
Chapter: **RECIPIENT RIGHTS**
Title: **RELEASE OF CLINICAL RECORDS TO MICHIGAN PROTECTION AND
ADVOCACY SERVICE / DISABILTY RIGHTS MICHIGAN**

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Chief Executive Officer Date

Approved by: Al Lorenzo 04/24/2025
County Executive Office Date

I. **ABSTRACT**

This policy establishes the standards and procedures of Macomb County Community Mental Health (MCCMH), an official agency of the County of Macomb, for the release of individual recipient records to the Michigan Protection and Advocacy Service, also known as Disability Rights Michigan.

II. **APPLICATION**

This policy shall apply to the administrative offices and the directly-operated and contract network providers of MCCMH.

III. **POLICY**

It is the policy of MCCMH that access to individual recipient records by Michigan Protection and Advocacy Service (P&A)/Disability Rights Michigan shall be promptly allowed pursuant to provisions of Michigan Statute, Mental Health Code, PA 258 of 1974, as amended.

IV. **DEFINITIONS**

A. Abuse

A nonaccidental physical or emotional harm to a recipient, or sexual contact with or sexual penetration of a recipient as those terms are defined in section 520a of the Michigan penal code, 1931 PA 328, MCL 750.520a, that is committed by an employee or volunteer of the department, a community mental health services program, or a licensed hospital or by an employee or volunteer of a service provider under contract with the department, community mental health services program, or licensed hospital.

B. Complaint

Formal declaration which includes a plain and concise statement of the facts constituting the matter, each separate material allegation, the name of the individual aggrieved, and the name of the individual or agency, if known, declared to have been responsible for the harm.

C. Neglect

An act or failure to act committed by an employee or volunteer of the department, a community mental health services program, or a licensed hospital; a service provider under contract with the department, a community mental health services program, or a licensed hospital; or an employee or volunteer of a service provider under contract with the department, a community mental health services program, or a licensed hospital, that denies a recipient the standard of care or treatment to which he or she is entitled.

D. Michigan Protection and Advocacy Agency (P&A) / Disability Rights Michigan

The Agency designated by the Governor of the State of Michigan, pursuant to the Michigan Mental Health Code, to protect and advocate for the rights of persons with mental illness and persons with developmental disabilities, to investigate allegations of abuse and neglect, to be independent from service providers, and pursue legal, administrative, or other remedies to ensure the enforcement of federal and state statutes.

NOTE: Definitions of abuse and neglect are statutorily derived and are only for the purposes of release of records to the Protection and Advocacy Agency under this policy and are different from those used for investigations per MCCMH MCO Policy 9-510, "Recipient Rights Investigation."

V. STANDARDS

A. Access for P&A / Disability Rights Michigan Representatives

1. MCCMH and its network providers shall grant P&A representative(s) access to the record of a recipient if the recipient, the recipient's guardian with authority to consent, or a minor recipient's parent with legal and physical custody of the recipient has consented to the access.
2. MCCMH and its network providers shall grant a P&A representative access to the records of a recipient, including a recipient who has died or whose whereabouts are unknown if all the following apply:
 - a. Due to mental or physical condition(s), the recipient is unable to consent to the access.
 - b. The recipient does not have a guardian or other legal representative, or the recipient's guardian is the State.
 - c. The P&A system has received a complaint on behalf of the recipient or has probable cause to believe, based on monitoring or other evidence, that the

recipient has been subject to abuse or neglect.

3. The provider shall grant P&A representative(s) access to the record of a recipient who has a guardian or other legal representative if all the following apply:
 - a. A complaint has been received by the P&A system or there is probable cause to believe the health or safety of the recipient is in serious and immediate jeopardy.
 - b. Upon receipt of the name and address of the recipient's legal representative, the P&A system has contacted the representative and offered assistance in resolving the situation.
 - c. The representative has failed or refused to act on behalf of the recipient.

B. Special Considerations

1. If the recipient's record includes information about tests for, counseling for, or infection with Human Immunodeficiency Virus (HIV), including any care or treatment regarding Acquired Immune Deficiency Syndrome (AIDS), or AIDS Related Complex (ARC), state law requires that the release authorization must specifically authorize release of information regarding HIV Infection/AIDS/ARC or that portion of the record must be deleted from the record reviewed or released.
2. If the facility is a federally assisted provider and holds itself out as providing specialized drug or alcohol abuse services and the recipient receives such services, federal law requires that the release authorization must specifically authorize release of information regarding alcohol or drug abuse services or that portion of the record must be deleted from the record reviewed or released.

C. Authorization for review or release of recipient records, where required pursuant to this policy, shall be on a release of information form that meets state and federal requirements for former recipients and for deceased and current recipients, in accordance with other requests in the policy or practice of the provider.

D. Costs for copies made for P&A shall be the same as the Michigan Department of Health and Human Services (MDHHS) Freedom of Information Act Guideline, 01-C-1116(e) (GL-02).

E. Warning That Further Release is Detrimental

1. If the provider determines that further release by P&A of a specific portion of a recipient's record would create substantial and serious physical or mental harm to the recipient, they shall inform P&A in writing that the P&A representative can conform to the requirements of federal and state law.
2. A determination that section(s) of the record are detrimental to the recipient shall not preclude the provider from providing P&A access to the complete record, including the section(s) deemed confidential.

VI. PROCEDURES

- A. A provider shall determine the individual responsible for responding to a request for records from P&A staff. The designated staff member of the provider, having verified that the conditions for P&A access have been met, shall ensure that P&A staff receive lawful or authorized access to a recipient's complete clinical record by allowing review in an appropriate supervised/monitored setting within 24 hours, excluding weekends and holidays.
- B. The designated provider staff member shall promptly complete duplication of the record when requested by P&A with the same priority it would have been given had it been the provider's own request.

VII. REFERENCES / LEGAL AUTHORITY

- A. Protection and Advocacy for Mentally Ill Individual's Act, 42 USC 10801 et seq.
- B. Developmental Disabilities Assistance and Bill of Rights Act, 42 USC 6001 et seq.
- C. 42 USC 290
- D. 42 CFR Part 2
- E. MCL 330.1702
- F. MCL 330.1722
- G. MCL 330.1726
- H. MCL 330.1748
- I. MCL 330.1931
- J. R 330.7003
- K. R 330.7009
- L. R 330.7035
- M. R 330.7051
- N. MCL 333.5131

VIII. EXHIBITS

None.