

Recipient Rights Annual Training



Oakland Community
Health Network

Developmental Disabilities • Mental Health • Substance Recovery

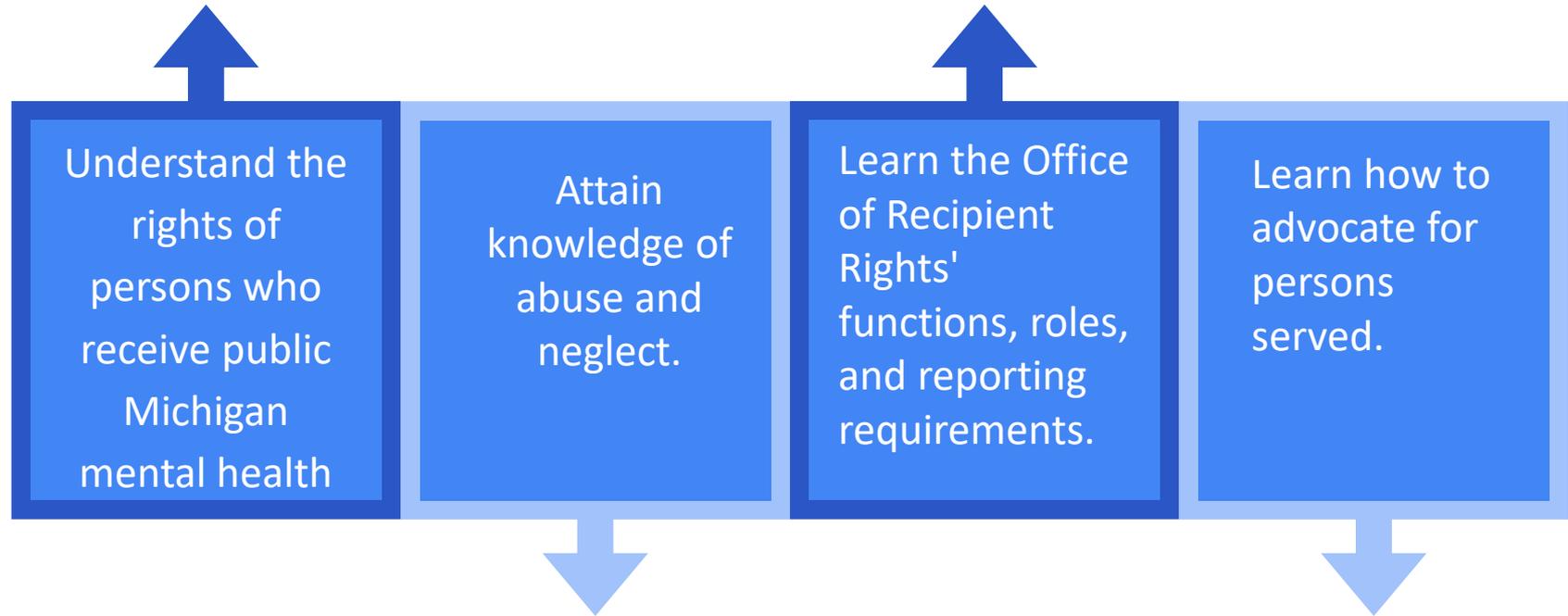
Thank you

- For your commitment to honor the rights of the persons we serve and taking the Recipient Rights Annual Training.
- If you have any questions or concerns about this training, what you learned, or the rights of persons we serve please contact Customer Services at (888) 847-0513.

Important Announcement

- The annual test must be taken on a laptop/electronic device which is linked to a working printer. Once you pass (80%) the annual test, the certificate window will pop up and you can print the certificate.
- Note: Please print the certificate immediately. Once the certificate window closes, you will not be able to access it again and will need to retake the course and test.

Objectives

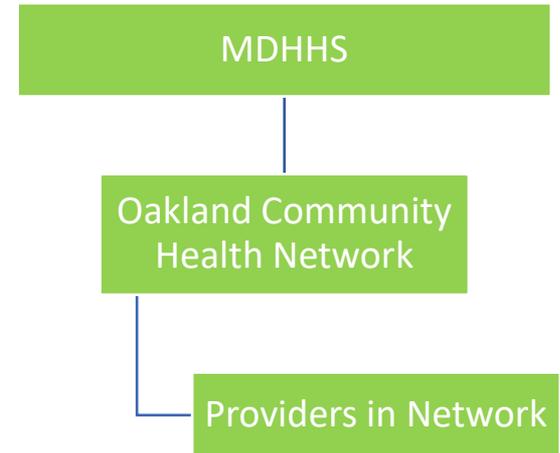


OCHN and Your Organization

Oakland Community Health Network leads a network of providers that serves Oakland County's public mental health system.

Functions of OCHN:

- Manage budget funded by MDHHS, General Fund, grants, and Oakland County.
- Audit and monitoring to ensure federal and state guidelines/regulations are being adhered to within provider network.
- Manage the Office of Recipient Rights (ORR) to advocate for people who receive mental health services by offering recipient rights protection.



Right versus Privilege

A RIGHT is:

- Not what someone gives you, it is something they cannot take away.
- Are entitlements
- Belong to every person
- Are given by dictate of **law**

- Right to vote
- Right to an education
- Right to be free from abuse or neglect.
- Right to free speech



Right versus Privilege

A PRIVILEGE is:

- Earned
- Easily limitable
- Given to a person or group
- May be withheld from some or all

- Getting a driver's license is a privilege not a right

For persons served in the public mental health system there is no situation where a right becomes a privilege. One's rights cannot be earned or withheld.

I'm Just Like You...

- A person receiving public mental health services is first and foremost a person just like you and me. They:
 - Should not be seen just as their disability or illness.
 - May be a parent, a child, a grandparent, a neighbor, a friend, or a relative.
 - May be an artist, a writer, enjoy sports, want to get married, want a job, enjoy many of the things you and I do.

What Laws Provide Protection?

There are laws that protect all citizens of the United States. Some of these include:

- The United States Constitution
- The U.S. Constitution [including the Bill of Rights] is the highest level of law and includes our right to vote, freedom of speech, and freedom of movement.

What Laws Provide Protection?

These are examples of Michigan State Laws:

- Elliott - Larsen Civil Rights Act (Act 453) [prohibits discrimination]
- Michigan Persons with Disabilities Civil Rights Act (Act 220) [define the civil rights of persons with disabilities; to prohibit discriminatory practices]

What Laws Provide Protection?

These Federal Laws provide specific protections for persons with disabilities. You may be familiar with some these.

- Americans with Disabilities Act (ADA)
- Civil Rights of Institutionalized Persons Act (CRIPA)
- Federal Rehabilitation Act
- Community Mental Health Act 1963 [created the public mental health system]

What Laws Provide Protection?

Michigan Mental Health Code 1974

In addition to the rights, benefits, and privileges guaranteed by other provisions of Federal, State [as presented in the previous slides] and local law for us all, [a recipient of public mental health services](#) **also has the rights** guaranteed by Chapter 7 & 7a of the Michigan Mental Health Code, unless otherwise restricted by law.

Michigan Mental Health Code (MHC) 1974

- Let's take a closer look at what RIGHTS are included for
- persons receiving public mental health services in the
- Michigan Mental Health Code Chapters 7 & 7a

Michigan Mental Health Code (MHC) 1974

Michigan's MHC Includes:

- Laws and rights set forth to protect those persons receiving mental health services
- Standardized operations
- Established the Recipient Rights Offices

Michigan Mental Health Code (MHC) 1974

- All people with disabilities are deemed legally competent unless there has been a court process where they are declared incompetent and a legal guardian has been assigned to them.
 - MCL 330.1702 (Sec. 702)
- People who receive mental health services still have rights, benefits and privileges of any other person under the law.
 - MCL 330.1704 (Sec. 704)

Michigan Mental Health Code (MHC) 1974

As specifically detailed in MHC Chapter 7, individuals have the right to:

- Be free from abuse and neglect
- Receive services suited to (their) condition(s)
- Have a written plan of service developed in a Person Centered Planning process
- Be treated with dignity and respect
- Keep their information confidential
- Be free of restraint and seclusion
- Manage their finances
- Have freedom of movement
- Be free from discrimination
- Reside in a least restrictive setting
- Live in a safe and sanitary environment

Let's Learn About The 3 Abuse Categories

A recipient of public mental health services shall not be subjected to abuse or neglect.

The State of Michigan & Oakland Community Health Network has zero-tolerance regarding abuse & neglect.

ABUSE CLASS I

Abuse Class I:

A non-accidental act or provocation of another to act that results in:

- Death
- Sexual Abuse:
 - Per the Michigan Penal Code, sexual abuse is defined as any sexual contact or sexual penetration of the “Intimate parts” and “Sexual contact” done for a sexual purpose for: Revenge, to inflict humiliation or out of anger

Abuse Class I Continued:

A non-accidental act or provocation of another to act that results in:

- Serious physical harm:
 - Defined as physical damage suffered by a recipient that a physician or registered nurse determines caused or could have caused the death of a recipient, caused the impairment of his or her bodily functions, or caused the permanent disfigurement of a recipient

ABUSE CLASS II

Abuse Class II -means any of the following:

- **A non-accidental act or provocation of another to act that results in non-serious physical harm:** Non-serious physical harm is defined as physical damage or pain suffered determined by a physician or registered nurse which did not cause or contributed to the death of a recipient, the permanent disfigurement of a recipient, or an impairment of his or her bodily function e.g. cuts and bruises.
- **Use of unreasonable force:** Any physical management or force that is applied by an employee, volunteer, or agent of a provider to a recipient where there is no imminent risk of significant injury to the recipient, staff or others or other circumstances outlined in Michigan Mental Health Code or Administrative Rules.

Abuse II: [continued]

- **A non-accidental act or provocation of another to act that causes or contributes to emotional harm**: Emotional harm is defined as an impaired psychological functioning, growth, or development of a significant nature as evidenced by observable physical symptomatology or as determined by a psychologist or psychiatrists
- **An action take on behalf of a recipient that assumes the recipient is incompetent** : that results in economic, material, or emotional harm to the recipient.
- **Exploitation**: An action that involves the misappropriation or misuse of a recipient's property or funds for the benefit of an individual or individuals other than the recipient.

Example

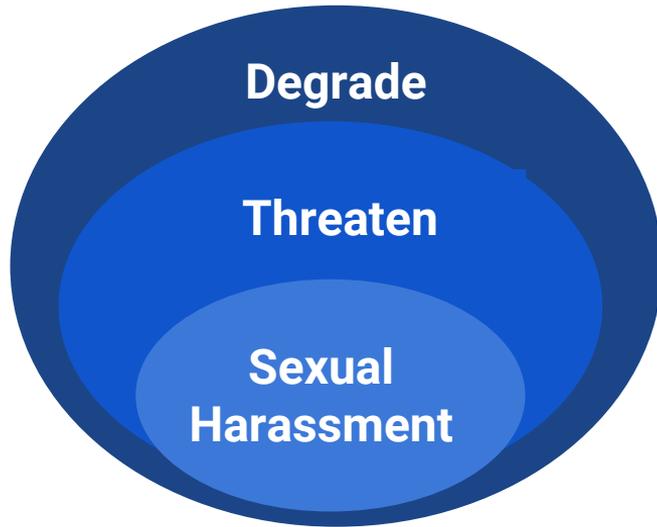
ABUSE CLASS II [non-accidental act or provocation of another to act that results in non-serious physical harm]

Staff physically turned an individual, John, around and pushed him into another room. This caused John to fall to the floor. John suffered a bruise on the left side of his back, as well as pain.

ABUSE CLASS III

Abuse III:

Using language (verbal) or other means of communication (non-verbal) to:



Example

ABUSE CLASS III [Threatened]

An individual was exhibiting some challenging behaviors and the staff person told her to "stop or the police would come pick you up and take you to jail." Staff also threatened to complete an incident report on the individual.

Let's Learn About the 3 Neglect Categories

NEGLECT CLASS I

Neglect Class I

An act or failure to follow a standard of care or treatment that causes or contributes to:

- Death
- Sexual abuse
- Serious physical harm
- OR the Failure to report apparent or suspected Abuse I or Neglect I of a recipient

Example

Neglect Class I

There was a lake not far from an individual's residence, since the individual did not know how to swim there was a requirement in the his plan of service that he was not to be outside without supervision.

The individual went outside onto the back porch. The staff person decided to just watch him from the window while she made dinner. The individual wandered off and drowned in the lake.

NEGLECT CLASS II

Neglect Class II

An act or failure to follow a standard of care that results in...

Non-serious harm

Emotional Harm

Failure to report
apparent or suspected
Abuse II or Neglect II

Example

Neglect Class II - Non-serious Physical Harm

During the unloading process from the group home's van, an individual drove her wheelchair into the railing of the entrance ramp to the home, which resulted in the individual fracturing her tibia. **The staff person who drove the van went into the home before the individual was unloaded from the van.**

The individual's Plan of Service indicates that **staff are to remain with her during the entire process of loading/unloading her in the van.**

NEGLECT CLASS III

Neglect Class III

An act or failure to follow a standard of care that either placed or could have placed a recipient at risk of harm of:

- Physical harm
- Sexual abuse
- OR Failure to report apparent or suspected Abuse III or Neglect III

Example

Neglect Class III - Risk Of Physical Harm

Staff assisted individuals off of the van at their destination leaving one individual served, Emily, in the van. After going into the building, the staff person forgot to insure that Emily got off of the van. Approximately 20 minutes later, another staff person asked Emily's whereabouts. The staff remarked that she had forgot and had left Emily on the van. Emily was not harmed. However, the temperature was 90 degrees on that day, putting Emily at risk of physical harm.

Let's take a look at some additional rights of persons served by the public mental health system that are included in the Michigan Mental Health Code Chapter 7...

The right to have Treatment Suited to Condition

Services shall be provided in accordance with all applicable **Standards of Care** or treatment required by any of the following:

Standards of Care include all State or Federal laws, rules, or regulations; Provider's policies and procedures, written guidelines or protocols, written directives; and an individual's Individual Plan of Service.

The right to have Individual Plan of Service (IPOS)

The responsible agency for each recipient shall ensure that a person-centered planning process is used to develop a written individual plan of services in partnership with the recipient.

The right to have

Individual Plan of Service (IPOS)

Additionally for the agency or staff providing services, the IPOS tells you how to support the needs of the people you are working with. The easiest way to avoid making a mistake that could be considered or constitutes a [Rights Violation](#), is to learn and know how to support the needs of the individual by following what is written in the Individual's.

[Individual Plan of Service](#)

The right to Person/ Family Centered Planning Rights

The Individual Plan of Service is the product of the Person Centered Planning process.

“Person-centered planning” means a process for planning and supporting the individual receiving services that builds upon the individual's capacity to engage in activities that promote community life and that honors the individual's preferences, choices, and abilities....”

The right to Person/ Family Centered Planning Rights

During the “Person/family centered planning” process the individual served has the right to choose:

WHO: They want to invite to their person centered planning meeting

WHAT: Goals they want to talk about; or things they do not want to talk about

WHEN: Their planning meeting takes place

WHERE: They would like to have their planning meeting

The Right to have Dignity and Respect

Dignity and Respect Is Being:

- Treated with/as
 - Esteem
 - Honor
 - Politeness
 - Appreciation
 - Consideration
 - An equal
 - An Individual wants to be treated
- Proactive
 - In allowing an individual to make choices about his/her life
 - Respectful of an individual's privacy
- Sensitive to cultural differences

Examples of Dignity and Respect

- Call a person by his/her preferred name
- Knock on a closed door before entering
- Use positive language
- Encourage people to make choices instead of making assumptions
- Take a person's opinion seriously / include them in conversations
- Allow people to do things independently / to try new things.

The right to Confidentiality

The Michigan Mental Health Code states: Information in the record of a recipient, and other information acquired in the course of providing mental health services to a recipient, shall be kept confidential and shall not be open to public inspection.

Examples of Confidentiality being Violated

- Photographing, audiotaping or videotaping without permission and sharing
- Gossiping/verbally sharing private information with family, friends and others
- Sharing any of an individual's information via your computer communication/ email
- Posting pictures/anything that may identify an individual you work with on social media (Facebook, Twitter, etc.)

- Talking to anyone without a release of information
- Sharing paper documents without a release of information
- Identifying an individual you work with in public/in the community
- Not respecting and maintaining professional boundaries

The right to Confidentiality

Exceptions of confidentiality include

- When you have a signed release
- Reporting abuse or neglect
- Medical emergency
- Duty to warn
- Required by a court of law.



The right to be free of Restraint and Seclusion

Use of a physical or mechanical device to restrict a recipient's movement.

What is Restraint?

Placement of a person receiving services in a room alone where egress is prevented by any means.

What is Seclusion?

The right to be free of Limitations and Restrictions

Limitations or restrictions cannot be placed upon an individual.

Only when the mandated procedure [such as a review by the Behavior Treatment Plan Review Committee] to approve limitations or restrictions on an individual has been completed and the specific limitation or restriction documented in their Individual Plan of Service can a limitation or restriction be implemented.

~~House Rules~~

Under the new Home and Community Based Services Rule house rules developed by a provider are not allowed.

Individuals living together can have an understanding or agreement about certain aspects of living together such as how late visitors can stay.

Self-Determination

Self-Determination allows for people to make choices to control their resources and services:

- Receive services through a Self-Determination arrangement
- Receive services from various service providers of their choosing
- Become an Employer of Record

Beware of a possible dual relationship, such as being a family member / friend and paid staff. Maintain professional boundaries.

The Five Principles of Self-Determination

- **FREEDOM:** Opportunity to *choose* where and with whom one lives, as well as how one organizes all important aspects of life with freely chosen assistance as needed
- **AUTHORITY:** Ability to *control* some targeted amount of public dollars
- **SUPPORT:** Ability to *organize* support in ways that are unique to the individual
- **RESPONSIBILITY:** Obligated to use public dollars wisely / *contribute* to one's community
- **CONFIRMATION:** The *recognition* that individuals with disabilities themselves must be a major part of the redesign of the human service system of long term care

Information about Complaints and Investigations

- The purpose of a complaint is specifically to report a suspected or apparent rights violation of any situation protected under Michigan's Mental Health Code.
- In order for the Office of Recipient Rights to open a rights investigation, the accused must be an employee, a volunteer, or a student working for an agency funded by / contracted with OCHN. The violation must have occurred against a recipient of public mental health services.
- If there is Abuse or Neglect, it has to be reported immediately by phone; a written complaint form must be faxed within 24 hours.

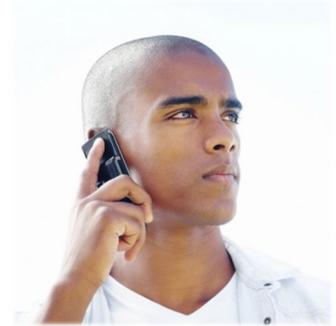
Making a Rights Complaint

Question: Who can make a rights complaint?

Answer: Anyone

Question: What is the purpose of a complaint?

Answer: Report a suspected or alleged Rights violation



Who Should You Call to Report?

Office of Recipient Rights (ORR): (248)-975-9578
Video Conference Phone (248) 209-6902



Other Agencies you may also need to report to:

Adult Protective Services [APS] or Children's Protective Services [CPS] regarding Abuse and Neglect:

(855) 444-3911

Bureau of Child and Adult Licensing (BCAL):

(855) 444-3911

Who Should You Call to Report?

This poster should be displayed at your agency. It outlines requirements for reporting abuse and neglect.

	Section 722, Public Act 258 of 1974, (Mental Health Code-Recipient Abuse)	Public Act 238 of 1975 (Child Protection Law)	Public Act 519 of 1982 (Adult Protective Services Law)	Section 723, Public Act 258 of 1974 as amended (Mental Health Code-Criminal Abuse)
WHERE is the report made?	The Office of Recipient Rights www.mi.gov/recipientrights MI Department of Health and Human Services Community Mental Health Service Programs Licensed Private Psychiatric Hospitals or Units	ADULT OR CHILDRENS PROTECTIVE SERVICES REPORTING HOTLINE 855-444-3911 Michigan Department of Health and Human Services (MDHHS)	ADULT PROTECTIVE SERVICES REPORTING HOTLINE 855-444-3911 Michigan Department of Health and Human Services (MDHHS)	Police MSP 517-332-2521 State Police County Sheriff Local Police Department
WHAT must be reported?	Sexual, Physical, Emotional or Verbal Abuse, Neglect, Serious Injury, Death, Retaliation or Harassment	Sexual, Physical or Mental Abuse, Neglect, Sexual Exploitation	Sexual, Physical or Mental Abuse, Neglect, Maltreatment, Exploitation	Assault (other than patient-patient assault/battery), Criminal Sexual Abuse, Homicide, Vulnerable Adult Abuse, Child Abuse
WHO is required to report?	All employees, contract employees, or volunteers of Michigan Department of Health and Human Services, Community Health Services Programs, Licensed Private Psychiatric Hospitals or Units	Physicians, nurses, coroners, medical examiners, dentists, licensed emergency care personnel, audiologists, psychologists, social workers, school administrators, teachers, counselors, law enforcement officers, and child care providers.	Any person employed by an agency licensed to provide, anyone who is licensed, registered, or certified to provide health care, education, social, or other human services, law enforcement officers and child care providers.	All employees, contract employees of: Michigan Department of Health and Human Services; Community Mental Health Services Programs; Licensed Private Psychiatric Hospitals or Units; all mental health professionals.
WHAT is the CRITERIA for reporting?	You must report if you: Suspect a recipient has been abused or neglected or any allegations of abuse or neglect made by a recipient.	You must report if you: Have reasonable cause to suspect a child has been abused, neglected, or sexually exploited.	You must report if you: Have reasonable cause to suspect or believe an adult has been abused, neglected, exploited or maltreated.	You must report if you: Suspect a recipient or vulnerable adult has been abused or neglected, sexually assaulted, or if you suspect a homicide has occurred. You do not have to report if the incident occurred more than one year before your knowledge of it.
WHEN must the report be made and in what format?	A verbal report must be made immediately. A written report on an incident report form must be made before the end of your shift.	A verbal report must be made immediately. A written report on DHS Form 3200 must be made within 72 hours.	A verbal report must be made immediately. A written report at the discretion of the reporting person.	A verbal report must be made immediately. A written report must be made within 72 hours of oral report (330.1723)
TO WHOM are reports made?	To your immediate supervisor and to the Recipient Rights Office at your agency or hospital	Report to Protective Services Reporting Hotline 855-444-3911	Report to Protective Services Reporting Hotline 855-444-3911	The law enforcement agency for the county or city in which the alleged violation occurred or the State Police. A copy of the written report goes to the chief administrator of the agency responsible for the recipient.
If there is more than one person with knowledge must all of them make a report?	Not necessarily. Reporting should comply with the policies and procedures set up by each agency.	Someone who has knowledge must report or cause a report to be made in the case of a school, hospital or agency, one report is adequate.	Everyone who has knowledge of a violation or an alleged violation must make a report. DHS has typically accepted one report from agencies.	Someone who has knowledge must report or cause a report to be made.
Is there a penalty for failure to report?	Disciplinary action may be taken and you may be held civilly liable.	You may be held civilly liable. Failure to report is also a criminal misdemeanor.	You may be held civilly liable and have to pay a \$500 fine.	The law states that failure to report or false reporting is a criminal misdemeanor.
Is it necessary to report to more than one agency?	YES	YES	YES	YES
Are there other agencies to which a report can be made?	YES	YES	YES	YES
	The Bureau of Community and Health Systems (LARA) is responsible for investigating abuse and neglect in Nursing Homes, Hospitals and Home Health Care. Call the NURSING HOME ABUSE HOTLINE 1-800-882-6006 The Michigan Attorney General's Office has an Abuse Investigation Unit which may also investigate abuse in Nursing Homes. Call the ATTORNEY GENERAL 24 hour HEALTH CARE FRAUD HOTLINE 1-800-24-ABUSE/ 1-800-242-2873 The LARA AFC/HFA Licensing Division is responsible for investigating abuse or neglect in a licensed foster care home. Call The Bureau of Community and Health Systems (LARA) COMPLAINT INTAKE UNIT 1-866-856-0126			

DCH-0727

1/2016

Incident Reports (IR)

Purpose of the IR: To report any unusual event, including rights issues

Who can file an IR: Staff at provider agencies



Incident Report (IR) Policy Requirements

What you need to know about Incident Reports: OCHN **requires** an IR be submitted within 24 hour of the incident.

- IR's should be clear, concise, complete
- Failure to submit a timely IR may result in a Rights violation
- Two (2) or more employees need to complete an IR if the two cannot agree upon the details of the event
- Each recipient involved in the incident should have a separate IR
- Contact the Office of Recipient Rights immediately in circumstances of death, suspected abuse and/or neglect

Office of Recipient Rights (ORR)



ORR Responsibilities and Functions include:

- Monitoring of service sites and incidents
- Prevention efforts
- Training of staff and recipients
- Investigation of rights violations
- Taking Complaints and Reviewing Incident Reports

Basics of Due Process Rights

If an [Action/Change in Services](#) negatively impacts a person, they are to be notified in advance and have the ability to Appeal decisions related to services that are:

- Reduced
- Terminated
- Suspended
- Denied

Basics of Due Process Rights

An action can be filed through:

- Local Appeal
- Medicaid Fair Hearing
- Rights Complaint
- Grievance
- Second Opinion



Today We Learned...

1. A brief historical view of the public mental health system
2. About the rights of persons who receive public mental health services in Michigan
3. About Mental Health categories such as Abuse and Neglect
4. The Office of Recipient Rights' responsibilities -what and how you are required to report
5. How to advocate for persons served

Test What You Learned

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2. Once you pass the annual test, the certificate window will pop up. Please make sure to print the certificate at that time. **If you close the certificate window, you will not be able to access it again and will need to retake the course & test.**

Click the Link Below to Take Your Annual Rights Test

[Link to Annual Recipient Rights Update Test](#)