

PATHWAYS CMH

POLICY TITLE: Photographing, Recording, Fingerprinting Recipient, Use of One-way Glass, and Media Release	CATEGORY: Recipient Rights	
EFFECTIVE DATE: July 6, 2005	BOARD APPROVAL DATE: October 2, 2013	
REVIEW DATE: April 15, 2017	REVISION(S) TO POLICY STATEMENT: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	OTHER REVISION(S): <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
RESPONSIBLE PARTY: Recipient Rights Supervisor or Designee	CEO APPROVAL: Mary J. Swift, CEO	

APPLIES TO:

Employees, volunteers and contractual providers of Pathways CMH

POLICY:

It is the policy of the Pathways Board that:

1. Fingerprints, photographs, audio or video recordings, may be taken and used and one-way glass may be used in order to provide services, including research, to a recipient, or in order to determine the name of a recipient, when informed consent has been obtained from the recipient, guardian, or the parent with legal and physical custody of a minor.
2. Photographs or audio or video recordings may be taken and 1-way glass may be used for educational or training purposes when express written consent is obtained from the recipient, guardian, or parent with legal and physical custody of a minor.
3. Photographs or audio or video recordings of a recipient may be taken for purely personal or social purposes and shall be maintained as the recipient's personal property. A photograph of a recipient shall not be taken or used if the recipient has indicated his or her objection either verbally or in writing.
4. Photographs used in this policy include still pictures, digital images, motion pictures, and audio recordings.

PURPOSE:

To protect the rights of recipients

DEFINITIONS:

Audio recording

Any reproduction of a recipient's voice by mechanical means.

Educational or training purposes

- A. To assist staff in performing their job responsibilities;
- B. To provide general information to the community.

Consent

A written agreement executed by a recipient, a minor recipient's parent, or a recipient's legal representative with authority to execute a consent that is in compliance with the agency's procedure for consent.

Primary clinician

The staff member in charge of implementing the recipient's plan of service.

REFERENCES:

Act 258 of the Public Acts of 1974, as amended (Mental Health Code) Section 100a, 724
Department of Community Health Administrative Rules 7003

HISTORY:

Dates Reviewed: May 2008; July 2011; July 11, 2013; July 11, 2014; May 5, 2015; April 19, 2016; April 15, 2017

Dates Revised: July 11, 2013

Dates Approved: July 6, 2005; October 2, 2013

PROCEDURES

A. Using Fingerprints, Photographs, Video or Audio Recordings, or 1-Way Glass to Provide Services, Including Research

1. The primary clinician shall:
 - a. Obtain prior written informed consent from one of the following and file it in the recipient's record:
 1. The recipient if 18 years of age or over and competent to consent;
 2. The guardian of the recipient if the guardian is legally empowered to execute such a consent;
 3. The parent with legal and physical custody of the recipient if the recipient is less than 18 years of age;
 - b. Inform the individual signing the consent that he or she is free to withdraw consent at any time without prejudice, and document on the form if consent is withdrawn;
 - c. Ensure that the fingerprints, photographs, or audio or video recordings and any copies of them, shall be kept as part of the recipient's record and be subject to standards governing confidentiality;
 - d. Periodically review whether the fingerprints, photographs, or audio or video recordings in the record, and any copies of them, are still essential for the original purpose. Either give them to the recipient, or parent of a minor or guardian, or destroy them when they are no longer essential or when the recipient is discharged, whichever occurs first;
 - e. Provide the recipient's home, work program, drop-in center, etc., as necessary, a copy of the signed consent as applicable.
2. The program supervisor is responsible for training staff at each site about individual consents approved or not approved for each recipient.
3. The individual responsible for photographing, video or audio recording, fingerprinting, or using a one-way glass shall afford the recipient an opportunity to object either verbally or in writing at any time.

B. Using Fingerprints, Photographs, or Audio or Video Recordings to Determine the Name of a Recipient

1. The primary clinician shall:
 - a. Obtain prior written informed consent from one of the following and file it in the recipient's record:
 1. The recipient if 18 years of age or over and competent to consent;
 2. The guardian of the recipient if the guardian is legally empowered to execute such a consent;
 3. The parent with legal and physical custody of the recipient if the recipient is less than 18 years of age;
 - b. Inform the individual signing the consent that he or she is free to withdraw consent at any time without prejudice, and document on the form if consent is withdrawn;
 - c. Ensure that the fingerprints, photographs, or audio or video recordings, and any copies of them, shall be kept as part of the recipient's record and be subject to standards governing confidentiality, except that when necessary they may be delivered to others for assistance in determining the name of the recipient, and shall be returned together with copies that were made;

2. Inform an individual who receives the fingerprints, photographs, or audio or video recordings of the requirement that they be returned;
3. Annually review whether the fingerprints, photographs, or audio or video recordings in the record, and any copies of them, are still essential for the original purpose. Either give them to the recipient, or parent of a minor or guardian, or destroy them when they are no longer essential or when the recipient is discharged, whichever occurs first;
 - a. Provide the recipient's home, day program, work program, drop-in center, etc. a copy of the signed consent as applicable.
 - b. The program supervisor is responsible for training staff at each site about individual consents approved or not approved for each recipient.
 - c. The individual responsible for photographing, video or audio recording, fingerprinting, or using a one-way glass shall afford the recipient an opportunity to object either verbally or in writing at any time.

C. Using Photographs, Audio or Video Recordings, or 1-Way Glass for Educational or Training Purposes

1. The primary clinician shall:
 - a. Obtain prior informed consent from one of the following and file it in the recipient's record:
 1. The recipient if 18 years of age or over and competent to consent;
 2. The guardian of the recipient if the guardian is legally empowered to execute such a consent;
 3. The parent with legal and physical custody of the recipient if the recipient is less than 18 years of age;
 - b. Inform the individual signing the consent that he or she is free to withdraw consent at any time without prejudice, and document on the form if consent is withdrawn;
 - c. Inform the individual signing the consent whether or not the photographs, or audio or video recordings, and any copies of them, shall be kept as part of the recipient's record and be subject to standards governing confidentiality.
 - d. If the photographs, or audio or video recordings will be kept confidential, review periodically, at least annually, whether they are still essential for the original purpose. Either give them to the recipient, or parent of a minor or guardian, or destroy them when they are no longer essential or when the recipient is discharged, whichever occurs first;
 - e. Provide, as necessary, the recipient's home, work program, drop-in center, etc. a copy of the signed consent as applicable.
2. The program supervisor is responsible for training staff at each site about individual consents approved or not approved for each recipient.
3. The individual responsible for photographing, video or audio recording, or using a one-way glass shall afford the recipient an opportunity to object either verbally or in writing at any time.
4. Photographs, or audio or video recordings may not be used by any person, group, or organization outside of Pathways unless the following have been obtained:
 1. Consent to release information;
 2. Permission of the Pathways CEO or designee

D. Media Release

1. The primary clinician shall:
 - a. Obtain prior written permission from the Customer Services/Member Services;
 - b. Obtain prior written informed consent from one of the following and file it in the recipient's record:
 1. The recipient if 18 years of age or over and competent to consent;

2. The guardian of the recipient if the guardian is legally empowered to execute such a consent;
 3. The parent with legal and physical custody of the recipient if the recipient is less than 18 years of age;
- c. Inform the individual signing the consent that the information, photographs, or audio or video recordings will become the property of the media entity to whom they are released and therefore the consent cannot be withdrawn;
 - d. Forward a copy of the consent to the Customer Services/Member Services.
 - e. Provide the recipient's home, work program, drop-in center, etc. a copy of the signed consent as necessary.
2. The program supervisor is responsible for training staff at each site about individual consents approved or not approved for each recipient.

E. Taking Photographs, including Still Pictures, Motion Pictures, or Audio Recordings, For Personal or Social Purposes

1. The primary clinician shall:
 - a. Obtain prior informed consent from one of the following and file it in the recipient's record:
 1. The recipient is 18 years of age or over and competent to consent;
 2. The guardian of the recipient if the guardian is legally empowered to execute such a consent;
 3. The parent with legal and physical custody of the recipient if the recipient is less than 18 years of age;
 - b. Inform the individual signing the consent that he or she is free to withdraw consent at any time without prejudice, and document on the form if consent is withdrawn;
 - c. Ensure that photographs taken of an individual for personal or social purposes become the recipient's personal property. The recipient may display or play the photographs or audio recordings as he or she desires.
2. The individual responsible for taking the photograph shall afford the recipient an opportunity to object either verbally or in writing at any time.

F. Digital Images

Digital images taken of a recipient will be transferred to the recipient's clinical chart. The images will be erased after being transferred to a different format. Digital images of a recipient taken for purely personal or social purposes will be deleted at the discretion of the recipient.

G. Video Surveillance in Psychiatric Hospitals

Video surveillance may be conducted in psychiatric hospitals for purposes of safety, security, and quality improvement. The Pathways Office of Recipient Rights shall review the written recipient rights policies and procedures of each psychiatric hospital or unit under contract with Pathways to evaluate compliance with the Michigan Mental Health Code Section 330.1724(9).