COMMUNITY MENTAL HEALTH AUTHORITY

ADMINISTRATIVE POLICY AND PROCEDURES MANUAL				
Chapter **Program Quality**	**Section** **Recipient Rights**	**Chapter** **05**	**Section** **01**	**Subject** **24**
Subject **Informed Consent**	**Authorization**		**Approved: 12/19/06** **Replaces: 09/26/06, 03/25/97**	

Updated: October 2024; Reviewed/No Update: October 2025

I. PURPOSE: To ensure that consent for service or information is given competently, knowingly, and voluntarily.

II. APPLICATION: All recipients of service from Gogebic Community Mental Health Authority (GCMHA).

III. DEFINITIONS:

A. Comprehension: The ability of an individual to understand rationally the nature of a procedure, risks, other consequences, and other relevant information.

B. Informed consent: A written agreement executed by a recipient, a minor recipient's parent, or a recipient's legal representative with authority to execute a consent that assumes comprehension, knowledge, and voluntariness.

C. Knowledge: An individual consenting shall be aware of the procedure, risks, other consequences, and other relevant information. The standard governing required disclosure by a doctor is what a reasonable person needs to know in order to make an intelligent decision.

D. Other relevant information: Includes the purpose of the procedures, a description of attendant discomforts, risks, and benefits reasonably to be expected, a disclosure of appropriate alternatives advantageous to the recipient, and an offer to answer further inquiries.

E. Primary clinician: The staff member in charge of implementing the recipient's individual plan of service.

F. Voluntariness: 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 an individual is free to withdraw consent and to discontinue participation or activity at any time without prejudice to the recipient or the individual signing the consent.

IV. POLICY: Informed consent shall be obtained from the recipient, or applicable parent or guardian for participation in mental health services including medication, surgery, electroconvulsive therapy, photographing, audio taping, fingerprinting, viewing through a one-way glass, or disclosing confidential information which requires consent. There are

additional protections for recipients with co-occurring mental health and substance use disorders; refer to policy 05-01-33 (42 C.F.R. Part 2).

A. An agreement in writing documenting an informed consent shall not include any exculpatory language through which the recipient, or a person consenting on the recipient's behalf, waives or appears to waive, a legal right, including releasing the agency or its contract agencies for liability for negligence.

B. The individual signing the consent form shall be given adequate opportunity to read it before signing.

C. When essential to the individual's understanding, or when otherwise deemed advisable, the document shall be read, or an oral explanation shall be provided in a language the individual understands. A note of the explanation and who made it shall be filed in the recipient's record along with the consent form.

D. Consent is executed when it is signed by the appropriate individual.

E. Obtaining informed consent prior to provision of mental health services is not required in situations permitted by the Mental Health Code, such as court ordered alternative treatment.

V. PROCEDURE:

A. Obtaining Informed Consent

1. The primary clinician shall:

a) Obtain informed consent prior to the recipient receiving any assessment or mental health treatment, including medication, surgery, or electroconvulsive therapy, but not including necessary emergency services.

b) Obtain informed consent prior to photographing, audio taping, fingerprinting, or using a 1-way glass.

c) Obtain informed consent prior to disclosing confidential information which requires consent.

d) Verify that the individual signing the consent is one of the following:

1. The recipient if he or she is 18 years of age or over and does not have a guardian empowered to consent for this specific purpose.

2. The guardian of the recipient if the guardian is legally empowered to execute such a consent.

3. The parent with legal and physical custody of the recipient if the recipient is less than 18 years of age.

a) A minor 14 years of age or older may request and receive mental health services and a mental health professional may provide services on an out-patient basis (excluding pregnancy termination referral services and use of psychotropic medication) without the consent or knowledge of the minor’s parent, guardian, or person in loco parentis.

b) The minor's parent, guardian, or person in loco parentis is not informed of the services without the consent of the minor unless the treating mental health professional determines a compelling need for disclosure based upon a substantial probability of harm to the minor or another person and if the minor is notified of the treating professional's intent to inform. (The treating professional shall document the compelling need in the clinical record and the time date and manner that the minor was informed.)

c) Services to the minor are limited to not more than 12 sessions of 4 months per request, and after these expire, the mental health professional terminates the services, or with the consent of the minor, notifies the parent guardian, or person in loco parentis to obtain consent to provide further outpatient services.

4. Other individuals specified in Section 716 or 717 of the Mental Health Code.

e) Ensure that the informed consent:

1. Is filed in the recipient's record.

2. Specifies the date it will expire.

3. Shall not remain in effect for longer than 12 months.

4. Automatically expires when the purpose for which it was obtained has been achieved. If the purpose has not been achieved by the expiration date, consent must be re-obtained or the purpose discontinued.

5. Is re-obtained whenever interim circumstances substantially affect the risks or other consequences or benefits reasonably to be expected.

f) Inform the individual signing the consent of the purpose of the procedure, risks and benefits, alternative procedures available, other consequences, and other relevant information that the individual needs to make an intelligent decision and offered an opportunity to ask and receive answers to questions.

g) Instruct the individual signing the consent that he or she is free to withdraw consent and to discontinue participation or activity at any time (or the date that withdrawal would no longer be possible, e.g., as in the case of publishing a photograph) without prejudice to the recipient or the individual consenting.

h) Use the initial and annual assessment processes to evaluate whether the recipient is competent to give informed consent, and report to his or her supervisor if there is a need to file a petition for guardianship.

i) Evaluate the recipient's ability prior to any guardianship proceeding and report the findings to his or her supervisor. An evaluation of Competency requires consideration of the effects of deprivations stemming from confinement and of the phenomenon of institutionalization.

2. The primary clinician's supervisor shall review the evaluation of competency and determine whether there is a need to file a petition for guardianship.

B. Consent for Treatment: The primary clinician shall explain the proposed treatment plan to the individual signing the consent, including, but not limited to the following:

1. The goals, objectives, and time frames.
2. The methods or interventions used to achieve the goals and objectives.
3. Possible adverse or uncomfortable effects of the plan.
4. Possible alternatives to the plan.

C. Consent for Medication: The primary clinician or designated medical staff shall ensure that consent is obtained and information is provided according to agency procedures.

D. Consent for Surgery: The primary clinician or involved medical or emergency staff shall ensure that consent is obtained according to Section 716 of the Mental Health Code.

E. Consent for Electroconvulsive Therapy: The primary clinician or involved medical or emergency staff shall ensure that consent is obtained according to Section 717 of the Mental Health Code.

F. Consent for Photographs Audiotapes Fingerprints and Use of One-way Glass: The primary clinician shall ensure that consent is obtained according to agency procedures.

VI. REFERENCES AND LEGAL AUTHORITY: Act 258 of the Public Acts of 1974, as amended (Mental Health Code) Section 100a, 716, 717, 724; Department of Health and Human Services Administrative Rule 7003

VII. EXHIBITS: Consent to Treatment; Authorization to Photograph, Videotape, Audiotape, and/or use One-Way Glass; Consent for Medication (specific to drug); Consent to Medication (blank)