

<b>Community Mental Health Partnership of Southeast Michigan/PIHP</b>	<b><i>Policy and Procedure Fingerprints, Photographs, Recordings, or Use of 1-Way Glass</i></b>
<b>Committee/Department: Recipient Rights</b>	<b>Local Policy Number (if used)</b>
<b>Implementation Date 10/24/2023</b>	<b>Regional Approval Date 09/28/2023</b>

<b>Reviewed by:</b>	<b>Recommendation Date:</b>
ROC	08/09/2023
<b>CMH Board:</b>	<b>Approval Date:</b>
Lenawee	09/28/2023
Livingston	08/29/2023
Monroe	09/27/2023
Washtenaw	08/25/2023

**I. PURPOSE**

The purpose of this policy is to establish guidelines regarding the recording, photographing, and fingerprinting of recipients, and the use of one-way glass to observe recipients.

**II. REVISION HISTORY**

<b>DATE</b>	<b>MODIFICATION</b>
02/04/2010	Full policy revision
03/20/2013	Renamed; updated per changes to MHC
01/10/2017	Updated Template
07/17/2018	Exhibit: Consent Form added
02/13/2020	3-year review No content changes
03/22/2021	Updated per changes in required MDHHS policy standards.
09/28/2023	3 year review Made standards more consistent with the MMHC

**III. APPLICATION**

<input checked="" type="checkbox"/> CMHPSM PIHP Staff, Board Members, Interns & Volunteers
<input checked="" type="checkbox"/> Regional Partner CMHSP Staff, Board Members, Interns & Volunteers
Service Providers of the CMHPSM and/or Regional CMHSP Partners:
<input checked="" type="checkbox"/> Mental Health / Intellectual or Developmental Disability Service Providers
<input type="checkbox"/> SUD Treatment Providers <input type="checkbox"/> SUD Prevention Providers
<input type="checkbox"/> Other as listed:

**IV. POLICY**

It is the policy of the CMHPSM that informed consent shall be obtained prior to the recording, photographing, or observing of recipients through one-way glass. Fingerprinting of recipients is prohibited.

## V. DEFINITIONS

Audio Recording: A recording of the voice alone.

Community Mental Health Partnership Of Southeast Michigan (CMHPSM): The Regional Entity that serves as the PIHP for Lenawee, Livingston, Monroe and Washtenaw for mental health, developmental disabilities, and substance use disorder services.

Community Mental Health Services Program (CMHSP): A program operated under chapter 2 of the Mental Health Code as a county community mental health agency, a community mental health authority, or a community mental health organization.

Consent: Consent is defined as either of the following:

1. A written agreement signed by a recipient, unless the recipient has a designated legal representative with authority to execute consent. If the recipient has a designated legal representative, the legal representative must provide written agreement.
2. A verbal agreement of a recipient, unless the recipient has a designated legal representative with authority to execute a consent, that is witnessed and documented by an individual other than the individual providing treatment. If the recipient has a designated legal representative, the legal representative must provide verbal agreement.

Additionally, consent must include the elements of competency, comprehension, knowledge, and voluntariness.

Film: See photograph.

Fingerprint: An inked and/or digital impression of the finger used as a means of identification.

Legal Representative: A legal representative is defined as any of the following:

1. A court-appointed guardian,
2. A parent with legal custody of a minor recipient,
3. In the case of a deceased recipient, the executor of the estate or court-appointed personal representative,
4. A patient advocate under a durable power of attorney or other advanced directive.

Photograph: A visual image reproduced as a photographic still, film, video or digital image on any device.

Recording: Any reproduction, audio or visual.

Regional Entity: The entity established under section 204b of the Michigan Mental Health Code to provide specialty services and supports.

Video Recording: A recording of the voice and image.

Video Surveillance: Surveillance, with or without recording, in a recipient's home for the purpose of safety, security, or quality improvement.

## **VI. STANDARDS**

- A. Recipients may be recorded, photographed, and/or observed through one-way glass only when prior written consent has been obtained, and only for the following purposes:
  - 1. Supervision of staff, students, or volunteers,
  - 2. In order to provide services,
  - 3. Evaluation of the treatment process,
  - 4. Staff development or training,
  - 5. Community education,
  - 6. Research,
  - 7. Personal or social purposes,
  - 8. To determine the identification of a recipient.
  
- B. The consent form must indicate all of the following:
  - 1. The intended use of the material,
  - 2. The right to terminate the consent at any time,
  - 3. That there will be a review at least annually regarding the need to continue to retain the material.
  
- C. Fingerprinting and video surveillance of recipients is prohibited.
  
- D. Recordings or photographs of recipients taken during the provision of services, and any copies of them, shall be maintained as part of the clinical record.
  
- E. Photographs of a recipient may be taken for 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 objected.
  
- F. Recordings or photographs may not be used by any person, group or organization outside of the CMHPSM unless the following have been obtained:
  - 1. Written consent to release information
  - 2. Permission of the local CMH Director or designee.
  
- G. If it is necessary to send photographs or recordings to an outside individual or agency for assistance in determining the identification of a recipient, the individual/agency shall be informed that such photographs or recordings must be returned, along with any copies that were made. Upon their return, the photographs or recordings, along with any copies, shall be part of the clinical record.
  
- H. There will be a review at least annually to determine if there is an essential need to maintain recorded or photographic material in order to achieve one of the objectives set forth in Standard A. If not, the photographs or recordings in the recipient's record, and any copies, shall be given to the recipient or destroyed.

- I. Recorded or photographic material will be returned to the recipient or destroyed upon the recipient's discharge from services.

**VII. EXHIBITS**

Consent for Photographing, Filming and/or Audio/Videotaping

**VIII. REFERENCES**

Reference:	Check if applies:	Standard Numbers:
Michigan Mental Health Code Act 258 of 1974	X	330.1724
MDHHS Administrative Rules	X	330.7003
MDHHS Revised Plan for Procurement of Medicaid Specialty Prepaid Health Plans	X	
CMHPSM Policy: <u>Consent to Treatment and Services</u>	X	

**IX. PROCEDURES**

WHO	DOES WHAT
Assigned clinical staff	<ol style="list-style-type: none"> <li>1) Discusses need to record, photograph, or use one-way glass for observation with supervisor.</li> <li>2) Reviews need to record, photograph, or use one-way glass with recipient and/or legal representative, and obtains consent.</li> </ol>
Consenting individual	<ol style="list-style-type: none"> <li>1) Consents or objects to being recorded, photographed, or viewed through one-way glass.</li> <li>2) May object to being photographed for social purposes.</li> </ol>
Client Services Manager/Supports Coordinator	<ol style="list-style-type: none"> <li>1) Maintains copy of written consent in the recipient's record.</li> <li>2) Affords an opportunity for recipient to object, immediately prior to the recording, photographing or observation through one-way glass. A recipient shall not be observed through one-way glass, nor shall a recording or photograph be made or transmitted if the recipient</li> </ol>

	<p>indicates objection, even if prior written consent has been obtained.</p> <p>3) Securely maintains original and copies of photographs or recordings in recipient's clinical record.</p> <p>4) In conjunction with annual Person Centered Planning process, determines whether there is an essential need to retain photograph or recording.</p> <p>5) Returns copies of recorded or photographic materials to recipient or destroys when:</p> <ul style="list-style-type: none"> <li>a) It is determined that there is no longer an essential need to maintain materials, or</li> <li>b) Consent is withdrawn, or</li> <li>c) Discharge of the recipient.</li> </ul>
Director or Designee	<p>1) Grants or denies permission before a recording/photograph may be removed from the premises and a recipient's record.</p>

**CONSENT FOR PHOTOGRAPHING, FILMING AND/OR AUDIO/VIDEOTAPING**  
**Community Mental Health Partnership of Southeast Michigan**

I, \_\_\_\_\_, Birthdate \_\_\_\_\_,

hereby authorize \_\_\_\_\_ to:

1. Photograph me \_\_\_\_\_
2. Record my voice \_\_\_\_\_
3. Record my voice and image \_\_\_\_\_

I understand that these photographs and/or recordings may be used for:

1. Personal or social purposes \_\_\_\_\_
2. Providing services \_\_\_\_\_
3. Community Education \_\_\_\_\_
4. Supervision of staff, students or volunteers \_\_\_\_\_
5. Research \_\_\_\_\_

I authorize my name to be associated with the photograph/recording: Yes \_\_\_\_\_ No \_\_\_\_\_

I understand that at least once a year there will be a review to determine whether there continues to be a need to keep the photograph, film or audio/videotape. I also understand that I may revoke my consent at any time by notifying my Case Manager/Supports Coordinator. I have no objection to the use of my picture and/or voice for the purposes described.

\_\_\_\_\_  
RECIPIENT SIGNATURE

\_\_\_\_\_  
DATE

\_\_\_\_\_  
PARENT/GUARDIAN SIGNATURE

\_\_\_\_\_  
DATE

\_\_\_\_\_  
WITNESS SIGNATURE

\_\_\_\_\_  
DATE