

said information shall be provided, either through the MCCMH COO or directly from Corporation Counsel or other legal counsel assigned to represent the individual or MCCMH.

IV. Definitions

- A. **Complaint**
The first pleadings on the part of the party suing in a civil (non-criminal) lawsuit. It includes the title of the cause of action, the statement of facts, and a demand for relief (money, injunction, etc.).
- B. **Order to Show Cause**
A court order to a person to give reasons at a hearing why the court should not take a particular action requested by one of the parties.
- C. **Service**
The delivery of official documents (usually the summons and the complaint) to the defendant either in person by someone authorized to deliver the documents or by registered or certified mail, return receipt requested, and delivery restricted to the addressee.
- D. **Summons**
A court notice informing a person of the filing of a lawsuit against him or her and of the need to respond to the complaint.
- E. **Subpoena**
An order from the court notifying an individual to appear in court or at another place to give sworn testimony or to produce certain documentary evidence.

V. Standards

- A. An MCCMH employee who receives a complaint, summons, subpoena, or order to show cause shall immediately provide the documents to the MCCMH COO who shall, in consultation with County Corporation Counsel, assist in determining the manner in which to proceed.
- B. Compliance to MCCMH MCO Confidentiality Policies (Chapter 6) and MCCMH MCO Policy 10-012, "Access to Administrative Records/Documents," shall be maintained, as applicable.
- C. MCCMH employees shall comply fully with the MCCMH COO and County Corporation Counsel in providing relevant information necessary to the defense of the lawsuit.

VI. Procedures

- A. An MCCMH employee who is served in person or by mail with a summons, complaint, subpoena, or order to show cause shall notify his/her supervisor and Division Director, and forward the documents immediately to the MCCMH COO.

- B. The employee's supervisor or Division Director shall immediately contact the MCCMH COO to notify him/her of the existence of the lawsuit.
- C. The MCCMH COO shall forward the original documents to County Corporation Counsel and seek consultation from that office.
- D. The MCCMH COO shall ensure that the original complaint, summons, subpoena, or order to show cause and information on Exhibit A, the "Request for Legal Representation by Corporation Counsel," or on Exhibit B, the "Letter of Notification of Professional Liability Coverage," are immediately provided to County Corporation Counsel.
- E. If the MCCMH employee named in the complaint, summons, subpoena, or order to show cause does not have any professional liability insurance, the MCCMH COO shall assist the employee in filing a statement that the individual named in the suit is an employee and wishes representation by Corporation Counsel with a sworn statement that the individual does not have professional liability insurance (Exhibit A).
- F. If the MCCMH employee is sued personally and has professional liability insurance coverage, the employee ordinarily will not be represented by County Corporation Counsel. The employee shall forward the name of the insurance carrier and a copy of the professional liability policy to the MCCMHCOO, who shall forward it to County Corporation Counsel (Exhibit B).
- G. If the lawsuit involves an employee relations matter (i.e., discrimination, harassment, workers' compensation, etc.) and the MCCMH Board is a named party, the MCCMH COO shall forward the complaint, summons, subpoena, or order to show cause to County Corporation Counsel and seek consultation on the manner in which to proceed.
- H. The MCCMH COO shall assist the employee in the manner directed by County Corporation Counsel.
- I. If the lawsuit involves an employee relations matter and the MCCMH Board is not a named party, the MCCMH COO shall provide a copy of the complaint, summons, subpoena, or order to show cause to County Corporation Counsel and give the summons and complaint to the employee.
- J. In the event that a lawsuit is initiated against MCCMH or an employee, any pertinent clinical or non-clinical records which are due for disposal pursuant to MCCMH retention policies (MCO 6-008, "Retention and Disposal of Clinical Records," 10-015, "Retention and Disposal of Non-Clinical Records") shall not be destroyed until resolution of the lawsuit.

VI. References / Legal Authority

- A. Michigan Court Rules, MCR 2.103
- B. MDHHS/PIHP-Medicaid Managed Specialty Supports and Services Program Contract FY2020

- C. MDHHS/CMHSP - Managed Mental Health Supports and Services Contract FY2020
- D. Commission on Accreditation of Rehabilitation Facilities (CARF) Standards Manual, §1.E., "Legal Requirements"
- E. MCCMH MCO Policy 6-001, "Release of Confidential Information-General"
- F. MCCMH MCO Policy 6-002, "Release of Confidential Consumer Information - Substance Use Disorder Treatment"
- G. MCCMH MCO Policy 6-003, "Release of Confidential Information - Court Orders / Subpoenas"
- H. MCCMH MCO Policy 6-004, "Facsimile Document Transmission"
- I. MCCMH MCO Policy 6-007, "Clinical Records Storage and Transport"
- J. MCCMH MCO Policy 6-008, "Retention and Disposal of Clinical Records"
- K. MCCMH MCO Policy 10-012, "Access to Administrative Records/Documents"
- L. MCCMH MCO Policy 10-015, "Retention and Disposal of Non-Clinical Records"

VIII. Exhibits

- A. Request for Legal Representation by Corporation Counsel
- B. Letter of Notification of Professional Liability Coverage

<Date>
Corporation Counsel
1 S. Main Street
Administration Building
8th Floor
Mt. Clemens, MI 48043

RE: REQUEST FOR LEGAL REPRESENTATION BY CORPORATION COUNSEL

IN THE CASE OF:

COURT:
CASE NO:

TO WHOM IT MAY CONCERN:

I hereby request that your office request legal representation for me in the above matter from Corporation Counsel.
I understand that:

- (a) I have the right to employ my own attorney (at my own expense) to represent and defend me in this lawsuit;
- (b) Representation by Corporation Counsel does not involve or include counsel or advice regarding any claim I may have for recovery by way of a new lawsuit or a cross-complaint, counter-complaint or any other affirmative remedy in this lawsuit; and I understand that if I wish to secure an evaluation and/or seek recovery of any damages I may have sustained in the occurrence that is the subject of this lawsuit, I must employ my own attorney at my own expense;
- (c) The Corporation Counsel may withdraw its representation of me if it is determined (i) that my interest in this case is in conflict with that of another employee of Macomb County Community Mental Health (MCCMH), or with that of the MCCMH Board; (ii) that I failed to act in good faith to protect the public interest or (iii) that the alleged acts of omissions which gave rise to this lawsuit did not occur during the course of my employment by MCCMH or where beyond the scope of my authority as a MCCMH employee.

I agree as follows:

- (a) To timely provide your office with full cooperation and information relating to this matter including making myself available as needed at all reasonable times.
- (b) To refrain from discussing with anyone (except those persons authorized by my attorney and my supervisor or facility director) any matters which are the subject of this lawsuit;
- (c) To advise your office of any insurance coverage which may exist with respect to the events giving rise to this lawsuit.

I swear, on penalty of perjury, that I had no professional liability insurance of any sort at the time the events complained of herein took place.

Sincerely,

(Employee)

Attachment

Request for Legal Representation by Corporation Counsel (rev. 3/11), MCCMH MCO Policy 10-018, Ex. A, page 1
To be filled out by Defendant -- Please attach to letter

NAME: _____

HOME ADDRESS: _____

WORK ADDRESS: _____

WORK TELEPHONE NUMBER: _____

IMMEDIATE SUPERVISOR'S TELEPHONE NUMBER: _____

WERE THE COMPLAINT AND SUMMONS DELIVERED PERSONALLY TO THE
NAMED DEFENDANT? Yes ___ No ___

If yes, on what date? _____

By Whom? _____

Location Where Served: _____

WERE THE COMPLAINT AND SUMMONS RECEIVED IN THE MAIL?
Yes ___ No ___

If yes, on what date? _____

<Date>

Corporation Counsel
1 S. Main Street
Administration Building
8th Floor
Mt. Clemens, MI 48043

TO WHOM IT MAY CONCERN: _____
(Name of Complaint, Court and Docket No.)

The above-referenced complaint was served on me by _____
on _____, at _____.

I am/was (or am not/was not) an employee of Macomb County Community Mental Health at the time of the events cited in this complaint.

I have professional liability insurance. My insurance carrier is _____. My policy number is _____. Attached is a copy of my insurance policy. The representative for my insurance carrier is _____.

I will advise representatives of the insurance company to contact the Macomb County Community Corporation Counsel if they have questions about the legal defense on behalf of other defendants, if any.

I/you wish additional information, my office phone number is _____, and my home phone number is _____.

Sincerely,

(Employee)