

HEALTHWEST

Policy and Procedure

No. 04-003

Prepared by:

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The Office of Recipient Rights

Approved by:

Subject: Consent



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I. POLICY

HealthWest will provide mental health services only after the recipient, or his/her legal representative, has provided a written consent for treatment. Exceptions may occur where agency services will be provided to persons who meet criteria for involuntary evaluation or treatment.

II. APPLICATION

All HealthWest programs.

III. DEFINITIONS

A. Consent: Written informed consent on the part of a recipient, or his/her legal representative. 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 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.
 3. Comprehension. An individual must be able to understand what the personal implications of providing consent will be based upon the information provided under subdivision (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.
- B. Involuntary Recipient: An individual who is in police custody under provisions of the Mental Health Code or is held in a psychiatric inpatient unit or state facility by medical certification or Probate Court petition or is otherwise under Probate Court order to receive mental health services.
- C. Informed consent will be reobtained, if changes in circumstances substantially change the risks, other consequences or benefits that were previously expected.

IV. PROCEDURE

- A. The responsible staff person is required to provide full information to the recipient regarding treatment procedures' risks and other consequences and relevant information to the degree that a recipient can benefit from such information, even when a guardian has been appointed.
- B. The responsible staff person will inform the recipient or legal representative that consent for mental health services may be withdrawn at any time without prejudice.
- C. The responsible staff person must make a determination regarding the ability of a recipient, or legal representative, to give informed consent, as described in HealthWest Policy 06-010 Medication Administration §V.F.
- D. Before any guardianship proceedings are initiated, the responsible staff person shall evaluate the recipients, or legal representative's ability to give consent.
- E. The rights of a minor to give consent shall be governed by the following:
 1. A minor 14 years of age or older may request and receive mental health services and a mental health professional may provide mental health services on an outpatient basis, excluding pregnancy termination referral services and the use of psychotropic drugs, without the consent or knowledge of the minor's parent, guardian or person in loco parentis.
 2. Except as otherwise provided in this section, the minor's parent, guardian or person in loco parentis shall not be informed of the services without the consent of the minor unless the mental health professional treating the minor determines that there is a compelling need for disclosure based on a substantial probability of harm to the minor or to another individual, and if the minor is notified of the mental health professional's intent to inform the minor's parent, guardian or person in loco parentis.

3. Services provided to a minor under this section shall be limited to not more than 12 sessions or four months per request for services. After the twelfth session or fourth month of services, the mental health professional shall terminate the services or, with the consent of the minor, notify the parent, guardian, or person in loco parentis to obtain consent to provide further outpatient services.
4. This section does not relieve a mental health professional from his or her duty to report suspected child abuse or neglect under Section 3 of the Child Protection Law, Act no. 238 of the Public Acts of 1975.

V. REFERENCES

M.C.L. 330.1707
Administrative Rules R 330.7003

LS/ab