

HEALTHWEST
Policy and Procedure
No. 06-007

Prepared by:

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Approved by:

Subject: Sexual Activity in Specialized
Residential Facilities

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I. POLICY

Residents of HealthWest specialized facilities shall not be prohibited from sexual activity when they are able to give informed consent.

II. PURPOSE

The purpose of this policy is to set clear guidelines for HealthWest staff and contract providers of specialized residential facilities.

III. DEFINITION

A. Sexual Activity: Activities associated with sexual intercourse.

B. Informed Consent: Requires:

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 exercised 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, an individual or legal representative must have basic information about the activity, risks, other related consequences, and other relevant information.
3. Comprehension. An individual must be able to understand what the personal implications of providing consent will be based upon the information provided under subsection 2 of this definition.

4. 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.

III. PROCEDURE

- A. Inform HealthWest agency and contract staff of agency policy regarding sexual activity in Specialized Residential facilities.
- B. Offer support in the form of education and information about sexuality when requested to individuals receiving services and their guardians/families. The privacy, dignity, and freedom of all other recipients, including possible sexual partners shall be protected at all times.
- C. Specialized Residential facilities are governed by their House Rules. A Specialized Residential facility may make house rules which prohibit sexual contact between residents. Such rules shall be considered as entrance criteria for the facility as required in the Facility Contract.

Entrance criteria may be subject to approval by HealthWest. House Rules must be explained to potential residents prior to entry into the facilities.

IV. REFERENCES

Michigan Mental Health Code.
Michigan Criminal Sexual Act 1974 PA 266, Effective April 1, 1975.

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