MCCMH MCO Policy 9-601

(was MCCMH Policy 9-06-110)

Chapter: **RECIPIENT RIGHTS**
Title: **INFORMED CONSENT FOR PSYCHOTROPIC MEDICATION**
(See also MCCMH MCO Policies 9-600, "Informed Consent for Service, and 2-053, and "Psychotropic Medication for Youth in Foster Care.")

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I. Abstract

This policy establishes the standards and procedures of the Macomb County Community Mental Health Board (MCCMH) for obtaining specific informed consent for recipient participation in MCCMH provider network programs and activities related to psychotropic medication.

II. Application

This policy shall apply to directly-operated and contracted network providers of the MCCMH Board.

III. Policy

It is the policy of the MCCMH Board that informed consent for the use of psychotropic medications shall be obtained from a consumer, parent or legally empowered guardian prior to the provision/use of psychotropic medication(s).

IV. Definitions

A. Consent
Written informed agreement on the part of a consumer, parent with legal custody (not necessarily physical custody) of a minor, or guardian or other legal representative of the consumer empowered to provide consent; informed consent assumes competency, knowledge, comprehension, and voluntariness.

1. Legal Competency
Competency requires the ability of an individual to rationally understand the nature of a procedure, risks, other consequences, and other relevant information. An individual shall be presumed to be legally competent.

This presumption may be rebutted only by a court appointment of a guardian or exercise by a court of guardianship powers and only to the extent of the scope and duration of the guardianship. An individual shall be presumed legally competent regarding matters that are not within the scope and authority of the guardianship.

2. Knowledge
Knowledge includes basic awareness of the procedure, the risks, potential consequences, and other relevant information, such as treatment options and alternatives. To consent, a consumer or his/her legal representative must have basic information about the procedure, risks, other related consequences, and other relevant information. The standard governing required disclosure is what a reasonable consumer needs to know in order to make an informed decision. Other relevant information includes all of the following:

a. The purpose of the procedures;
b. A description of the attendant discomforts, risks, and benefits that can reasonably be expected;
c. A disclosure of appropriate alternatives advantageous to the consumer; and
d. An offer to answer further inquiries.

3. Comprehension
Includes an understanding of what the personal implications of providing consent will be based upon his/her knowledge. An individual must be able to understand what the personal implications of providing consent will be based upon the information provided to him/her.

4. Voluntariness
Voluntariness means an exercise of choice without constraint or coercion. Consumers must have free power of choice without the intervention of an element of force, fraud, deceit, duress, overreaching, or other ulterior form of constraint or coercion, including promises or assurances of privileges or freedom. There shall be an instruction that a consumer is free to withdraw consent and to discontinue participation or activity at any time without prejudice.

NOTE: Voluntariness is superseded when treatment has been ordered via Probate, District, or Circuit Court decree. Treatment includes administration of drugs and any other service for the treatment of an individual. If a court-ordered client refuses the administration of medication, the court must be notified of noncompliance to court-ordered treatment.

B. Psychotropic Medication
Medication prescribed for the treatment of disorders of thinking, mood or behavior caused by a psychiatric illness or condition.

V. Standards

A. General

1. Initial administration of psychotropic chemotherapy may not be extended beyond 48 hours, unless there is consent by the consumer.

2. The duration of psychotropic chemotherapy shall be as short as possible and at the lowest possible dosage that is therapeutically effective.

3. The chemotherapy shall be discontinued as soon as there is little likelihood that the resident will pose a risk of harm to himself, herself, or others.

4. Informed consent in writing for psychotropic medication shall be obtained on an annual basis, whenever a new medication is prescribed, or whenever interim circumstances or changes in the treatment plan substantially affect the risks or other consequences or benefits reasonably to be expected. A new consent form must be used each time consent is obtained.

5. The guardianship order granting a guardian the power to consent to medical treatment on behalf of a consumer shall be entered into the consumer's medical record. (Per Dr. Josef)

B. Adults

1. Prior to prescription of psychotropic medication, a consumer shall be assessed to determine whether any legal (i.e., guardianship status) or clinical issue may compromise the individual's ability to give informed consent.

2. If the physician concludes that the consumer is not competent to give informed consent (e.g., was recently released from an institutional environment which may have resulted in diminished capacity of the consumer or does not comprehend the consent form or the treatment, risks, or benefits) the physician may wish to ask the court to either assist with the decision-making or request that the court appoint a guardian.

C. Minors

1. Provisions described under the adult section also apply to minors. Additional provisions may include:

   a. Minors emancipated by operation of law or court order may consent to all treatment services, including psychotropic medications, provided by the Board. Questions regarding the

legal status of a minor should be directed to the MCCMH Consumer Rights Director or the County Corporation Counsel.

b. Minors who are 14 years of age or older may request and receive mental health services, excluding medication, if deemed appropriate without parental consent on an outpatient basis for no more than 12 sessions or 4 months per request for services. Psychotropic medications may only be provided upon consent of the minor's parent(s) or legally empowered guardian.

2. Consent for medication for a minor of divorced parents must be obtained, except as noted above, from the legally empowered custodial parent.

3. In cases of joint physical custody, either parent may consent to medication, with consent from the primary (if so designated) caretaker preferred. (Determination via review of the divorce decree from Circuit Court)

4. Authority to consent for psychotropic medication for children served by the DHS Foster Care system shall take place according to the policies and procedures set forth in MCCMH MCO Policy 2-053, "Psychotropic Medication for Youth in Foster Care."

D. Others Who May Be Empowered To Provide Informed Consent

1. Individuals who hold Power of Attorney and various forms of guardianship may sign the consent if it can be documented via court order (guardianship) or notarized statement (Power of Attorney) that such powers are specifically enumerated.

2. Individuals who have been appointed as "Guardian Ad Litem" have limited advisory powers and therefore may advise only.

VI. Procedures

A. Procedures shall be maintained in Provider manuals.

VII. References / Legal Authority

A. Michigan Compiled Laws

1. MCL 330.1707

2. MCL 722.4

3. MCL 722.4e(1)(g)

B. MDCH Administrative Rules

1. 1979 AC, R 330.6006(2)
2. 1981 AC, R 330.6013(5)
3. 1979 AC, R 330.6015
4. 1998 AC, R 330.7003

C. DHS Service Manual, FOM 721, 722-11, 801, 802-1, 901-6

D. MCCMH MCO Policy 2-053, “Psychotropic Medication for Youth in Foster Care”

E. MCCMH MCO Policy 5-002, “Cultural and Linguistic Competency”

F. MCCMH MCO Policy 9-600, "Informed Consent"

VIII. Exhibits

A. Informed Consent for Psychotropic Medication (example)

MACOMB COMMUNITY MENTAL HEALTH SERVICES
PSYCHOTROPIC MEDICATION INFORMED CONSENT

Client Name: _____ Case # _____

Program: _____

Dr. _____ has explained to me that I have a psychiatric illness. To treat my illness, the doctor recommends treatment with:

MEDICATION	INDICATION	DOSAGE RANGE mg/day
A.		
B.		
C.		
D.		
E.		
F.		

I was provided with: [ ] Patient Medication Instruction Sheet and [ ] an Oral Explanation of the medications prescribed. The known side effects were explained to me, and I was given the opportunity to discuss the medication with my doctor including the risk and benefits of medication, alternative treatments and the possibility of side effects not currently reported. While medications of this type have been used successfully in the treatment of others with symptoms similar to mine, I understand that no guarantee can be made that any of these agents will be effective in the treatment of my particular symptoms.

The risk of:

Tardive Dyskinesia	[ ] Applicable	[ ] Not Applicable
Metabolic Syndrome	[ ] Applicable	[ ] Not Applicable

has been explained to me in detail.

Also I will inform my doctor if I am pregnant or plan to become pregnant to discuss medication issues. To my knowledge, [ ] I am not pregnant. [ ] I am pregnant. [ ] Not applicable.

I voluntarily consent to take this medication. I also understand I have the right to withdraw my consent and stop taking the medication at any time.

[ ] Consumer [ ] Guardian [ ]Parent Name **Signature** **Date**

Physician Name **Physician Signature** **Date**

A new signed consent is required once a year, when a new medication is started and when the dosage exceeds the maximum FDA recommended dose.