Title 1 **Northern Lakes Policies**
Part 106 **Supports and Services – NLCMHA Provided and Contract**
Subpart J **Mental Health Code Protected Recipient Rights**
Policy No. **106.1034**
Subject **Medications – Informed Consent and Recipient Information (RR)**

Applicability

Policy applies to all Northern Lakes CMHA 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 Northern Lakes CMHA policies and procedures pertaining to Recipient Rights under the terms of its Participating Provider Agreement.

Policy

Pursuant to Section 100(a)(16) of the Michigan Mental Health Code and MDHHS Administrative Rule 7003, when prescribing any psychotropic medication for a consumer, a psychiatrist employed by, or under contract with, Northern Lakes CMHA (or licensed health professional acting under his or her delegated authority) shall document that an informed consent process has been completed with the "Appropriate Individual," except under the conditions allowed by the procedures in this policy.

Additionally, pursuant to Section 719 of the Mental Health Code, a psychiatrist employed by, or under contract with, Northern Lakes CMHA (or licensed health professional acting under his or her delegated authority) shall provide medication information to the Appropriate Individual prior to initiating a course of psychotropic medication in accordance with the procedures in this policy.

For the purposes of this policy, "Appropriate Individual" is defined as the person who may legally grant consent:

a. An adult, legally competent, recipient; or
b. Any of the following parties if granted legal authority to make medical decisions for, or on behalf of, the recipient:
   (i) guardian
   (ii) parent of a minor consumer
   (iii) durable power of attorney
   (iv) designated patient advocate

Procedures

All of the following are required when a psychotropic medication is prescribed to a recipient, with appropriate documentation in the recipient's record:

A. A prescribing psychiatrist (or licensed health professional acting under delegated authority) shall make reasonable efforts to ascertain who is the Appropriate Individual to grant consent. The informed consent process must occur with the Appropriate Individual.

B. A prescribing psychiatrist (or licensed health professional acting under delegated authority) shall provide an oral explanation in language understandable to the Appropriate Individual so that he or she can make an informed decision. This must include the following:

   a. An explanation of the recipient's condition and possible consequences if left untreated;

   b. The purpose, expected effect and possible benefits of the drug;

   c. Attendant discomforts, specific risks, most common side effects, and adverse effects associated with the drug;

   d. Disclosure of appropriate alternatives potentially advantageous to the recipient;

   e. Symptoms or situations that should be reported and a clear description of avenues for accessing assigned employee, nurse, psychiatrist, or after-hours crisis services;

   f. Situations that require emergent medical attention;

   g. Any pertinent additional information deemed appropriate by the prescriber;

   h. An offer to answer further inquiries.

C. A prescribing psychiatrist (or licensed health professional acting under delegated authority) may provide to the Appropriate Individual written summary medication information (i.e., a patient education sheet). The patient education sheet shall include, at a minimum, the most common side effects and adverse effects associated with the drug.

D. Additionally, within a timeframe determined by the prescribing psychiatrist (i.e., at his/her discretion this may occur.

   a. Expected testing or lab orders with pertinent instructions;

   b. Planning with respect to frequency of, and attendance at medication reviews.

E. A prescribing psychiatrist or a licensed health professional shall evaluate the capacity of the Appropriate Individual to understand the personal implications to the recipient of providing consent and, if comprehension is in question, a consideration of clinically and legally appropriate courses of action shall occur**.**

F. A prescribing psychiatrist (or licensed health professional acting under his or her delegated authority) shall ensure that the consenting individual reasonably appears to be voluntarily consenting. Specifically:

   a. The informed consent process shall not include any element of fraud, duress, overreaching, or ulterior form of constraint or coercion, including promises or assurances of privileges or freedom.

   b. The prescriber (or licensed health professional acting under his or her delegated authority) shall instruct the individual of right to withdraw consent at any time without prejudice.

   c. Recipients under a court order to take medications prescribed by Northern Lakes CMHA or its contracted providers shall be informed in a factual, non-coercive manner of possible consequences for non-compliance with the order.

G. The prescribing psychiatrist (or licensed health professional acting under his or her delegated authority) shall request that the Appropriate Individual sign a written consent form for the medication being prescribed.

   a. The prescribing psychiatrist (or licensed health professional acting under delegated authority) shall provide the Appropriate Individual an opportunity to read the document before signing it or, where essential to the Appropriate Individual's understanding or where otherwise deemed advisable, read the document to the Appropriate Individual or give an oral explanation in language understandable to the individual. A note of the explanation and who provided the explanation shall be placed in the record along with the written consent.

   b. Any psychotropic medication consent form used by a prescribing psychiatrist employed by, or under contract to, Northern Lakes CMHA shall embody the basic elements of informed consent to psychotropic medications as described above. The written consent shall not include any exculpatory language through which the recipient or a person consenting on the recipient's behalf waives, or appears to waive, a legal right, including a release of a provider or its agents from liability for negligence.

   c. An exception to obtaining a written consent to psychotropic medication and written summary information may only occur when appropriate signatures are unobtainable because the consenting individual refuses to sign but verbally consents to the medication. Documentation must be made in the recipient's record of the witnessing of verbal agreement to the medication by a person other than the prescribing psychiatrist (or licensed health professional acting under his or her delegated authority), except when not practical.

H. A prescribing psychiatrist (or licensed health professional acting under his or her delegated authority) shall re-obtain informed consent to psychotropic medications under the following circumstances:

   a. If changes in circumstances substantially change the risks, other consequences, or benefits that were previously expected;

   b. If there is a change in a consumer's guardianship status with respect to healthcare decisions. That is, the Appropriate Individual changes (e.g., because a minor consumer reaches his/her eighteenth birthday).

Adoption Date: May 23, 2006

Review Dates:
June 15, 2009
May 14, 2010
March 27, 2012
August 12, 2021 PK

Revision Dates:
August 27, 2008
August 31, 2010
February 25, 2015
April 27, 2018