



# Northpointe's Office of Recipient Rights Orientation

The Rights of Individuals receiving  
Mental health services

# Part 1: The Legal Basis of Rights

As a result of reviewing this section, you will be able to:

- Understand the rights guaranteed to all United States Citizens
- Understand the rights guaranteed to all persons receiving mental health services in Michigan

# The Legal Basis of Rights

- ▶ Persons who receive mental health services have the same rights as you. It is important to understand where rights come from, what they are, and what additional rights are granted to recipients of mental health services in Michigan.
- ▶ A right is defined as: “That which a person is entitled to have, to do, or to receive from others, within the limits prescribed by law.”

# Religious Expression

- To practice the religion of your choice
- Not to attend any religious service against your wishes
- Not to be discriminated against based upon your religious beliefs



# Freedom of Speech

- To speak freely and to write or express your views without restrictions
- To make and receive phone calls in private
- To send and receive mail without censorship



# Search and Seizure

- To own personal property
- To be secure from unreasonable search and seizure of your person, home, your personal papers and possessions



# Due Process

- To have notice and opportunity to be heard in court when decisions are made about your life, liberty, or property
- Not to be a witness against yourself in a criminal case
- To petition for redress of governmental actions or decisions

# Legal Protections

- To have an attorney
- To make a will
- To sue in civil court
- To marry and divorce
- To be presumed competent



# Discrimination



- To not be discriminated against because of race, sex, national origin, or handicap

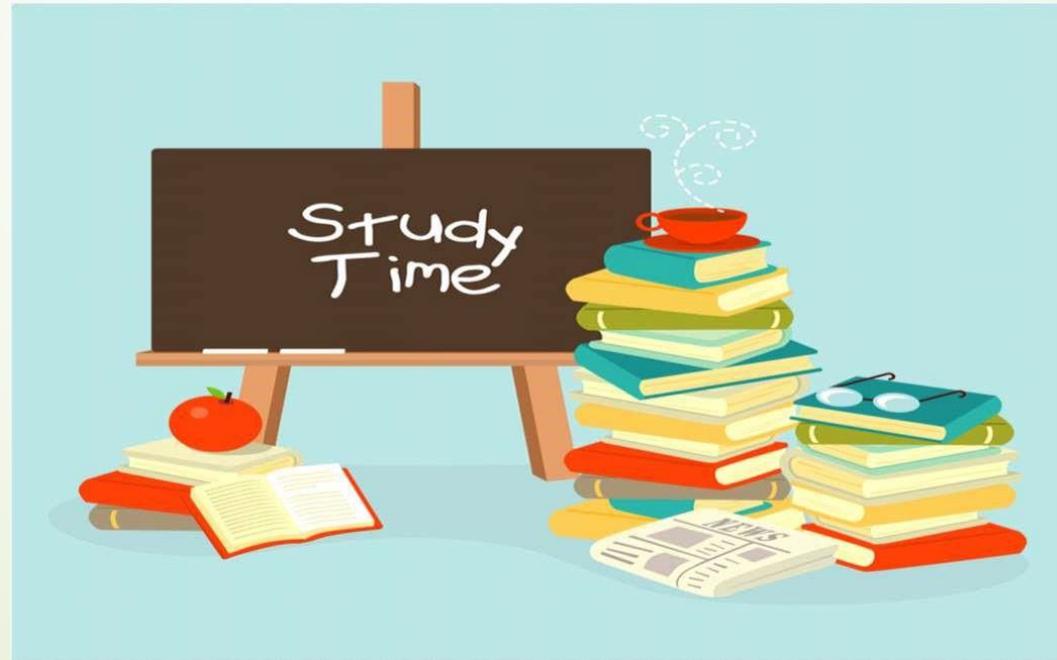


Voting

- To have the right to vote

# Education

- To have free public education





# Legal Basis of Rights

- The Michigan Mental Health Code says that persons who receive mental health services in Michigan have some additional rights to ensure that they receive treatment suited to their condition in a humane environment. The Code also says that under certain circumstances, some of these additional rights may be limited. The additional rights granted by the Code are:

# Additional Rights - continued

- The right to be free from abuse or neglect



- The right to independent evaluations and consultation, and to see a private physician or health care professional at any reasonable time





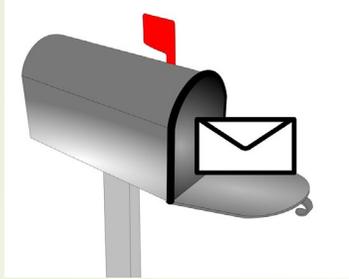
# Additional Rights - continued

- The right to be treated with dignity, to be treated without discrimination, to have privacy, to practice one's religion, and to get paid for work that is done



dignity+respect  
= Inclusion

# Additional Rights - continued



- The right to send and receive mail, have visitors, use the telephone, and get legal advice
- The right to have information about the person receiving treatment kept confidential
- The right to have access to information contained in the clinical record



Additional  
Rights -  
continued

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The right to a hearing and to be represented by an attorney

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The right to discharge planning that ensures appropriate treatment is provided in the least restrictive setting

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The right to be treated in a safe, sanitary, and humane environment

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The right to access personal funds and spend as desired



# Additional Rights - continued

- The right to have personal property kept safe and to have any rules regarding limitations on its use clearly stated, consistent, and posted in a place where all can see
- The right not to be forced or coerced to take medication, or to take more medication than desired, and the right to be provided with information regarding medication and possible side effects
- The right to have a written plan of service developed through a person-centered process



# Part 2 – Person-Centered Planning

As a result of reviewing this section you will be able to:

- Understand what is meant by Person-Centered Planning
- Know what choices are provided to the individual while creating a person-centered plan
- Know what occurs if there is a disagreement when negotiating the person-centered plan

# Person-Centered Planning

An individual has the right to have an individual plan of service developed in partnership with Northpointe through a person-centered planning process. The plan of service may include a treatment plan, a support plan, or both. This individualized planning process is directed by the individual.

The individual should be given ongoing opportunities to express their needs, desired outcomes, and preferences, and to make choices about treatment or support options.



# Person-Centered Planning

When an issue of health or safety is discussed, staff can provide additional information and options so successful planning can occur.

Examples of choices offered to the individual:

- When and where planning meetings are held
- Who attends planning meetings
- Outcomes desired and services to help meet those outcomes
- Staff involved in providing treatment or support

# Person-Centered Planning

If there is a disagreement about appropriate services, there should be a discussion about the underlying reasons and possible alternatives in an attempt to negotiate a mutual agreement.





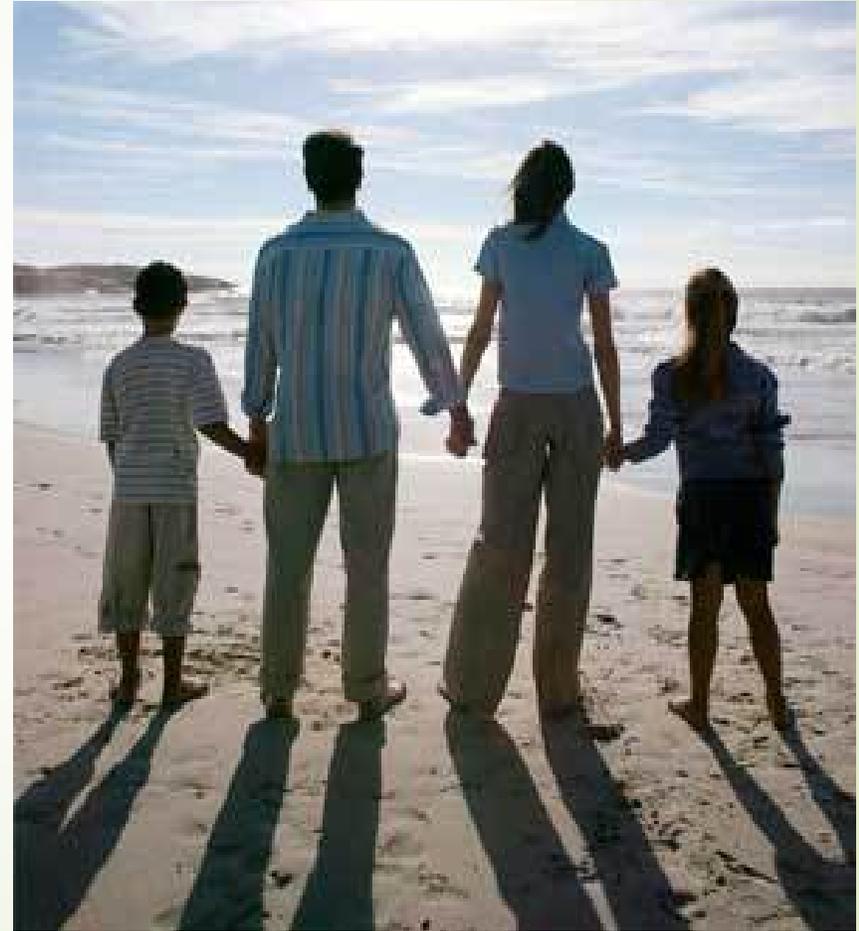
# Part 3 – Dignity and Respect

As a result of reviewing this section you will be able to:

- Identify who is to be treated with Dignity and Respect
- Understand the definitions of Dignity and Respect
- Provide examples of treating a person with Dignity and Respect

# Dignity and Respect

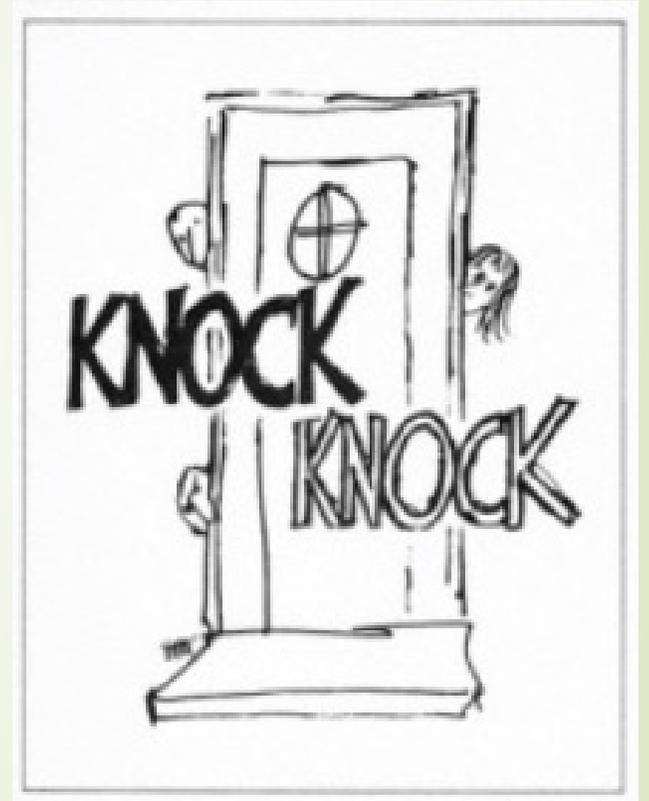
All recipients and their family members have the right to be treated with dignity and respect



# Dignity and Respect

Treating a person with dignity and respect includes:

Being polite, treating the person as an equal, being sensitive to cultural differences, knocking on a closed door, using positive language, allowing the person to make choices and try new things, and taking the person's opinion seriously. It also includes giving family members an opportunity to provide information to staff and to receive educational information.





# Dignity and Respect

## Definitions:

- Dignity: To be treated with esteem, honor, politeness; to be addressed in a manner that is not patronizing, condescending or demeaning; to be treated as an equal; to be treated in a way any individual would like to be treated.
- Respect: To show deferential regard for; to be treated with esteem, concern, consideration, or appreciation; to protect the individual's privacy; to be sensitive to cultural differences; to allow an individual to make choices

# Dignity and Respect

Treatment with dignity and respect shall be further clarified by the recipient or family member, and considered in light of the specific incident, treatment goals, safety concerns, laws and standards, and what a reasonable person would expect under similar circumstances.

All Northpointe employees, volunteers, and contractual service providers shall treat recipients and their family members with dignity and respect, being sensitive to conduct that is, or may, be deemed offensive to the other person.



# Dignity and Respect – Family Members

Showing respect for family members shall include:

- Giving family members an opportunity to provide information to the treating professionals
  - Providing family members an opportunity to request, and receive, educational information about the nature of disorders, medications and their side effects, available support services, advocacy and support groups, financial assistance and coping strategies
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# Part 4 - Confidentiality

As a result of reviewing this sections you will be able to:

- Define confidentiality and informed consent
- Understand rules you must follow when sharing information about a recipient
- Recognize instances when confidentiality has been violated

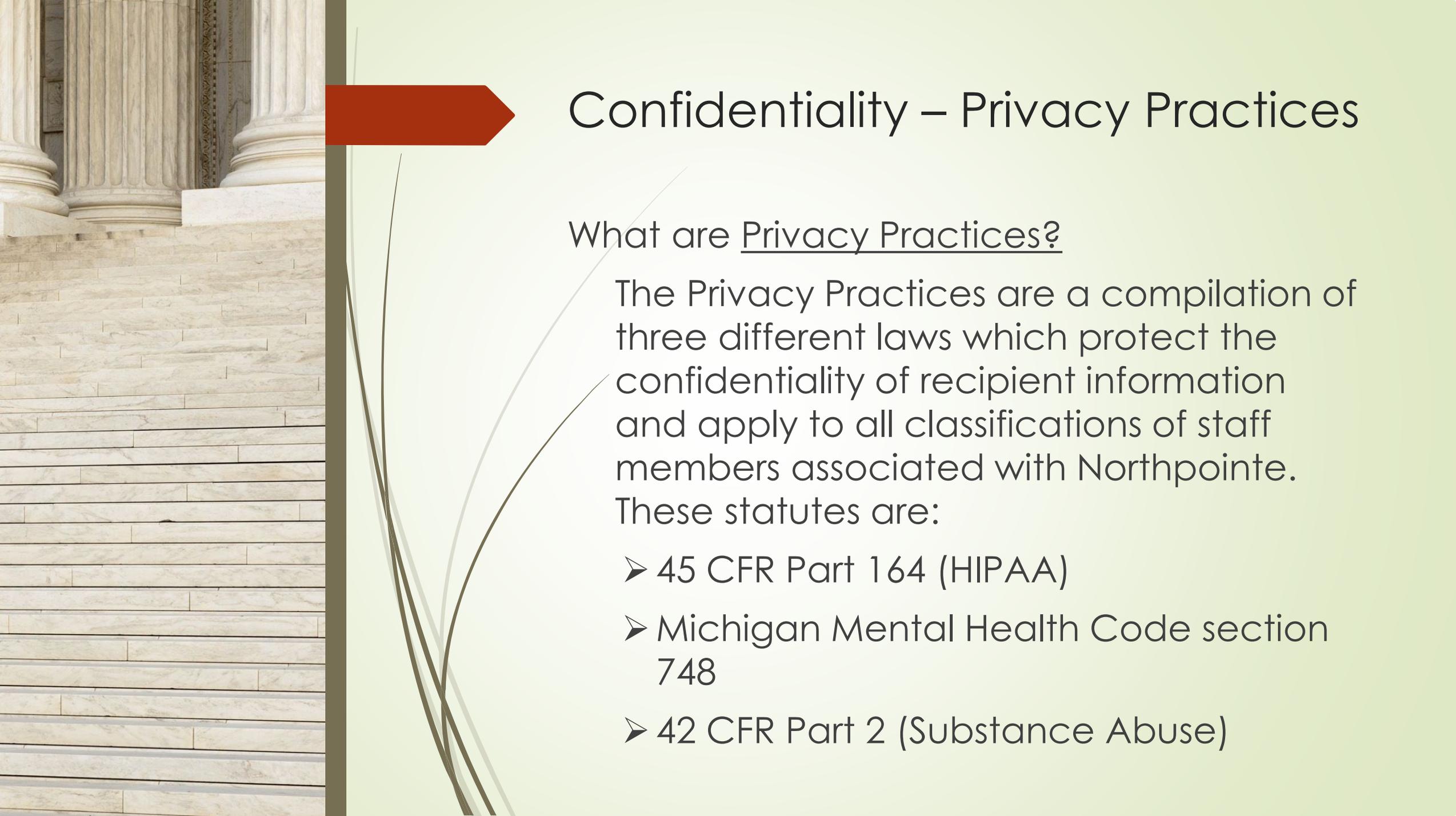




# Confidentiality



Information  
about a  
recipient and his  
or her treatment  
is confidential!



# Confidentiality – Privacy Practices

## What are Privacy Practices?

The Privacy Practices are a compilation of three different laws which protect the confidentiality of recipient information and apply to all classifications of staff members associated with Northpointe. These statutes are:

- 45 CFR Part 164 (HIPAA)
- Michigan Mental Health Code section 748
- 42 CFR Part 2 (Substance Abuse)

# Confidentiality – Privacy Practices

## What information is protected by Northpointe Privacy Practices?

All information and communication concerning the client including, but not limited to, the following:

- The name of the recipient
- The fact that a person is receiving mental health services
- Information in the designated record set
- Observations of the recipient
- Other information received while providing mental health services

# Confidentiality – Privacy Practices

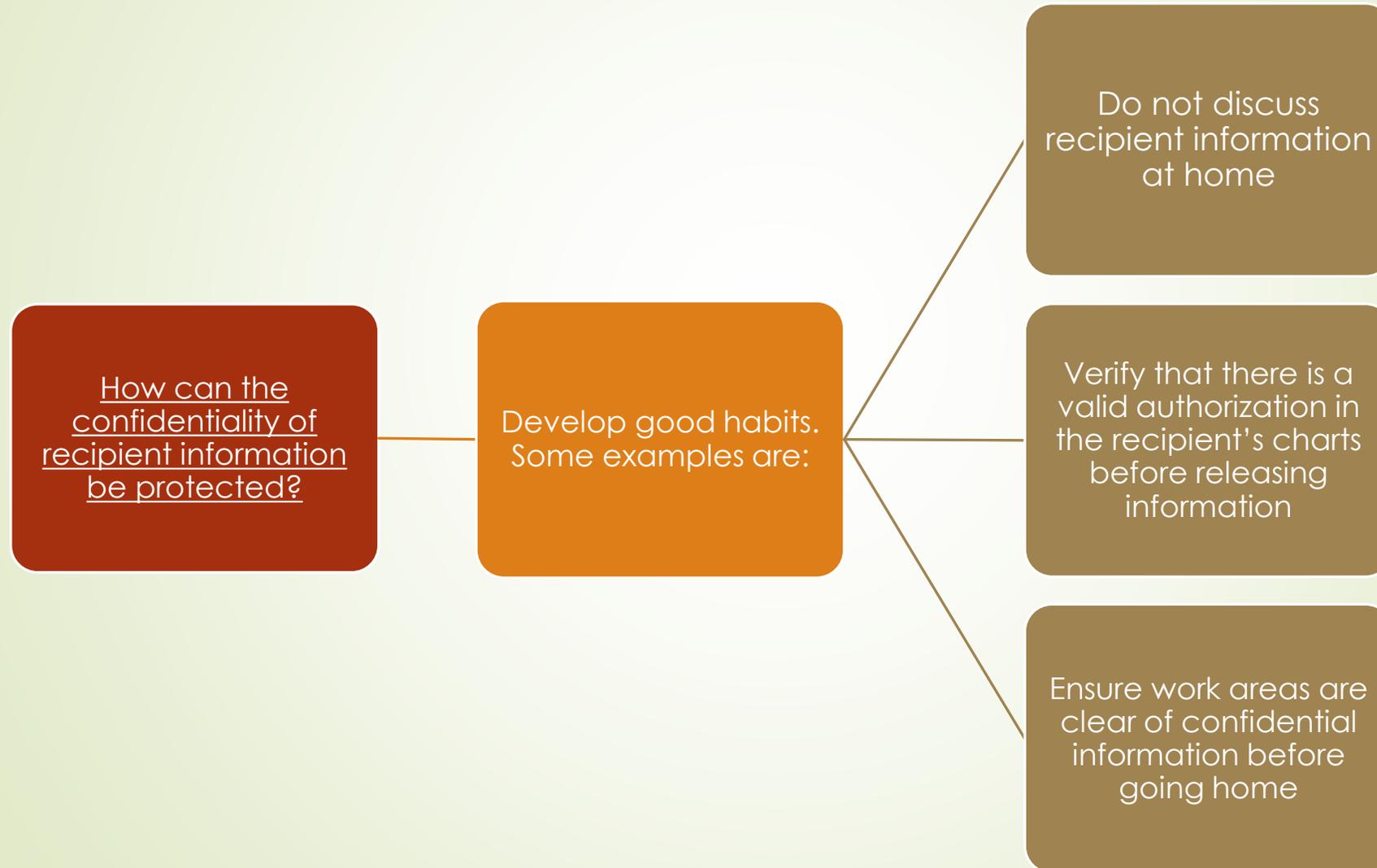
## When may information be released outside the agency?

When it is authorized by the recipient or it is mandatory under state or federal law. An example of mandatory disclosure is a referral to Child Protective Services.

## When may information be exchanged within Northpointe?

If you need to know the information to do your job, then you are giving access to the minimum necessary amount of information according to your classification.

# Confidentiality – Privacy Practices





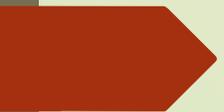
# Confidentiality – Privacy Practices

## Recipients have a right to:

- Receive a notice of Privacy Practices
- Request an accounting of disclosure made by Northpointe
- Request a restriction of their information within Northpointe
- Request amendments of their records
- File a complaint with the Privacy Officer/Rights Office or designee
- File a complaint with the Office of Civil Rights within CMS
- File a criminal complaint with the Justice Department

# Part 5 – Informed Consent

**Informed 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.



# Informed Consent



Informed consent **requires** all of the following:



**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 court of guardianship powers and only to the extent of the scope and duration.



**Knowledge:** To consent, a recipient or legal representative must have basic information about the procedure, risks, other related consequences, and other relevant information.



**Comprehension:** An individual must be able to understand what the personal implications of providing consent will be based upon the information that has been provided.



# Informed Consent

- **Voluntariness**: Free power of choice without the intervention of an element of force, fraud, deceit, overreaching, or other ulterior form of constraint or coercion. There shall be an instruction that an individual is free to withdraw consent and to discontinue participation in any activity at any given time without prejudice to the recipient or the individual signing the consent.

A consent is executed when it is signed by the appropriate individual.

# Informed Consent

Obtain informed Consent for the following:

- Prior to the recipient receiving any assessment or mental health treatment, including medication, surgery, or electroconvulsive therapy, but not including emergency services.



# Informed Consent

Obtain prior to:

- Photographing, audio taping, fingerprinting, using a 1-way glass, making any release to the media, or disclosing confidential information.



# Part 6 – Abuse and Neglect

As a result of reviewing this section you will:

- Understand what constitutes abuse and neglect
- Know the reporting requirements of known or suspected incidents of Abuse or Neglect

# Abuse and Neglect

The abuse or neglect of a recipient is not acceptable and will not be tolerated.



It is important to understand what is meant by abuse and neglect, to recognize a situation that is abusive or neglectful, and to know what the law requires you to do when you become aware that a recipient has been abused or neglected.

# Abuse and Neglect

Abuse and Neglect are defined in the Administrative Rules of the Department of Community Health. These rules supplement the Mental Health Code and have the force of law. The Abuse and Neglect definitions have several classes and are based upon the severity of the injury to the recipient.





# Abuse

**Abuse** is a non-accidental act by an employee, volunteer, or agent of a provider that causes or contributes to:

- Death, or the sexual abuse of, or physical or emotional harm of the recipient
- Use of unreasonable force on a recipient by an employee with or without apparent harm
- Misuse of a recipient's property or funds
- Use of language or other means of communication to degrade, threaten, or sexually harass



# Neglect

**Neglect** is an employee, volunteer, or agent of a provider doing or failing to do something that is required by law, rules, policies, guidelines, Individual Plans of Service that:

- Causes or contributes to physical or emotional harm, or sexual abuse
- Places the recipient at risk of physical harm or sexual abuse

Neglect is also an employee failing to report any apparent or suspected abuse or neglect.

# Abuse and Neglect - Reporting

It is required by law that you report any known or suspected incident of Abuse or Neglect.





# Abuse and Neglect - Reporting

An employee who has reasonable cause to suspect that a recipient is being abused or neglected by a Northpointe employee or a contract employee shall:

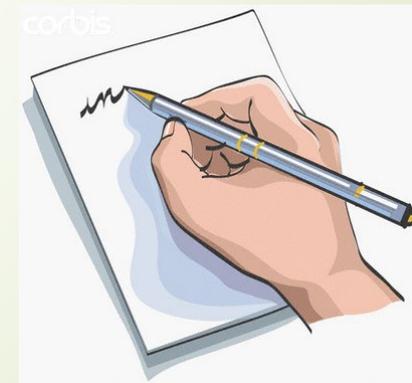
- Immediately make an oral report to his/her supervisor;
- Immediately make an oral report to a person in the Office of Recipient Rights;
- Submit a written Incident Report to the Office of Recipient Rights within 24 hours;
- Report criminal abuse to law enforcement by making an oral report immediately and filing a written reporting within 72 hours.

# Abuse and Neglect - Reporting



An employee who has reasonable cause to suspect that a child or vulnerable adult is being abused or neglected shall immediately make an oral report to Protective Services.

Report Abuse or Neglect in a foster care home to the Department of Human Services (Licensing) by immediately making an oral report and sending the written Incident Report.





## Part 7 – Incident Report Policy and Procedure

It is the policy of Northpointe to ensure consistent reporting and tracking of incidents throughout Northpointe and contracting agencies. An Incident Report is a valuable communication tool that contributes to the peer review, quality management, and recipient rights processes.

# Incident Report Policy and Procedure

An Incident Report **must** be completed for the following:

- Death\*
- Suspected Abuse or Neglect\*
- Use of Physical Management
- Property Destruction
- Falls
- Communicable Diseases
- Bruises, Significant Cuts and Abrasions
- Harmful Actions toward a Consumer



# Incident Report Policy and Procedure

Deaths and Suspected Abuse or Neglect require an immediate oral report to the responsible clinician, Office of Recipient Rights, and to Regulatory Agencies as appropriate.

Arrests and Convictions have been defined by MDHHS as Sentinel Events and must be reported whenever a clinician learns that either has occurred. Each arrest and each conviction requires an Incident Report.

A Sentinel Event is defined as an unexpected occurrence involving death or serious physical or psychological injury, or the risk thereof.



# Incident Report Policy and Procedure

1. All Northpointe Employees and staff of contract providers who observe an incident will write an Incident Report and route it to their Supervisor/Program Manager or designee by the end of the work day.

2. The Supervisor/Program Manager will follow up with staff to prevent a recurrence, take corrective measures, sign and date the Incident Report, and send it to the responsible Clinician within 24 hours.

3. If a licensed facility, the Supervisor is responsible for keeping an original copy of the Incident Report and sending a copy to the Licensing Consultant as appropriate.



# Incident Report Policy and Procedure

4. The Clinician reviews, documents follow up actions, consults with necessary team members, and signs and dates the Incident Report. The Clinician is responsible for ensuring that a summary of extraordinary incidents be entered into the clinical record.\*

Note: Clinical documentation of a contact with the Office of Recipient Rights requires the signature of the Recipient Rights Coordinator consulted.

5. If the report necessitates nursing involvement, it is sent to the responsible R.N.



# Incident Report Policy and Procedure

6. The Clinician sends the Incident Report to the Office of Recipient Rights for review, if the report is not completed electronically.

7. The Office of Recipient Rights and/or Quality Improvement Office will ensure all applicable reviewers have received the report and that it has been entered into the database.



# Incident Report Policy and Procedure

\* Clinical Record Documentation of Incidents and Extraordinary Events:

An incident or peer review report generated pursuant to MCL 330.1143a does not constitute a summary report as intended by this section and shall not be maintained in the clinical record of a recipient.



# Incident Report Policy and Procedure

The Michigan Administrative Rules for Mental Health (R.330.7046) require that a summary of extraordinary incidents involving a recipient be maintained in the clinical record. Every extraordinary incident will be reviewed to determine whether it meets the criteria to be considered a sentinel event.

**An extraordinary incident is:** Death, Serious Illness requiring Hospital Admission, Injuries to the Consumer that require an Emergency Room visit and/or Hospital visit, Arrests, Convictions, Serious Challenging Behaviors, Medication Errors, and Suspected Abuse or Neglect.



# Incident Report Policy and Procedure

The summary must be written by staff with personal knowledge of the extraordinary incident. The summary must be concurrent and fact-based: who, what, where, and how information. No personal impressions or opinions should be stated in the summary. There should be no mention of peer review processes or required reporting mechanisms, except to state “followed Northpointe’s policy for reporting \_\_\_\_\_ (abuse, neglect, death, etc.)”

**APPLICATION:** This policy/procedure is applicable to all staff.



# Incident Report

## CLEAR

- An uninvolved person can understand what happened
- No creative writing
- States facts, observations
- Uses specific descriptive language
- Identify which staff took which actions

# Incident Report

## **Complete**

- Indicate the date, time, location of incident, AND the date and time the report was written
- Includes all pertinent information
- Includes all circumstances which lead up to, or might have caused, the incident
- When cause of injury is unknown, indicate possible causes and narrow down time of occurrence if at all possible
- If abuse or neglect, all witnesses must complete a report – do not collaborate

# Incident Report

- If timeout was used for a child, state how long. Adults can be asked to go to a quiet area but it **must** be voluntary.
- Identify ALL persons involved and/or present
- State which actions staff took to prevent further or more serious incidents
- State immediate treatment and/or actions taken, if injury or illness
- State full names and titles of anyone that may have been contacted, along with the time they were contacted and any instructions given
- If the person has a program plan for his/her behavior, did you follow it? If no, give reasons why you did not
- Sign, give your title, and date the report

# Incident Report

## **CONCISE**

- Omit unnecessary information
- Use of numbered phrases are often easier to read than narratives
- Use only terminology approved by your agency

## **TIMELY**

- Written immediately after the incident or by the end of the shift
- If serious, (abuse or neglect) contact Supervisor and ORR immediately
- Outside agencies notified immediately, if applicable
- Routing to all necessary people begins immediately, i.e. Supervisor, RN, Case Manager, etc.



## Part 8 – Rights Allegations – Complaint and Appeal Process

If you believe that a person's rights have been violated, you or a recipient should file a recipient rights complaint. You may file a complaint by calling or visiting the Rights Office, or by completing a Recipient Rights Complaint Form and returning it to the Office of Recipient Rights.



## Part 9 – Investigative Process

As a result of reviewing this section, you will be able to:

- Understand the role of the Office of Recipient Rights
- Understand the process whereby allegations of rights violations are investigated
- Understand the rights of appeal provided by the Mental Health Code

# Investigative Process

Upon commencement of investigation, the Rights Officer will have access to all documentation and any staff necessary to complete the investigation. Staff are expected to answer questions asked by the Rights Officer.



# Investigative Process

The Mental Health Code requires that an investigation be completed within 90 days from the receipt of the complaint. A “Report of Investigative Findings” will be given to the Director of the CMH agency and to the service provider. The CMH Director will issue a report summarizing the investigation to the complaint, recipient and guardian (if applicable) within 10 days after receiving the Investigative Report.

The decision about what happens to a staff person who has committed abuse or neglect, or otherwise violated the rights of a recipient, rests with the employer. Each provider should have policies and procedures for dealing with offenses. These should emphasize the seriousness of improper actions. Since procedures vary among providers, check with your Supervisor or look in your policy or personnel manual.

## Investigative Process



## Documentation of contact with the Office of Recipient Rights

As a general rule, there should be no reference to a recipient rights investigation in the clinical record. If a clinician consults with a rights staff about an issue, the clinician should document the contact as: “Met with ORR to review clinical services regarding (recipient’s name).”

If the clinician is sitting in on an ORR interview with the recipient, the clinician should document this contact as: “Met with ORR and (recipient’s name) to discuss services.”

Any clinical documentation of a contact with ORR requires the signature of the ORR Officer who was consulted.



# The Appeal Process

Upon completion of a recipient rights investigation, the recipient, his or her guardian, the parent of a minor, and the person who made the complaint, (if different than the recipient) have the right to appeal the decision. This appeal can be made for any of the following reasons:

- The findings of the Investigative Report are inconsistent with the law, rules, and policies or guidelines
- The action, or plan of action, is inadequate
- The investigation was untimely

Staff are not eligible to file an appeal unless they were the complainant.

# Part 10 – Rights and Responsibilities

Staff have rights that protect them from actions based on incorrect or malicious information. There are laws which protect employees when they report rights violations such as:



# Employee Rights

The Mental Health Code mandates that complainants, staff of the Office of Recipient Rights, and any staff acting on behalf of a recipient will be protected from harassment or retaliation. Appropriate disciplinary action will be taken if there is evidence of harassment or retaliation.



# Employee Rights

The Whistleblowers Protection Act (P.A. 469 or 1980) protects employees who report rights violations. This law states that it is illegal for employers in Michigan to discharge, threaten, or otherwise discriminate against staff regarding compensation terms, conditions, locations, or privileges of employment because staff or a person acting on their behalf, reports, or is about to report a violation, or suspected violation, of federal, state, or local laws, rules, or regulations to a public body. It is illegal for employers in Michigan to discharge, threaten, or otherwise discriminate against you.



# Employee Rights

The Bullard-Plawecki Employee Right to Know Act (P.A. 397 of 1979) requires that you be notified when an employer or former employer divulges a disciplinary report, letter of reprimand, or other disciplinary action to a third-party, to a party who is not part of the employer's organization, or to a party who is not part of a labor organization representing the employee, without written notice.



# Employee Responsibilities

You have the responsibility to treat recipients with dignity and respect and to protect them from harm.

You have a direct responsibility for the safety and well-being of the recipients in your care. That means you are responsible for the following:

- Your own acts, either intentional or accidental
- Your failure to act appropriately or quickly
- Reporting abusive actions of staff to the Supervisor, ORR, and appropriate agencies immediately
- Reporting unsafe conditions or rights violations
- Intervening to stop abusive actions by staff

Quiz - Please print the quiz and complete. Once you have completed the quiz provide it to the Self-Determination Coordinator, Michelle Rexses, [mrexses@nbhs.org](mailto:mrexses@nbhs.org) or 715 Pyle Dr., Kingsford, MI 49802.

Which of the following is NOT a right guaranteed to recipients of mental health services?

- a. The right to have access to information contained in their clinical record.
- b. The right to be treated in a safe, sanitary, and humane environment.
- c. The right to have access to information contained in their family members' clinical records.
- d. The right to be provided informed consent regarding the possible side effects of medication.

The Michigan Mental Health Code indicates that some rights are unlimitable. Which of the following rights CAN be modified through restrictions or limitations?

- a. IPOS developed through a person-centered planning process.
- b. Freedom of movement.
- c. Mental Health Treatment suited to condition.
- d. Dignity and Respect.

Which of the following statements is NOT correct?

- a. Any limitation placed on a recipient can only be made through the person-centered planning process.
- b. When a limitation is imposed, a time limit on the limitation should be indicated in the recipient's record.
- c. When a limitation is imposed, the clinical record should indicate that previous measures to stop the behavior were unsuccessful.
- d. A limitation can be imposed without discussing it with the recipient or their guardian, as long as the limitation is justified and the Treatment Management Committee agrees with the limitation.



Quiz - continued

There are times when it is appropriate to disclose information about a recipient. Which of the following is NOT an appropriate time to disclose information?

- a. When required by court order or to comply with the law.
- b. When the person agrees to disclose information, but this person's plenary guardian disagrees.
- c. To law enforcement when there is a strong chance that the recipient or others will be seriously hurt if no action is taken.

In order for a release of information to be valid, it must be given with Informed Consent.

Which of

the following is NOT a component of Informed Consent?

- a. The person is not pressured in any way to give consent.
- b. The person has the legal capacity to give consent.
- c. The person has not been psychiatrically hospitalized within the past 7 days.
- d. The person understands the risks, benefits, and consequences of agreeing or not agreeing.

True or False (circle one)

A competent adult recipient is entitled to receive any and all information contained in his or her

record subsequent to March 28, 1996.

# Acknowledgement of Training and Nondisclosure Agreement

Please print the following acknowledgement of training and nondisclosure agreement. Sign and date, then provide the documentation to:

Michelle Rexses,  
Self-Determination  
Coordinator,  
[mrexses@nbhs.org](mailto:mrexses@nbhs.org)  
or by mail at 715  
Pyle Dr., Kingsford,  
MI 49802

## Acknowledgement of Training

I acknowledge that I have received training on and understand the following topics:

- [ The legal rights of individuals who receive public mental health services (rights brochure - "The Blue Book" )
- [ My responsibilities to protect and promote the rights of recipients
- [ Purpose and function of the Office of Recipient Rights
- [ Person-Centered Planning
- [ Dignity and Respect for recipients and family members
- [ Definition of confidential information and when it may be disclosed
- [ Definition of Abuse and Neglect
- [ Reporting requirements
- [ How and when to write an Incident Report
- [ The Rights complaint process
- [ Michigan Whistleblowers' Protection Act
- [ Chapter 7 of the Michigan Mental Health Code

I acknowledge that I may seek clarification about any recipient rights issue from staff in the Office of Recipient Rights.

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Trainee Signature

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Date

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Witness Signature

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Date



## Non-Disclosure Agreement

I understand that information in the record of a recipient, and any other information acquired in the course of providing mental health services to a recipient, shall be kept confidential and shall not be disclosed outside the agency, either verbally or in writing except in accordance with the Michigan Mental Health Code (330.1748). I also understand that such information may be exchanged within the agency only if it is necessary to provide services to the recipient or for supervisory purposes. This includes correspondence, financial records, computer programs, observations, etc.

By my signature I acknowledge that it is my legal responsibility to protect the confidentiality of recipient information at all times, during both working and non working hours.

I understand that any substantiated breach of confidentiality may result in disciplinary action including termination, notification to the appropriate licensing board and possible legal action.

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Signature

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Date