

<b>Title:</b>	3.6.08, Fingerprinting, Photographing, Audiotaping, Videotaping and Use of One-Way Mirrors		
<b>Subject:</b>	Recipient Rights		
<b>Section:</b>	Clinical		
<b>Related Policies:</b>	3.6.08, Fingerprinting, Photographing, Audiotaping, Videotaping and Use of One-Way Mirrors		
<b>Policy:</b> <input type="checkbox"/> <b>Procedure:</b> X	<b>Issued by:</b> Director of Quality, Customer Service and Recipient Rights	<b>Effective Date:</b> 1/12/84	<b>Applies to:</b> X All CMHA-CEI staff X Contract Providers
<b>Page:</b> 1 of 3	<b>Approved by:</b> N/A	<b>Review Date:</b> 9/1/16	<input type="checkbox"/> <b>Other:</b>

I. **Purpose:** Establish guidelines for the use of fingerprinting, photographing, audiotaping and on way glass in the provision of services to recipients of CMHA CEI services.

II. **Procedures:**

- A. Fingerprints, photographs, or audiotapes may be taken and used, and one-way glass may be used by a service provider for the following purposes:
  1. In order to provide services, including research, to a recipient.
  2. In order to determine the name of the recipient.
  3. For educational or training purposes.
  4. Purely personal or social purposes.
- B. Written, informed consent must be obtained prior to taking or using fingerprints, photographs, audiotapes, or one-way glass to provide services, to determine the name of the recipient, or for educational or training purposes, from one of the following:
  1. An adult, competent recipient.
  2. The empowered guardian of a recipient.
  3. The parent of a minor recipient.
- C. Consent may be withdrawn by the recipient, empowered guardian, or parent of a minor who had previously consented.
- D. Fingerprints, photographs, or audiotapes taken in order to provide services to a recipient, and any copies, shall be kept as part of the record of the recipient.
- E. Fingerprints, photographs, or audiotapes taken in order to determine the name of a recipient shall be kept as part of the record of the recipient, except when necessary the fingerprints, photographs, or audiotapes may be delivered to others for assistance in determining the name of the recipient.
  1. Fingerprints, photographs, or audiotapes so delivered shall be returned to the provider, together with copies that were made.
  2. An individual receiving the delivered fingerprints, photographs, or audiotapes shall be informed that return of the items to the provider is required.
  3. Upon return, the fingerprints, photographs, audiotapes, and copies shall be kept as part of the record of the recipient.
- F. A service provider may take photographs for purely personal or social purposes, without prior written consent.
  1. Immediately prior to taking a recipient's picture for personal or social reasons, staff will

- give the recipient the opportunity to object.
2. A photograph of a recipient shall not be taken or used for personal or social reasons if the recipient has objected.

### III. **Definitions:**

#### A. **Consent:** Consent means

1. A written agreement executed by a recipient, empowered guardian, parent of a minor recipient, or a recipient's legal representative with authority to execute a consent, or
2. A verbal agreement of a recipient, empowered guardian, or parent of a minor, that is witnessed and documented by an individual other than the individual providing treatment.

#### B. **Informed consent** includes the following elements:

1. **Legal competency:** 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:** to consent, a recipient or legal representative must have basic information about the procedure, risks, other related consequences, and other relevant information. The standard governing required disclosure by a doctor is what a reasonable patient 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 recipient.
- d. An offer to answer further inquiries.

- C. **Comprehension:** an individual must be able to understand what the personal implications of providing consent will be based upon the information provided under II.B.2--Knowledge, above.

- D. **Voluntariness:** there shall be 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.

- E. **Photographs:** still pictures, motion pictures, and videotapes.

### IV. **Monitor and Review:**

This procedure is reviewed annually by the Director of Quality, Customer Service and Recipient Rights. This procedure is monitored by accrediting bodies and regulatory agencies as applicable.

V. References:

- A. PA 258 of 1974, Michigan's Mental Health Code, as amended
  - 1. 330.1100a--Definitions; A to E
  - 2. 330.1752--Policies and procedures
- B. Administrative Rules R 330.7003--Informed consent
- C. CMHA CEI Policy 3.3.09, Informed Consent to Treatment
- D. Consent to Treatment and Services (contract providers requirement)

VI. Review Log

Review Date	Reviewed By	Changes (if any)
10/14/89, 5/4/88, 7/13/89, 5/14/90, 5/8/91, 5/29/92, 5/24/93, 5/25/95, 9/18/98, 5/25/99, 8/31/01, 3/16/04, 11/10/04, 6/6/05, 2/6/07, 5/25/10, 2/6/12, 3/10/13	-----	-----
9/1/16	Recipient Rights Officer, QI Specialist	Update to new format.

VII. Attachments: None.