

# **ST. CLAIR COUNTY COMMUNITY MENTAL HEALTH AUTHORITY**

## **BOARD POLICY**

Date Issued **7/23**

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### I. **APPLICATION:**

#### **ST. CLAIR COUNTY CMH**

- ☒ SCCCMH Board
- ☐ SCCCMH Providers and Subcontractors
- ☒ Direct-Operated Programs
- ☐ Community Agency Contractors
- ☐ Residential Programs
- ☐ Specialized Foster Care

### II. **POLICY STATEMENT:**

It shall be the policy of the St. Clair County Community Mental Health Authority (SCCCMHA) Board of Directors that the rights of recipients receiving substance use disorder services program services will be promoted and safeguarded in accordance with the Michigan Mental Health Code, State of Michigan Department of Licensing and Regulatory Affairs (LARA) Administrative Rules for Substance Use Disorder Services Programs, and other applicable state and federal laws, rules, and guidelines.

### III. **DEFINITIONS:**

- A. **Admission:** Means the point at which an individual is formally accepted into a substance use disorder services program and services are initiated.
- B. **Community Mental Health Authority:** Means a separate legal public governmental entity created under chapter 2 of the Mental Health Code to operate as a community mental health services program.
- C. **Community Mental Health Services Program:** Means a program operated under chapter 2 of the Mental Health Code to operate as a county community mental health agency, a community mental health authority, or a community mental health organization.
- D. **Discharge:** Means the point at which the recipient's active involvement with a substance use disorder services program is terminated and the program has provided the necessary aftercare recommendations.
- E. **Chief Executive Officer:** Means the individual appointed by a Community Mental Health Authority Board of Directors to direct a community mental health services program.

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- F. License: Means a license issued by the Michigan Department of Licensing and Regulatory Affairs under article 6 of the Public Health Code to establish, conduct, or maintain a substance use disorder services program.
- G. Licensed Health Professional: Means a licensed counselor, licensed master's social worker, licensed nurse, licensed physician, licensed physician's assistant, and/or licensed psychologist.
- H. Licensee: Means a governmental entity that holds the license issued under article 6 of the Public Health Code to operate a substance use disorder services program.
- I. Outpatient: Means scheduled, periodic care, including diagnosis and therapy, in a non-residential setting.
- J. Program Director: Means the individual designated by the Chief Executive Officer to manage the treatment services provided by the Substance Use Disorder Services Program.
- K. Program Rights Advisor: Means the SCCCMHA Recipient Rights Director who is responsible for recording and processing formal recipient rights complaints independent from interference, harassment, or retaliation from others. The Program Rights Advisor shall not provide direct services to recipients.
- L. Recipient: Means an individual who receives services from a licensed substance use disorder services program.
- M. Regional Rights Consultant: Means the staff member designated by the Region 10 PIHP who is responsible for coordinating substance use disorder services program recipient rights activities, and who is responsible for recording and processing appeals from a substance use disorder services program.
- N. Staff: Means an individual who is not a recipient and who works, with or without remuneration, for a licensed substance use disorder services program.
- O. Substance: Means an agent or a chemical that upon entering a human body alters the body's physical or psychological status, or both. This includes alcohol and other drugs.
- P. Substance Use Disorder Services Program or Program: Means a public entity offering or purporting to offer specific substance use disorder prevention, treatment, and rehabilitative services.

#### IV. STANDARDS:

- A. The SCCCMHA Recipient Rights Director shall serve as the SCCCMHA Program Rights Advisor.
- B. SCCCMHA Recipient Rights Advisors shall serve as the SCCCMHA back-up Program Rights Advisor.

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C. The Program Rights Advisor shall:

1. Prepare recipient rights training for staff members pertinent to the rights of recipients of substance use disorder services programs.
2. Provide recipient rights training to staff members within 30 days of hire/assignment to the program/support for the program, and annually thereafter.
3. Receive, record, and investigate all recipient rights complaints in accordance with the Michigan Department of Licensing and Regulatory Affairs (LARA) Administrative Rules R 325.1399.
4. Maintain all recipient rights complaint files for two years. Make these files available to LARA, upon their request.
5. Communicate directly with the Regional Rights Consultant when a complaint cannot be resolved at the program level.
6. Be protected from pressures that could interfere with the impartial, even-handed, and thorough performance of their duties.
7. Have unimpeded access to all evidence necessary to complete a thorough investigation.
8. Ensure recipient rights policies and procedures are reviewed annually to ensure compliance with confidentiality, recipient rights, and complaint investigation requirements.

D. The program may choose to restrict specific rights of a recipient based on the established policies and procedures of the program. These restrictions are permissible only when there is a documented therapeutic purpose and timeframe in the recipient's record. A restriction shall not be for more than 30 days without being renewed, in writing, in the recipient's record, and shall be signed by a licensed health professional.

E. The program shall ensure copies of all recipient rights policies and procedures are provided to staff members supporting the substance use disorder services program. Each staff member shall review the policies and procedures of the program and shall sign a form that indicates he or she understands and will abide by the policies and procedures of the program. A signed copy of the form shall be maintained in the staff member's personnel file and a signed copy shall be retained by the staff member.

F. The program shall display in a public location a poster summarizing the rights of recipients in a substance use disorder services program.

G. The program shall display in a public location the name and telephone number of the Program Rights Advisor.

H. As part of the admission procedure to the program, a recipient shall receive all of the following:

1. If incapacitated, the procedures described in this section shall be provided to a recipient as soon as possible, but not more than 72 hours after admission to the program.
2. A written description of the recipient's rights.
3. A written description of any restrictions of the recipient's rights based on program policy.

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4. An oral explanation of the recipient's rights in a language that is understood by the recipient.
  5. A consent form that indicates that the recipient understands their rights and consents to specific restrictions of rights based on program policy. The recipient shall sign this consent form. A copy of the consent form shall be provided to the recipient and also become part of the recipient's record.
  6. A recipient rights complaint form.
  7. A copy of the SCCCMHA Recipient Rights Complaint Process – Substance Use Disorder Services Program policy.
- I. The program shall ensure recipients and staff members are protected from harassment or retaliation resulting from recipient rights activities, and that appropriate disciplinary action is issued if there is evidence of harassment or retaliation. If a recipient/staff member files a harassment complaint against the SCCCMHA Chief Executive Officer, the complaint will be forward to the SCCCMHA Board Chairperson and processed by the SCCCMHA Board of Directors.
  - J. The program shall ensure the confidentiality of recipient information, and maintain all recipient records in accordance with federal laws and regulations. The program shall not disclose any information that identifies an individual as a recipient of a substance use disorder services program unless:
    1. The recipient consents in writing.
    2. The disclosure is permitted by court order.
    3. The disclosure is made to medical personnel in a medical emergency.
    4. The disclosure is made for scientific research, or as part of an authorized audit or program evaluation.
  - K. The program shall ensure its staff members are informed that violating federal confidentiality laws and regulations is a crime. Suspected violations may be reported to appropriate authorities in accordance with federal regulations.
  - L. Federal confidentiality laws and regulations do not protect information related to a recipient's commission of a crime either on the premises of the program or against staff members of the program.
  - M. Federal confidentiality laws and regulations do not protect information about suspected child abuse and neglect. Staff are required to report the suspected abuse and neglect of a child under state law.
  - N. A recipient of substance use disorder services has the following rights:
    1. The right to receive appropriate services regardless of race, color, national origin, religion, sex, age, mental or physical handicap, marital status, sexual preference, sexual identity, or political beliefs.
    2. The right to receive services without being deprived of any rights, privileges, or benefits guaranteed by state or federal law or by state or federal constitutions.

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3. The right to file grievances and recommend changes in program policies or services to program staff members, governmental officials, or another person within or outside the program without program interference.
4. The right to review, copy, or receive a summary of their program records, unless, in the judgment of the Program Director, this action would be detrimental to the recipient or to others for either of the following reasons:
  - a. Granting the request for disclosure would cause substantial harm to the relationship between the recipient and the program or to the program's capacity to provide services in general.
  - b. Granting the request for disclosure would cause substantial harm to the recipient.

*\*Please note: If the Program Director determines that disclosing a recipient's record, or part thereof, would be detrimental to the recipient, the recipient shall be allowed to review the non-detrimental portions of their record or a summary of the non-detrimental portions of their record. If a recipient is denied the right to review all or part of their record, the reason for the denial shall be stated to the recipient. An explanation of what portions of the record are detrimental and the reasons for the determination of detriment shall be stated in the recipient's record and shall be signed by the Program Director.*
5. The right to receive services free from physical or mental abuse or neglect, or sexual abuse, including any of the following:
  - a. An intentional act by a staff member that inflicts physical injury upon a recipient or results in sexual contact with a recipient that includes the intentional touching of the recipient's intimate parts such as primary genital area, groin, inner thigh, buttock, or female breast or the intentional touching of the clothing covering the immediate area of the recipient's intimate parts, and if that intentional touching can reasonably be construed as being for the purpose of sexual arousal or gratification.
  - b. A communication made by a staff member to a recipient, the purpose of which is to curse, vilify, intimidate, or degrade a recipient or to threaten a recipient with physical injury.
  - c. A recipient suffers injury, temporarily or permanently, because the staff member or other person responsible for the recipient's health or welfare has been found negligent.
6. The right to review a written fee schedule in programs where recipients are charged for services. Policies on fees and any revisions of these policies shall be approved by the licensee and shall be recorded in the administrative record of the program.
7. The right to receive an explanation of his or her bill, regardless of the source of payment.
8. The right to information concerning any experimental or research procedure proposed as part of the recipient's treatment or prevention services, and the right to refuse to participate in the experimental or research procedure without jeopardizing their continuing services. A program shall comply with state and federal rules and regulations concerning research that involves human subjects.
9. The right to participate in the development of their treatment plan.
10. The right to refuse treatment and be informed of the consequences of that refusal. When a refusal of treatment prevents a program from providing services according to ethical and professional standards, the relationship with the recipient may be terminated by the licensee upon reasonable notice.
11. The right to be informed if a program has a policy for discharging recipients who fail to comply with program rules.

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12. The right to receive at admission and thereafter upon request, a notification form that includes written procedures that explain all of the following:
  - a. The types of actions that can lead to discharge.
  - b. The persons who have the authority to discharge recipients.
  - c. How and in what situations prior notification is given to the recipient who is being considered for discharge.
  - d. The mechanism for review or appeal of a discharge decision.
13. The program must maintain a copy of the notification form signed by the recipient per Standard H.5.in the recipient's record.
14. The right to have the benefits, side-effects, and risks associated with the use of any medication fully explained in a language that is understood by the recipient.
15. The right to give prior informed consent, consistent with federal confidentiality regulations, for the use and future disposition of products of special observation and audiovisual techniques, such as 1-way vision mirrors, tape recorders, television, movies, or photographs.

V. PROCEDURES:

**S.U.D. Services Program Intake Unit Staff Member**

1. Provides a recipient with the following information at program admission:
  - a. A written description of the recipient's rights.
  - b. A written description of any restrictions of the recipient's rights based on program policy.
  - c. An oral explanation of the recipient's rights in a language that is understood by the recipient.
  - d. A consent form that indicates the recipient understands their rights and consents to specific restrictions of rights based on program policy. The recipient shall sign this consent form. A copy of the consent form shall be provided to the recipient and also become part of the recipient's record.
  - e. A recipient rights complaint form shall be provided to the recipient after completing the consent form identified in Standard 8.e.
  - f. A copy of the SCCCMHA Recipient Rights Complaint Process – Substance Use Disorder Services Program policy.

*\*Please note: If incapacitated, the procedures described in this section shall be provided to a recipient as soon as possible, but not more than 72 hours after admission to the program.*

**Program Rights Advisor/Program Rights Advisor Back-Up**

2. Prepares recipient rights training for staff members.
3. Provides recipient rights training to staff members.
4. Ensures a poster identifying the rights of recipients of substance use disorder services programs is posted in a public location.

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5. Ensures the name and telephone number of the Program Rights Advisor is posted in a public location.
6. Receives, records, and investigates all recipient rights complaints.
7. Maintains all recipient rights complaint files for two years.
8. Communicates directly with the Regional Rights Consultant when a complaint cannot be resolved at the program level.
9. Ensures recipient rights policies and procedures are reviewed on an annual basis.

#### **Program Director**

10. Ensures the rights of recipients of substance use disorder services programs are protected at all times.
11. Ensures the confidentiality of all recipients is protected by adhering to all federal and state laws.
12. Ensures staff members receive, review, and sign an attestation statement demonstrating understanding of all recipient rights policies and procedures.
13. Determines if a recipient can review, copy, or receive a summary of their program records.
  - a. Provides verbal notification to the recipient if they determine that releasing program records would be detrimental to the recipient, to the relationship between the recipient and the program, or to the program's capacity to provide services in general.
  - b. Ensures a signed, written justification for the denial of records based on detriment is included in the recipient's record.

#### **Staff Member**

14. Ensures the rights of recipients of substance use disorder services programs are protected at all times.
15. Ensures the confidentiality of all recipients is protected by adhering to all federal and state laws.

#### **VI. REFERENCES:**

- A. Michigan Mental Health Code, Public Act 258 of 1974
- B. Michigan Department of Licensing and Regulatory Affairs, Bureau of Community and Health Systems, Substance Use Disorders Service Program

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C. Code of Federal Regulations, Title 42, Sub-chapter A, Part 2

VII. EXHIBITS:

None available

VIII. REVISION HISTORY:

Dates issued 07/19, 07/20, 08/21, 07/22.