

## LifeSpan... A Community Service

### Policy & Procedure

Title: Rights of Persons Served	Partnership: All
Approved By: Board Of Directors and Exec. Director	Policy No: J02
Attachments: Internal/Informal Complaint Process, Medicaid Notice of Hearing Rights,	Effective Date: November 2001
Page: 1 - 5	Revision Date: July 2013, November 2014

#### Policy Statement:

It is the policy of LifeSpan that employees and other stakeholders must adhere to the Bill of Rights posted at each LifeSpan location, regarding persons served. Additionally, Behavior Treatment Plans will define the only instances of seclusion or restriction allowed in regards to persons served. It is the LifeSpan...A Community Service that no qualified person shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination in any services or activities solely on the basis of race, color, religion, national origin, ancestry, age, gender, height, weight, marital status, sexual orientation, physical or mental disability, political belief, or ability to pay for services.

#### Purpose:

The purpose of this policy is to provide guidelines to staff and other stakeholders for maintaining the rights of and protecting persons served, and reporting any instances of violation.

#### Application:

- 1) It is staff's primary duty to protect, care for and respect all persons served.
- 2) The Bill of Rights, posted at each program site, regarding persons served, must be followed at all times, which includes for consumers:
  - a) You have the right to receive information about your rights and to file a complaint if you feel your rights have been violated. Any complaint will NOT result in retaliation, humiliation or barrier to services.

- b) You have certain treatment rights including the right to appropriate treatment, the right to participate in the development of your individual plan of service, the rights to ask questions about your treatment and its cost to you, and the right to request changes in your treatment if necessary.
  - c) You have the right to information about and how to use the Treatment Dispute and Grievance and Appeals processes if you disagree with your recommended treatment.
  - d) You have the right to consent to or refuse treatment under certain circumstances.
  - e) You have the right to be treated with dignity and respect.
  - f) You have the right not to be abused or neglected. Reports of suspected abuse or neglect will be investigated.
  - g) You have the right to manage your own affairs unless a court has determined that you are not legally competent to do so.
  - h) You have the right not to be discriminated against.
  - i) You have the right to confidentiality and reasonable access to information in your case record.
  - j) You are entitled to all other constitutional and civil rights afforded all citizens and all other legal rights.
  - k) If you have questions about your rights, you should contact your Recipient Rights Officer or LifeSpan Recipient Rights Advisor. Contact information is available at each program site or any employee will assist you in obtaining contact information or helping you contact the appropriate Office of Recipient Rights.
  - l) If you are receiving residential services you also have the rights listed in the Residential Bill of Rights.
  - m) You have the right to legal representation. If you require assistance, any employee will help you access advocacy support services.
  - n) If you desire, any employee will help you access self-help support services as needed, requested or desired.
  - o) If you are involved in a research project, we will assure adherence to guidelines and ethical practices.
- 3) If restrictions are placed on your rights, it will only happen through a Behavior Treatment Plan (BTP) with specific, time limited, measurable objectives, methods and identified techniques. Your informed consent will be evident. There will be regular review of the effectiveness of the BTP at least quarterly, to remove restrictions on rights as soon as possible.

4) Staff must refrain from any type of abuse and/or neglect as defined on the Summary of Abuse and Neglect Reporting Requirements. Staff shall not:

- a. Use ANY form of punishment
- b. Use any form of physical force other than physical restraint. Physical restraint means the bodily holding of a person served with no more force than necessary to limit the person's movements.
- c. Restrain a program participant's movement by binding or tying or through the use of medication, paraphernalia, contraptions, material or equipment for the purpose of immobilizing the program participant.
- d. Confine a person in an area, such as a room where egress is prevented, in a closet, or in a bed, box or chair or restrict a resident in a similar manner.
- e. Withhold food, water, clothing, rest or toilet use
- f. Refuse the person entrance to the home or program location
- g. Isolate a person by complete and unattended separation from staff and other people
- h. Use any electrical shock device
- i. Subject a person to any of the following:
  - i. Mental or emotional cruelty
  - ii. Verbal abuse
  - iii. Derogatory remarks about the person served or members of their family
  - iv. Threats (verbal or through motion)

5) Communication by Mail, Telephone, Visits and Freedom of Movement

- a. Recipients are entitled to unimpeded, private and uncensored communication by mail and telephone, and to visit with persons of their choice, except in the circumstances set forth in this policy. This standard is inclusive of electronic mail and other forms of electronic communication.
- b. Recipients' right to communicate by mail or telephone, or to receive visitors, shall not be limited except as indicated in their Individual Plan of Service, or as indicated in program rules of licensed residential settings or the Behavioral Treatment Plan.
- c. Individual limitations on communication must be implemented as clinically appropriate, and in compliance with the Behavior Treatment Committee.
- d. A recipient's communication regarding matters of legal inquiry shall not be limited under any circumstances. This may include communication with an attorney, a court, or the CMHPSM's Recipient Rights Officer, Customer Service Representative, Fair Hearings Officer or LifeSpan's Recipient Rights Advisor.

e. If a recipient secures the services of a Mental Health Professional or other licensed professional, the recipient shall be allowed to see that person at any reasonable time. A time is reasonable as long as it does not affect the functioning of the program.

f. Restrictions on a recipient's right to communication may be appealed verbally or in writing to the local supervisor/designee and then to the local CMH Director.

g. Recipients' freedom of movement shall not be restricted more than is necessary to provide mental health services, to prevent injury to the recipient or others, or to prevent substantial damage to property.

1. Security precautions may be taken if an individual is admitted by order of a criminal court, or transferred as a sentence-serving convict of a penal institution, as determined appropriate to the condition and circumstance.

2. If a limitation on the right to freedom of movement is imposed pursuant to an order of the court and the limitation substantially restricts the ability to carry out treatment or habilitation specified in the Individual Plan of Service, the court shall be so informed during the hearing process.

3. Recipients shall have free access to areas suited for vocational, recreational or social activities unless limited by general restrictions or individual limitation of rights.

4. Any individual limitation of recipients' freedom of movement shall be:

- a. Justified in the clinical record.

- b. Time-limited.

- c. Removed when the circumstance that justified its implementation ceases to exist.

- d. Implemented in compliance with CMHPSM policies and the Behavior Treatment Committee.

6) Recipients are entitled to receive, possess, and use all personal property and funds, except in the circumstances and conditions set forth below.

- a. Hope House, Fowler House and the DeForest Respite Home and shall provide a reasonable amount of storage space to each recipient for clothing and other personal property. The recipient shall be permitted to inspect personal property at reasonable times.

- b. These settings may implement general restrictions of personal property, including weapons, sharps, explosives, drugs, and alcohol. Any excluded items must be:

1. Listed in writing.

2. Conspicuously posted at each setting.

c. Individual limitations of personal property may be implemented to prevent:

1. Theft, loss, or destruction of the property, unless a waiver is signed by the recipient.

d. A recipient shall not be prevented from obtaining reading/viewing/listening material at his/her expense for reasons of, or similar to, censorship.

e. A recipient's access to entertainment materials, information, or news shall not be limited unless specifically approved in the recipient's individual plan of service.

f. Each instance of a limitation shall be:

1. Documented in the recipient's record.
2. Implemented in compliance with CMHPSM policies and Behavior Treatment Committee.
3. Removed when no longer clinically justified.

g. Material not prohibited by law may be read or viewed by a minor recipient, unless there is objection by the minor recipient's legal representative. Staff may attempt to persuade a minor's legal representative to withdraw objection to material desired by the minor, as allowable by law.

h. Residential providers may impose general restrictions on access to material if necessary for the safety and welfare of the group as a whole, or for the therapeutic benefit of the group. Any general restrictions shall be implemented in accordance with CMHPSM policy.

i. Residential providers shall determine recipients' interest in a daily newspaper, and ensure access to a newspaper as applicable.

j. Restrictions on the right to access reading, viewing and listening material may be appealed verbally or in writing as indicated in this policy, Item 10).

7) Recipients will not be charged for accidental damage to property. Ongoing maintenance funds from program budgets shall be accessed for repairs due to accidental damage. The clinical treatment team, in consultation with the Office of Recipient Rights, as needed, shall make a determination as to the purposeful nature of the action, and the recipient's ability to understand the connection between their action and the damage incurred. In addition, any actions or omissions by staff, which may have contributed to the incident, will be carefully evaluated. A recipient shall not be asked for pay for damages if staff action or omission to act was the apparent determining factor in the property damage incident.

The clinical treatment team will determine an appropriate charge for the damage. Charges will not exceed the cost of repair or the current actual value of the damaged property that needs to be replaced. Charges will not place the recipient in a position where he or she will not be able to meet his or her basic needs.

Payment plans may be arranged as appropriate. Any restrictions placed on a recipient's access to funds shall be implemented in compliance with CMHPSM policies and the Behavioral Treatment Committee. Should the recipient not consent to payment, the clinical treatment team shall determine whether it is appropriate for legal charges to be filed. This determination shall be made in consultation with the Office of Recipient Rights.

8) Religious Freedom: Recipients home settings shall be assured reasonable access to religious services, worship and practice of their choice. However, recipients shall not be coerced into engaging in and/or observing religious activities or events.

A recipient shall be permitted treatment by spiritual means upon request or upon the request of the empowered guardian or parent of a minor.

The right to treatment by spiritual means does not include the right:

1. To use mechanical devices or chemical or organic compounds which are physically harmful.
2. To engage in activities prohibited by law.

9) At each location, staff performs housekeeping duties. Participants may assist or participate as they are able and as they wish. It is our belief that independent completion of a house task leads to higher self-esteem, pride in ones' home, and an increase in the quality and success of future tasks. Some examples of house jobs are:

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|-----------------|--------------------------|--------------|
| 1. High dusting | 4. Cleaning own bathroom | 7. Mopping   |
| 2. Vacuuming    | 5. Cleaning own bedroom  | 8. Dishes    |
| 3. Sweeping     | 6. Gardening             | 9. Recycling |

Recipients may work around any program location as they wish and as they are either hired or have an agreement to work for wages. Individuals will receive minimum wage or higher payment for their service.

Some examples include:

- |                   |                  |                          |
|-------------------|------------------|--------------------------|
| 1. Photocopying   | 4. Raking leaves | 7. Sanding picnic tables |
| 2. Snow shoveling | 5. Repairs       | 8. Painting (anything)   |
| 3. Lawn mowing    | 6. Pruning       | 9. Shredding             |

10) Every employee is bound by mandatory reporting of any suspected abuse and/or neglect as defined on the Summary of Abuse and Neglect Reporting Requirements. (See Incident Report Policy J01). No retaliation from any other employee, board member or stakeholder shall take place if an employee reports suspected abuse and/or neglect to any entity.

11) Staff are required to maintain professional relationships with persons served at all times.

12) Complaints to the organization of persons served will be addressed as follows:

- a) If a person served wants to report a complaint to the organization, the GO form can be utilized in addition to verbal discussion with a program manager and/or Recipient Rights Advisor. After the GO form is filled out, it is turned in to a Recipient Rights Advisor who then:
    - a. Will contact the individual(s) involved to attempt to resolve the complaint within 5 days of receipt of the GO form.
    - b. If the complaint cannot be resolved at this point, the Recipient Rights Advisor shall contact others including the guardian, home manager or Executive Director, as needed, within 5 days of the first attempt.
    - c. If the complaint is not resolved at this point, a full meeting of all involved parties shall be convened, within two weeks.
    - d. If this does not result in resolution, the formal external complaint process shall be followed.
    - e. At each level, a written notification regarding actions taken to address the complaint process shall be issued to all parties involved.
    - f. Each party will be offered the right to speak freely and without fear of retaliation or humiliation. All information will be kept confidential.
    - g. Each party involved must be responsible for making a good faith effort to resolve the complaint.
    - h. If desired, an advocate or other assistance such as a translator shall be made available to any party involved.
    - i. Go forms are available at each location. If a form is not available, then the individual may call the Recipient Rights Advisor. The Advisor shall assist the individual in completing the form to make it understandable.
  - b) If a person served wants to report a formal complaint, the Michigan Department of Community Health Recipient Rights Complaint form is utilized. The LifeSpan Recipient Rights Advisors can assist in filling out the form. Once the form is completed, it is sent to the Recipient Rights Office at the Community Mental Health Agency. No person served or employee assisting a person served to file a complaint shall be subjected to any form of retaliation by any employee or other stakeholder of LifeSpan...A Community Service.
- 13) Employees in violation of this policy will be subject to disciplinary action up to and including discharge from employment at LifeSpan...A Community Service.