed to an adult recipient upon the recipient's request if the recipient does not have a guardian and has not been adjudicated legally incompetent.
4. Case record entries made prior to March 28, 1996 may be withheld from an adult recipient only if a determination is made that disclosure would be detrimental to the recipient or others. If a determination of detriment is made, the primary worker shall immediately, and without delay refer to and follow section 6.d and 6.e. of Policy and Procedure 106.1020, Confidentiality and Disclosure, prior to granting access to the record.
5. Similarly, if consent is granted by a recipient's guardian with authority to consent, the parent with legal custody of a minor recipient, or the court-appointed personal representative or executor of the estate of a deceased recipient, the recipient or his or her guardian or the parent of a minor recipient may access the record unless, in the written judgment of the holder, the disclosure would be detrimental to the recipient or others, applying the above referenced policy and procedure.
6. If the request to access the record is granted, the primary worker shall offer, but not require, the requesting party the opportunity to review the record with the primary worker and/or with other members of the recipient's treatment team.
7. If a copy of the record is requested, the primary worker shall inform the requesting party of the potential costs of copies and discuss what specific information the individual is seeking. The primary worker shall then follow appropriate policy and procedures for disclosure.
8. Requests for copies of records shall not be denied on the basis that the individual has refused to review the record with employees or based upon the inability of the individual to pay for copies.
9. A record shall be kept of disclosures in the recipient's record and shall include all of the following information:
  - a. The specific information released.
  - b. To whom the information is released.
  - c. The purpose claimed by the person for requesting the information and a statement disclosing how the disclosed information is germane to the purpose.
  - d. The subsection of section 748 of the Mental Health Code, or other state law, under which a disclosure was made.
  - e. 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.

## **RIGHT TO AMEND RECORD**

After having gained access to treatment records, a recipient, guardian, or parent of a minor recipient may challenge the accuracy, completeness, timeliness, or relevance of factual information in the recipient's record. The recipient, guardian, or parent of a minor recipient shall be allowed to insert into the record a statement correcting or amending the information at issue. The statement shall become a permanent part of the record.

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### **Procedures**

None.

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**Adoption Date:** June 1, 2006

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June 8, 2009  
May 14, 2010  
March 27, 2012  
April 17, 2015  
July 14, 2021 PK

**Revision Dates:**

August 31, 2010  
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