



## SHIAWASSEE HEALTH AND WELLNESS POLICY MANUAL

<b>Title:</b>	<b>Informed Consent</b>
<b>Section:</b>	Recipient Rights
<b>Policy Number:</b>	05
<b>Issued By:</b>	Recipient Rights Director
<b>Approved by:</b> Recipient Rights Committee	<b>Effective Date:</b> 02/24/97 <b>Last Revision:</b> 05/09/16 <b>Last Review:</b> 12/04/18
<b>Approved on:</b> 12/07/17	

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### POLICY STATEMENT:

It shall be the policy of the Shiawassee Health and Wellness (SHW) to establish mechanisms for ensuring that recipients of its services or, as applicable, the guardians or parents of recipients are fully informed about all aspects of a recipient's care.

It shall also be the policy of the SHW to ensure that recipients or, as applicable, the guardians or parents of recipients participate in the decisions regarding a recipient's care.

### PURPOSE:

To protect the rights of recipients receiving service from SHW and from its contract agencies.

To respect and foster the recipient's dignity, civil rights, and informed participation in his or her own care.

To ensure compliance with the Michigan Mental Health Code, Michigan Department of Health and Human Services, Administrative Rules and generally accepted standards of practice.

### APPLICATION:

This policy applies to all SHW employees, independent contractors, and contract agencies.

### DEFINITIONS:

Informed Consent: An agreement in writing signed by a recipient or, as applicable, a recipient's guardian or parent legally empowered to provide consent executed prior to a recipient's participation in an activity, service, or procedure. A consent is executed when it is signed by the recipient or, as applicable, the recipient's guardian or parent, witnessed and dated.

Informed consent assumes each of the following:

Comprehension: The capacity to rationally understand the nature of an activity, service, or

procedure associated with care or treatment and the associated risks of any such activity, service, or procedure, and to make a rational decision regarding any such activity, service, or procedure, in addition to the capacity to understand the risks of not accepting the activity, service, or procedure. An evaluation of comprehension requires consideration of the effects of deprivations associated with confinement and institutionalization.

Knowledge: A condition in which an individual who signs an informed consent agreement is aware of information which a reasonable person would expect to be provided in order to assess intelligently whether or not to provide consent. Such information includes the purpose of the activity, service, or procedure; the potential attendant risks; expected discomforts; and benefits reasonably to be expected. Necessary information to be knowledgeable to give informed consent also includes disclosure of appropriate alternatives, if any, along with the advantages and disadvantages to the recipient and a stated opportunity to have further inquiries fully answered.

Voluntariness: Free power of choice by the recipient who signs a consent agreement without the intervention of an element of force, fraud, deceit, duress, exaggeration or other ulterior form of constraint or coercion. Awareness and understanding, through instruction, that the recipient who signs a consent agreement is free to withdraw consent and to discontinue the participation in the activity, service, or procedure at any time without prejudice to the recipient.

Service Provider: For the purposes of this policy, service providers include SHW employees, and independent contractors and agencies, facilities, hospitals, or entities which are under contract with SCCMHA to provide care or treatment to Board-sponsored recipients.

#### **STANDARDS:**

- A. All aspects of care of a Board-sponsored recipient shall be fully explained to the recipient or, as applicable, a recipient's guardian or parent by the service provider and documented in the recipient's record. Such an explanation of care shall include the purpose of the activity, service, or procedure, the risks, expected discomforts, and benefits. Appropriate alternatives, if any, shall be explained to the recipient along with the associated advantages and disadvantages. Other relevant information shall be provided and an offer made to answer fully additional inquiries.
- B. The recipient shall know who the clinical staff responsible for care is and the professional status of that staff. This information shall include the identity of the physician or other practitioner or provider who has primary responsibility for the recipient's care, and the identity and professional status of individuals responsible for authorizing and performing procedures or treatments. A recipient shall receive information and reasons for any proposed change in the clinical staff responsible for his or her care. This information includes the existence of any professional relationships among individuals who are treating the recipient as well as the relationship to any other health care or educational institution involved in that care.

- C. A recipient or, as applicable, a recipient's guardian or parent shall sign a consent to treatment agreement form prior to services being provided to the recipient.
- D. If a recipient is a minor under age 14 or in the professional opinion of the service provider is unable to understand and agree to all care or treatment activities, services, or procedures, informed consent shall be obtained from the recipient's parent or guardian. In order to evaluate the comprehension/capacity of a recipient to give or refuse informed consent, the service provider shall follow a procedure in which a professional qualified to evaluate comprehension/capacity interviews the recipient and other individuals whose information is determined relevant to assess the recipient's comprehension/capacity evaluates available clinical records and test results and other available and relevant information.
- E. If a recipient, upon evaluation, is determined to lack the comprehension/capacity to provide informed consent for care or treatment, and no guardianship has been established, the case shall be referred to the appropriate SHW Program Director to initiate guardianship with the court. An evaluation of the ability to give consent shall precede any guardianship proceedings.
- F. In those cases in which care or treatment is being provided to a Board-sponsored recipient under a court order, the recipient shall be informed of the stipulations contained in the order, and the recipient's consent is not required to initiate services. If the recipient refuses to cooperate with the plan of service developed by the staff responsible for the recipient's care or treatment, a report shall be submitted to the court with a request for an alternative treatment plan.

The individual plan of service shall be formally agreed to in whole or in part by the responsible mental health agency and the recipient, his or her guardian, if any, or the parent who has legal custody of a minor recipient. If the appropriate signatures are unobtainable, then the responsible mental health agency shall document witnessing verbal agreement to the plan. Copies of the plan shall be provided to the recipient, his or her guardian, if any, or the parent who has legal custody of a minor recipient. Implementation of a plan without agreement of the recipient, his or her guardian, if any, or parent who has legal custody of a minor recipient may only occur when a recipient has been adjudicated. However, if the proposed plan in whole or in part is implemented without the concurrence of adjudicated recipient or his or her guardian, if any, then the stated objections of the recipient or his or her guardian shall be included in the plan.

- G. Prior to being offered the opportunity to consent or deny consent to an activity, service, or activity, a recipient or, as applicable, a guardian or parent shall be informed by a service provider that signing the consent agreement is voluntary and that the person signing the consent agreement is free to withdraw consent and to discontinue the recipient's participation in the activity, service, or procedure at any time without prejudice to the recipient. A withdrawal of consent may be made either verbally or in writing and shall be documented in the recipient's record.

- H. A recipient or, as applicable, the recipient's guardian or parent shall be given adequate opportunity to read the proposed consent agreement prior to signing it. Where essential to the understanding of the recipient or, as applicable, the guardian or parent or otherwise deemed advisable, a service provider shall read the proposed consent agreement to the individual or provide an oral explanation in a language which the individual understands.
- I. Informed consent shall be re-obtained according to the following schedule:
  - 1. Whenever a change in the activity, service, or procedure is determined to be made part of the recipient's plan of service,
  - 2. Annually, or
  - 3. At any time when circumstances substantially affect the risks, consequences or benefits to be expected from an activity, service, or procedure.

**Change Log:**

<b>Date of Change</b>	<b>Description of Change</b>	<b>Responsible Party</b>
05/09/16	Revised	Rebecca Browne, Recipient Rights Director
11/19/18	Format Change	Jamie Burke, Executive Assistant