

MACOMB COUNTY COMMUNITY MENTAL HEALTH

**NOTICE OF DENIAL OF REQUEST FOR
MATERIAL EXEMPTED FROM PUBLIC DISCLOSURE
BY MICHIGAN STATE LAW**

Recipient clinical records are specifically excluded from public disclosure except as provided for in the Michigan Mental Health Code. MCL 330.1748 provides that:

(1) Information in the record of a recipient, and other information acquired in the course of providing mental health services to a recipient, shall be kept confidential and shall not be open to public inspection. The information may be disclosed outside the department, county community mental health program, or licensed private facility, whichever is the holder of the record, only in the circumstances and under the conditions set forth in this section.

Macomb County Community Mental Health (MCCMH), or any representative of MCCMH, from disclosing and information with regard to recipients of service, or services provided to specific individuals, except as authorized by law.

MCCMH, and any representative of MCCMH, is prohibited from confirming or denying any information with regard to specific recipients, including whether or not those persons are receiving or ever have received mental health services, except as authorized by law.

Quality assurance, peer review documents are specifically excluded from public disclosure. Michigan Mental Health Code at MCL 330.1143a provides that:

(2) The records, data, and knowledge collected for or by individuals or committees assigned a review function under subsection (1) are confidential, shall be used only for the purposes of review, are not public records, and are not subject to court subpoena.

The Freedom of Information Act, MCL 15.231 et seq., provides that:

Section 13 (1) A public body may exempt from disclosure as a public record under this act:

(a) Information of a personal nature where public disclosure of the information would constitute a clearly unwarranted invasion of an individual's privacy.

(g) Information or records subject to the attorney-client privilege.

(h) Information or records subject to the physician-patient privilege, the psychologist-patient privilege, the minister, priest, or Christian Science practitioner privilege, or other privilege recognized by statute or court rule.

(i) A bid or proposal by a person to enter into a contract or agreement, until the time for the public opening of bids or proposals, or if a public opening is not to be conducted, until the deadline for submission of bids or proposals has expired.

The Freedom of Information Act further provides:

Section 10 (1) [Upon] a final determination to deny all or a portion of a request, the requesting person may...(b) Commence an action in the circuit court to compel the public body's disclosure of the public records within 180 days after a public body's final determination to deny a request.

(4) In an action commenced under subsection (1)(b), a court that determines a public record is not exempt from disclosure shall order the public body to cease withholding or to produce all or a portion of a public record wrongfully withheld.... the burden is on the public body to sustain its denial....

6) If a person asserting the right to inspect, copy, or receive a copy of all or a portion of a public record prevails in an action commenced under this section, the court shall award reasonable attorneys' fees, costs, and disbursements. If the person or public body prevails in part, the court may, in its discretion, award all or an appropriate portion of reasonable attorneys' fees, costs, and disbursements....

It shall be the policy of the MCCMH Board to acknowledge and adhere to these provisions of law.

Signature – MCCMH Executive Director

