
Category: **RECIPIENT RIGHTS**
Title: **FINGERPRINTING, PHOTOGRAPHING, AUDIORECORDING,
VIDEORECORDING, AND ONE-WAY GLASS VIEWING**

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Approved by: BOARD ACTION



Executive Director



Date

I. ABSTRACT

This policy establishes the standards and procedures of the Macomb County Community Mental Health Agency (MCCMH) regarding fingerprinting, photographing, audiorecording, videorecording and one-way glass viewing of recipients serviced by MCCMH providers.

II. APPLICATION

This policy shall apply to MCCMH Board of Directors (Board) directly-operated network provider employees, independent contractors, and volunteers; as well as MCCMH Board contracted network provider employees and volunteers.

III. POLICY

It is the policy of the MCCMH Board that recipients of Macomb County Community Mental Health services shall not be fingerprinted, photographed, audiorecorded, videorecorded, or viewed through a one-way glass by MCCMH providers except in the circumstances and under the conditions set forth in this policy.

IV. DEFINITIONS

- A. Audiorecording
Any recording of the voice of an individual.
- B. Consent
An agreement by or on behalf of the recipient. Written consent is obtained from:
1. A competent recipient who is more than 18 years of age; or
 2. A guardian of a recipient who is legally empowered to execute a consent; or
 3. A parent with legal and physical custody of a recipient who is less than 18 years of age.
- Consent must include legal competency, knowledge, comprehension, and voluntariness.
- C. Fingerprinting
An inked and/or digital impression of the ridges of a finger's surface used as a means of identification.
- D. MCCMH Provider
All MCCMH direct and contract network providers of recipient services and their employees and volunteers.
- E. One-Way Glass Viewing
A sheet of glass used for observation that functions as a mirror when viewed from one side, but is translucent on the other side.
- F. Photographing
A visual image reproduced as still pictures, slides, motion pictures, videotape, "live" television, or digital image.
- G. Public News Media
Publications including, but not limited to, newspapers, magazines, books and other digital and printed materials produced by the public press, business or industrial firms, non-profit associations or public agencies (including mental health agencies); or communication systems capable of transmitting photographs or sound via air or cable, e.g., television, radio or fax.
- H. Recipient
Consumers of MCCMH mental health services.
- I. Recording
Any audiorecording or videorecording of an individual.

- J. Videorecording
Any recording of the voice and image of an individual.

V. **STANDARDS**

A. Fingerprinting

Recipients of MCCMH provider services shall not be fingerprinted, except as provided in subsection D below. Fingerprints taken by another source and obtained during the provision of MCCMH services shall not be inserted in MCCMH records.

B. Allowable Uses

Recipients may be filmed, recorded, photographed, audiorecorded, videorecorded, and/or observed through one-way mirror after prior written consent is obtained for the following purposes only:

1. Provide services (consenting parents of minor children are permitted to view the provision of all services);
2. Perform research;
3. Provide training; and
4. For an educational or MCCMH sanctioned community event.

C. Recipient Record

1. All recordings and any copies of them shall be part of the recipient record and returned or destroyed when they are no longer essential to achieve the objectives outlined in V.B. or upon discharge of the recipient.

D. Determination of Recipient Name

Fingerprints, photographs or recordings may be used to determine the name of a recipient, under the following conditions:

1. Fingerprints, photographs, or recordings taken to determine the name of a recipient shall be part of the recipient record.
2. Fingerprints, photographs, and recordings may be delivered to others for assistance in determining the name of the recipient, after notification is provided to the receiver that it is mandatory to return all provided items.
3. The delivered fingerprints, photographs, and recordings must be returned to MCCMH together with any copies that were made.

E. Personal/Social Purposes

Providers may photograph or record a recipient for purely personal or social purposes if:

1. The recipient does not communicate a verbal or written objection; and
2. It is maintained as property of the recipient.

F. Public News Media

Public news media personnel or non-MCCMH persons shall not photograph or record a recipient engaged in MCCMH activities unless:

1. A written request is made to the MCCMH Executive Director or designee; and
2. Written approval is obtained from MCCMH Executive Director or designee; and
3. Written consent for each recipient to be photographed or recorded is obtained by an authorized staff member; and
4. Provider personnel accompany the public news media member at all times to ensure the recipients' participation decision is observed.

In the event that such activities might violate the recipient's rights, the Executive Director or designee may rescind previously granted approval. Provider personnel shall not interfere in activities or recordings that do not violate the confidentiality and privacy rights of recipients.

G. Written Consent, Public News Media

Written consent for photographing, recording, or use of such materials by the media shall encompass:

1. Statement of benefit and intended use or purpose of photograph or recording (e.g., treatment, staff training/education, community education, newspapers, television, professional journal, research projects); and
2. Statement of any risk that such consent could generate, including but not limited to, risk to confidentiality and privacy; and
3. Statement approving or not approving the use of the recipient's full name; and
4. Statement indicating recipient can withdraw consent at anytime; and
5. Statement indicating recipient has had opportunity to ask and have questions answered; and
6. A specific date of expiration; and
7. Dated signature of the recipient, if 18 years of age or older, the parent(s) of a minor recipient, or recipient's legal guardian, and a witness.

H. Termination of Consent

Consent may be terminated by the recipient or parent/guardian prior to the expiration date. All recipients shall be informed that they may object and withdraw consent at any time without penalty.

I. Effect of Termination of Consent

A recipient shall be informed that withdrawal of consent subsequent to recording or photographing for training or education purposes, or for public relations materials, may not result in erasure or destruction of photographs, recordings or other materials produced, or in the process of being produced from materials recorded while consent was in effect. Withdrawal of consent will, however, result in the discontinuation of

further recording or photographing.

J. Expiration of Consent on Behalf of Minor

Consent given on behalf of a minor is effective only during his/her minority. Once a minor recipient reaches 18 years of age, any prior parental consent is void and the consent of the now adult recipient or his/her legal guardian is required to continue photographing or recording the recipient.

K. Time Limited Consent

Consent(s) obtained for photographs, recordings, and one-way mirror observation utilized for treatment shall be time-limited to the specified purpose and essential to provide ongoing services, including research, shall automatically expire after a twelve month period, when a minor reaches 18 years of age, or when guardianship status changes.

L. Storage and Disposal

Photographs, fingerprints and recordings used for treatment, identification or research purposes shall be given to the recipient or destroyed when the first of the following conditions occurs:

1. The specified purpose has been accomplished; or
2. Upon discharge; or
3. Consent is withdrawn.

In the interim, they shall be stored in a locked administrative file to maintain confidentiality.

M. Location of Consent Form

The completed consent form shall be placed in the recipient's clinical record.

N. Commercial Purpose

Photographing or recording for commercial purposes (e.g., a drug company flier; provider websites, advertisements) is prohibited unless consent is obtained according to Section V.G.

O. Form

Permission To Allow Audio/Videotaping or Photographing shall be used to obtain the recipient's consent. (See example MCCMH #137, Exhibit A.)

P. Purpose

This policy shall not be construed to interfere with the rights of recipients who wish to visit with persons of the public media. Rather, these procedures shall be carried out with the singular purpose of protecting each MCCMH recipient's right to confidentiality.

VI. PROCEDURES

A. CLINICAL STAFF/ CARE MANAGER/ SUPPORTS COORDINATOR

1. Discuss need to record, photograph, or use one-way glass viewing with supervisor.
2. Review need to record, photograph, or use one-way glass with recipient and/or legal representative, and obtain consent.
3. Maintain written consent in recipient record.
4. Provide recipient the opportunity to object immediately preceding recording, photographing or one-way glass viewing. Comply with recipient's decision in favor of or objecting to recording, photographing, or one-way glass viewing.
5. Maintain original and copies, of any recordings and photographs in recipient's record, at a secure location.
6. Keep the time limited consent forms updated.
7. Determine whether photographs and recordings must continue to be stored, returned to the recipient or destroyed.
8. Return original and all copies to recipient or destroy them when the specified purpose has been accomplished, or the recipient is discharged, or consent is withdrawn.
9. Coordinate provider personnel to accompany public news media who photograph or record a recipient to assure that recipient's rights are not violated and recipient consent has not been withdrawn.

B. CONSENTING INDIVIDUAL

1. Consent or object to being recorded, photographed, or viewed through one-way glass.
2. Consent or object to being photographed or recorded for personal or social purposes.

C. DIRECTOR OR DESIGNEE

1. Grant or deny permission to public news media to photograph or record a recipient engaged in MCCMH activities.

VII. REFERENCES/ LEGAL AUTHORITY

- A. Michigan Mental Health Code, MCL 330.1724
- B. Michigan Administrative Rules, Department of Community Health, R330.7003

VIII. EXHIBIT

- A. Permission to Allow Fingerprinting, Audiorecording, Videorecording, Photographing, or One-Way Glass Viewing

MACOMB COUNTY COMMUNITY MENTAL HEALTH

Permission to Allow Fingerprinting, Audiorecording, Videorecording, Photographing, or One-Way Glass Viewing

I (legal guardian / parent of consumer) give permission for _____ Name of Provider

to: fingerprint; photograph; record; view through one-way glass (specify)

_____ Name of Consumer

I understand that one-way glass viewing, fingerprints, photographs, and recordings will be used for the following purposes(s) only:

Table with 3 columns: YES, NO, PURPOSE. Contains four rows of consent options for various purposes like clinical supervision, training, and identification.

Please check one:

- o I (legal guardian / parent of consumer) consent to having my first name and first initial only of my last name used in this project.
o I (legal guardian / parent of consumer) consent to having my full name used in this project.

Any questions I have about this permission form have been explained to my satisfaction. I understand that I may freely withdraw this permission at any time. I understand that this consent may jeopardize my right to confidentiality as I may be identified as a recipient of services provided by a Macomb County Community Mental Health provider. This permission ends on the following date (not to exceed 12 months): ____/____/____ and/or condition, if applicable. (See below.)

Condition: _____

Witness Signature Date

Recipient Signature Date

Parent / Guardian Signature (if applicable)

Relationship

Date