

COPPER COUNTRY MENTAL HEALTH SERVICES BOARD

POLICY AND PROCEDURE

DATE: August 31, 2016 Photo & Fingerprinting.P5

RESCINDS: May 28, 2014

CATEGORY: Recipient Rights

SUBJECT: Photographing and Fingerprinting Recipients

POLICY: It is the policy of Copper Country Mental Health Services Board (CCMHS) to protect and promote the basic human dignity and privacy of recipients of service in regard to audiovisual reproduction and viewing through one-way glass. Further, it is the policy of the Copper Country Mental Health Services Board that no recipient shall be fingerprinted by or as a part of any program.

PURPOSE: The purpose of this procedure is to set forth conditions under which audiovisual reproduction may be made, viewing through one-way glass may occur, and to ensure that proper notification is made, that consent is obtained prior to the photographing, audio recording, video recording, or transmitting of images/voices of recipients or use of one-way glass, and to specify the disposition of the audiovisual products.

DEFINITIONS:

AUDIOVISUAL REPRODUCTION: Any reproduction of a person's likeness or voice by still or motion picture photography, audio recording, or video recording. Not included in this definition: x-ray, infrared or microscopic photography.

EXPRESSED WRITTEN CONSENT: Written permission obtained prior to making and using audiovisual reproductions of a recipient which may be viewed by the public, including the proposed use of material, e.g., accompanying newspaper articles, inclusion in brochures, training materials, etc., which is signed by the recipient, parent of a minor, or guardian.

ONE-WAY GLASS: Modality for making observations through a glass, which allows for images to be seen in only one direction. The subject being observed is unable to see the observer.

PHOTOGRAPHY(ING): Includes still pictures, motion pictures or video recording reproductions.

PUBLIC NEWS MEDIA: Publications including but not limited to newspapers, magazines, books and other printed materials produced by the public press, business or industrial firms, non-profit associations or public agencies (including mental health agencies) and communication systems capable of transmitting photographs or sound via air or cable, e.g., television and radio.

RECIPIENT: means a person who receives mental health services from CCMHS, or from a provider that is under contract with CCMHS.

PROCEDURE: Audiovisual reproduction or use of one-way glass

- I. Audiovisual reproduction may be made for such purposes and under the conditions set forth below.
 - A. For identification purposes, expressed written consent must be obtained and the photograph will be kept in the recipient's record.
 1. If a photograph is delivered to an individual who is not an employee of Copper Country Mental Health Services for the purpose of identifying a recipient, it is required that:
 - a. the photograph be returned;
 - b. no duplication of the photograph be made without approval from the Program Supervisor.
 - B. To provide services including therapy to the recipient, education and staff development services or presentation to professional groups outside the agency, expressed written consent must be obtained.
 - C. For personal or social purposes, audiovisual reproductions may be made and used unless the recipient or guardian has indicated his/her objection. Expressed written consent is not required.
 1. Use of audiovisual reproductions by the public news media must also be approved by the Executive Director or his designee. The written consent form must be signed by the Executive Director or his designee.
 2. If the Director refuses to sign the consent form, despite the affirmative wishes of the recipient, guardian or parent, his/her decision may be appealed by written or verbal notification to the Rights Office.

D. If photographs are required for gathering evidence in an allegation of abuse, consent is not required from the recipient, his/her parent or guardian, but may be taken at the direction of the Executive Director or his designee or the Recipient Rights Officer.

II. Expressed written consent must be obtained and placed in the recipient's file before use of one-way glass or the audiovisual reproduction is made.

A. The consent form is developed and approval is obtained from the recipient, parent or guardian by the Program Supervisor or client services manager.

1. The consent must include an expiration date and cannot be valid for more than a 12-month period, but may be renewed through the regular consent process. The exception is identification photographs which are kept in the recipient file.

2. An annual review at the time of the annual reassessment is made to determine if the audiovisual reproduction is still essential to provide services or to determine the name of the resident, i.e. for identification.

3. The consent must state the intended use of the photograph, video recording, or transmission of image/voice.

4. A second written consent must be obtained for any alternative use of audiovisual reproduction of a recipient, i.e., some use other than that originally intended for which consent was executed.

B. A consent granted on behalf of a minor is no longer valid when the recipient reaches 18 years of age.

C. The person from whom consent is requested shall be informed, prior to giving consent, that consent may be revoked prior to the expiration date either orally or in writing by contacting the Recipient Rights Officer, Program Supervisor or client services manager. This statement must appear on the consent form.

D. A recipient must be advised immediately prior to the time that a picture or video recording is to be taken, or voice recorded or transmitted, and what the intended purpose is and must be afforded an opportunity to object. If the recipient expresses verbal objection to being photographed or to having

his/her image/voice recorded or transmitted, such objection shall be honored whether or not the recipient, parent or guardian has previously signed the consent.

E. Oral objection to making or use of audiovisual reproduction, or oral termination of consent for audiovisual reproductions, shall be noted in the recipient's record.

III. The recipient, parent or guardian shall be fully informed of the current and future use of the photographs, video recordings or audio recordings.

A. If an identification photograph is removed from the file for the purpose of identifying a recipient, it must be returned to the file and no duplication of the photograph may be made without approval from the Program Supervisor. Any duplication must also be returned to the file or destroyed.

B. Audiovisual reproductions shall be given to the recipient or destroyed after they are no longer needed for the purpose for which consent was granted or upon discharge of the recipient, whichever occurs first.

IV. Audiovisual recordings and/or photographs of treatment/training sessions made by consumers, guardians, and/or family members are not permitted.

PROCEDURE: Fingerprinting

Recipients shall not be fingerprinted by or as a part of any program of the Copper Country Mental Health Services Board.

APPLICATION: All Programs

CROSS REFERENCE: Mental Health Code Section 724