

SUBSTANCE ABUSE AND MENTAL HEALTH RIGHTS

ANALYSIS

MH Right	MHC Cite	Comparable SA Right	SA Rule Cite
Civil rights in addition to MHC	<p>330.1704 Rights of recipient. [M.S.A. 14.800(704)]</p> <p>Sec. 704. (1) In addition to the rights, benefits, and privileges guaranteed by other provisions of law, the state constitution of 1963, and the constitution of the United States, a recipient of mental health services shall have the rights guaranteed by this chapter unless otherwise restricted by law.</p>	Civil rights in addition to SA Rules	<p>Rule R325.14304. (1) A recipient shall not be denied appropriate service on the basis of race, color, national origin, religion, sex, age, mental or physical handicap, marital status, sexual preference, or political beliefs.</p> <p>R325.14304(2) The admission of a recipient to a treatment program or receipt of prevention services shall not result in the recipient being deprived of any rights, privileges or benefits which are guaranteed to individuals by state or federal law or by the state or federal constitutions.</p>
Second opinion	<p>330.1705 Second opinion. [M.S.A. 14.800(705)]</p> <p>Sec. 705. (1) If an applicant for community mental health services has been denied mental health services, the applicant, his or her guardian if one has been appointed, or the applicant's parent or parents if the applicant is a minor may request a second opinion of the executive director. The executive director shall secure the second opinion from a physician, licensed psychologist, registered professional nurse, or master's level social worker, or master's level psychologist.</p> <p>(2) If the individual providing the second opinion determines that the applicant has a serious mental illness, serious emotional disturbance, or a developmental disability, or is experiencing an emergency situation or urgent situation, the community mental health services program shall direct services to the applicant.</p>	NONE	NONE
Notice of rights	<p>330.1706 Notice of rights. [M.S.A. 14.800(706)]</p> <p>Sec. 706. Except as provided in section 707, applicants for and recipients of mental health services and in the case of minors, the applicant's or recipient's parent or guardian,</p>	Admission/Notice of Rights	<p>R325.14302(6) As part of the admission procedure to a program, a recipient shall receive all of the following: (b) A writtewn description of the rights of recipients of substance abuse services.</p>

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	<p>shall be notified by the providers of those services of the rights guaranteed by this chapter. Notice shall be accomplished by providing an accurate summary of this chapter and chapter 7a to the applicant or recipient at the time services are first requested and by having a complete copy of this chapter and chapter 7a readily available for review by applicants and recipients.</p> <p>R 330.7011 Notification of rights. Rule 7011. At the time services are first requested, a provider shall inform a recipient, his or her guardian, or other legal representative of their lawful rights in an understandable manner. If a recipient is unable to read or understand the materials provided, a provider shall make a reasonable attempt to assist the recipient in understanding the materials. A note describing the explanation of the materials and who provided the explanation shall be entered in the recipient's record.</p>		<p>© A written description of any restrictions of the rights based on program policy. (d) An oral explanation of the rights in language that is understood by the recipient. (e) A form approved by the office which indicates that the recipient understands the rights and consents to specific restrictions on rights based on program policy. The recipient shall sign the form. One copy...to the client and one copy shall become part of the client's record.</p>
Rights of minor	<p>330.1707 Rights of minor. [M.S.A. 14.800(707)]</p> <p>Sec. 707. (1) A minor 14 years of age or older may request and receive mental health services and a mental health professional may provide mental health services, on an outpatient basis, excluding pregnancy termination referral services and the use of psychotropic drugs, without the consent or knowledge of the minor's parent, guardian, or person in loco parentis. Except as otherwise provided in this section, the minor's parent, guardian, or person in loco parentis shall not be informed of the services without the consent of the minor unless the mental health professional treating the minor determines that there is a compelling need for disclosure based on a substantial probability of harm to the minor or to another individual, and if the minor is notified of the mental health professional's intent to inform the minor's parent, guardian, or person in loco parentis.</p>	Minor patients	42 CFR Ch. 1 , Sec. 2.14

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Suitable services Environment Dignity and respect	330.1708 Suitable services; treatment environment; setting; rights. [M.S.A. 14.800(708)] Sec. 708. (1) A recipient shall receive mental health services suited to his or her condition. (2) Mental health services shall be provided in a safe, sanitary, and humane treatment environment. (3) Mental health services shall be offered in the least restrictive setting that is appropriate and available. (4) A recipient has the right to be treated with dignity and respect.	NONE	NONE
Physical exam	330.1710 Physical and mental examination; reexamination. [M.S.A. 14.800(710)] Sec. 710. Within 24 hours after admission, each resident of a hospital or center shall receive a comprehensive physical and mental examination. Each resident shall be periodically reexamined not less often than annually.	NONE	NONE
Rights of family members	330.1711 Rights of family members. [M.S.A. 14.800(711)] Sec. 711. Family members of recipients shall be treated with dignity and respect. They shall be given an opportunity to provide information to the treating professionals. They shall also be provided 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.	NONE	NONE
Individualized written plan of services	330.1712 Individualized written plan of services. Sec. 712. (1) The responsible mental health agency for each recipient shall ensure that a person-centered planning process is used to develop a written individual plan of	Participation in treatment planning	R325.14305(1) A recipient shall participate in the development of his or her treatment plan.

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	<p>services in partnership with the recipient. A preliminary plan shall be developed within 7 days of the commencement of services or, if an individual is hospitalized for less than 7 days, before discharge or release. The individual plan of services shall consist of a treatment plan, a support plan, or both</p> <p>R 330.7199 Written plan of services.</p> <p>Rule 7199. (1) The individualized written plan of services is the fundamental document in the recipient's record. A provider shall retain all periodic reviews, modifications, and revisions of the plan in the recipient's record.</p> <p>(2) The plan shall identify, at a minimum, all of the following:</p> <p>(a) All individuals, including family members, friends, and professionals that the individual desires or requires to be part of the planning process.</p> <p>(b) The services, supports, and treatments that the recipient requested of the provider.</p> <p>(c) The services, supports, and treatments committed by the responsible mental health agency to honor the recipient's request specified in subdivision (b) of this subrule.</p> <p>(d) The person or persons who will assume responsibility for assuring that the committed services and supports are delivered.</p> <p>(e) When the recipient can reasonably expect each of the committed services and supports to commence, and, in the case of recurring services or supports, how frequently, for what duration, and over what period of time.</p> <p>(f) How the committed mental health services and supports will be coordinated with the recipient's natural support systems and the services and supports provided by other public and private organizations.</p> <p>(g) Any restrictions or limitations of the recipient's rights. Documentation shall be included that describes attempts that have been made to avoid such restrictions as well as what actions will be taken as part of the plan to ameliorate or eliminate the need for the restrictions in the future.</p> <p>(h) Strategies for assuring that recipients have access to</p>		

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	<p>needed and available supports identified through a review of their needs. Areas of possible need may include any of the following:</p> <ul style="list-style-type: none"> (i) Food. (ii) Shelter. (iii) Clothing. (iv) Physical health care. (v) Employment. (vi) Education. (vii) Legal services. (viii) Transportation. (ix) Recreation. <p>(i) A description of any involuntary procedures and the legal basis for performing them.</p> <p>(j) A specific date or dates when the overall plan, and any of its subcomponents will be formally reviewed for possible modification or revision.</p> <p>(3) The plan shall not contain privileged information or communications.</p> <p>(4) Except as otherwise noted in subrule (5) of this rule, the individual plan of service shall be formally agreed to in whole or in part by the responsible mental health agency and the recipient, his or her guardian, if any, or the parent who has legal custody of a minor recipient. If the appropriate signatures are unobtainable, then the responsible mental health agency shall document witnessing verbal agreement to the plan. Copies of the plan shall be provided to the recipient, his or her guardian, if any, or the parent who has legal custody of a minor recipient.</p> <p>(5) Implementation of a plan without agreement of the recipient, his or her guardian, if any, or parent who has legal custody of a minor recipient may only occur when a recipient has been adjudicated pursuant to the provisions of section 469, 472, 473, 515, 518, or 519 of the act. However, if the proposed plan in whole or in part is implemented without the concurrence of the adjudicated recipient or his or her guardian, if any, then the stated objections of the recipient or his or her guardian shall be</p>		

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	included in the plan.		
Informing resident of clinical status	<p>330.1714 Informing resident of clinical status and progress. [M.S.A. 14.800(714)]</p> <p>Sec. 714. A recipient shall be informed orally and in writing of his or her clinical status and progress at reasonable intervals established in the individual plan of services in a manner appropriate to his or her clinical condition.</p>	NONE	NONE
Services of MH professional	<p>330.1715 Services of mental health professional. [M.S.A. 14.800(715)]</p> <p>Sec. 715. If a resident is able to secure the services of a mental health professional, he or she shall be allowed to see the professional at any reasonable time.</p>	NONE	NONE
ECT or other procedure; consent	<p>330.1717 Electroconvulsive therapy or other procedure; consent. [M.S.A. 14.800(717)]</p> <p>Sec. 717. (1) A recipient shall not be the subject of electroconvulsive therapy or a procedure intended to produce convulsions or coma unless consent is obtained from the following: (a) The recipient, if he or she is 18 years of age or older and does not have a guardian for medical purposes. (b) The recipient's parent who has legal and physical custody of the recipient, if the recipient is less than 18 years of age.</p> <p>(c) The recipient's guardian, if the guardian has power to execute a consent to procedures described in this section.</p>	NONE	NONE

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	<p>(d) The recipient's designated representative, if a durable power of attorney or other advance directive grants the representative authority to consent to procedures described in this section.</p> <p>(2) If a guardian consents to a procedure described in this section, the procedure shall not be initiated until 2 psychiatrists have examined the recipient and documented in the recipient's medical record their concurrence with the decision to administer the procedure.</p> <p>(3) If a parent or guardian of a minor consents to a procedure described in this section, the procedure shall not be initiated until 2 child and adolescent psychiatrists, neither of whom may be the treating psychiatrist, have examined the minor and documented in the minor's medical record their concurrence with the decision to administer the procedure.</p> <p>(4) A minor or an advocate designated by the minor may object to the administration of a procedure described in this section. The objection shall be made either orally or in writing to the probate court. The procedure shall not be initiated before a court hearing on the minor's or advocate's objection.</p> <p>(5) At least 72 hours, excluding Sundays or holidays, before the initiation of a procedure described in this section, a minor shall be informed that he or she has a right to object to the procedure.</p> <p>(6) If a procedure described in this section is considered advisable for a recipient and an individual eligible to give consent for the procedure is not located after diligent effort, a probate court may, upon petition and after a hearing, consent to administration of the procedure in lieu of the individual eligible to give consent.</p>		
Psychotropic drugs	330.1718 Psychotropic drugs. [M.S.A. 14.800(718)]	NONE	NONE

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	Sec. 718. Psychotropic drugs shall not be administered to an individual who has been hospitalized by medical certification or by petition under chapter 4 or 5 on the day preceding and on the day of his or her court hearing unless the individual consents or unless the administration of the psychotropic drugs is necessary to prevent physical injury to the individual or others.		
Psychotropic drug treatment; duties of the prescriber or licensed health professional	<p>330.1719 Psychotropic drug treatment; duties of prescriber or licensed health professional.</p> <p>Sec. 719. Before initiating a course of psychotropic drug treatment for a recipient, the prescriber or a licensed health professional acting under the delegated authority of the prescriber shall do both of the following: (a) Explain the specific risks and the most common adverse effects that have been associated with that drug.</p> <p>(b) Provide the individual with a written summary of the most common adverse effects associated with that drug.</p>		<p>R325.14305 (4)</p> <p>A recipient shall have the benefits, side effects, and risks associated with the use of any drugs fully explained in language which is understood by the recipient.</p>
Statistical reports of deaths	<p>330.1720 Statistical report of deaths. [M.S.A. 14.800(720)]</p> <p>Sec. 720. The department shall provide an annual statistical report to the members of the house and senate standing committees and appropriations subcommittees with legislative oversight of mental health issues summarizing all deaths and causes of deaths, if known of mental health care recipients that have been reported to the department and all deaths that have occurred in state facilities.</p>	NONE	NONE
Protection of recipient from abuse or neglect	<p>330.1722 Protection of recipient from abuse or neglect. [M.S.A. 14.800(722)]</p> <p>Sec. 722. (1) A recipient of mental health services shall not be subjected to abuse or neglect.</p> <p>(2) The department, each community mental health services program, each licensed hospital, and each service provider under contract with the department, community</p>	Protection of recipient from abuse or neglect	<p>R325.14304(5)</p> <p>A program staff member shall not physically or mentally abuse or neglect or sexually abuse a recipient.</p>

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	<p>mental health services program, or licensed hospital shall ensure that appropriate disciplinary action is taken against those who have engaged in abuse or neglect.</p> <p>(3) A recipient of mental health services who is abused or neglected has a right to pursue injunctive and other appropriate civil relief.</p> <p>R 330.7035 Abuse or neglect of recipients. Rule 7035. (1) Abuse or neglect of a recipient by an employee, volunteer, or agent of a provider shall subject the employee, volunteer, or agent of a provider, upon substantiated reports, to an appropriate penalty, including official reprimand, demotion, suspension, reassignment, or dismissal.</p> <p>(2) A provider shall do both of the following: (a) Establish written policies and procedures, which adopt and incorporate the definitions of abuse class I, abuse class II, or abuse class III and neglect as neglect class I, neglect class II, or neglect class III as described in rule 7001. (b) Provide for a prompt and thorough review of charges of abuse that is fair to both the recipient alleged to have been abused and the charged employee, volunteer, or agent of a provider.</p>		
Suspected abuse of recipient or resident; report to law enforcement agency	<p>330.1723 Suspected abuse of recipient or resident; report to law enforcement agency. [M.S.A. 14.800(723)]</p> <p>Sec. 723. (1) A mental health professional, a person employed by or under contract to the department, a licensed facility, or a community mental health services program, or a person employed by a provider under contract to the department, a licensed facility, or a community mental health services program who has reasonable cause to suspect the criminal abuse of a recipient immediately shall make or cause to be made, by telephone or otherwise, an oral report of the suspected criminal abuse to the law enforcement agency for the county or city in which the criminal abuse is suspected to have occurred or to the state police.</p>	NONE	NONE

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	<p>(2) Within 72 hours after making the oral report, the reporting individual shall file a written report with the law enforcement agency to which the oral report was made, and with the chief administrator of the facility or agency responsible for the recipient.</p> <p>(3) The written report required by subsection (2) shall contain the name of the recipient and a description of the criminal abuse and other information available to the reporting individual that might establish the cause of the criminal abuse and the manner in which it occurred. The report shall become a part of the recipient's clinical record. Before the report becomes part of the recipient's clinical record, the names of the reporting individual and the individual accused of committing the criminal abuse, if contained in the report, shall be deleted.</p> <p>(4) The identity of an individual who makes a report under this section is confidential and is not subject to disclosure without the consent of that individual or by order or subpoena of a court of record. An individual acting in good faith who makes a report of criminal abuse against a recipient is immune from civil or criminal liability that might otherwise be incurred. The immunity from civil or criminal liability granted by this subsection extends only to acts done under this section and does not extend to a negligent act that causes personal injury or death.</p> <p>(5) An individual who makes a report under this section in good faith shall not be dismissed or otherwise penalized by an employer or contractor for making the report.</p> <p>(6) This section does not relieve an individual from the duty to report criminal abuse under other applicable law.</p> <p>(7) The department, a community mental health services program, a licensed facility, and a service provider under contract with the department, community mental health services program, or licensed facility shall cooperate in the prosecution of appropriate criminal charges against those</p>		

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	<p>who have engaged in criminal abuse.</p> <p>(8) Except as otherwise provided in subsection (5), this section does not preclude nor hinder the department, a licensed facility, a community mental health services program, or a service provider under contract to the department, a licensed facility, or a community mental health services program from investigating reported claims of criminal abuse of a recipient by its employees, and from taking appropriate disciplinary action against its employees based upon that investigation.</p> <p>(9) This section does not require a person to report suspected criminal abuse if either of the following applies:</p> <p>(a) The individual has knowledge that the incident of suspected criminal abuse has been reported to the appropriate law enforcement agency as provided in this section.</p> <p>(b) The suspected criminal abuse occurred more than 1 year before the date on which it first became known to an individual who would otherwise be required to make a report.</p> <p>(10) This section does not require an individual required to report suspected criminal abuse under subsection (1) to disclose confidential information or a privileged communication except under 1 or both of the following circumstances: (a) If the suspected criminal abuse is alleged to have been committed or caused by a mental health professional, an individual employed by or under contract to the department, a licensed facility, or a community mental health services program, or an individual employed by a service provider under contract to the department, a licensed facility, or a community mental health services program.</p> <p>(b) If the suspected criminal abuse is alleged to have been committed in 1 of the following: (i) A state facility or a licensed facility.</p>		

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	<p>(ii) A county community mental health services program site.</p> <p>(iii) The work site of an individual employed by or under contract to the department, a licensed facility, or a community mental health services program or a provider under contract to the department, a licensed facility, or a community mental health services program.</p> <p>(iv) A place where a recipient is under the supervision of an individual employed by or under contract to the department, a licensed facility, a community mental health services program, or a provider under contract to the department, a licensed facility, or a community mental health services program.</p>		
Appointment of guardian ad litem	<p>330.1723a Appointment of guardian ad litem. [M.S.A. 14.800(723a)]</p> <p>Sec. 723a. The court with jurisdiction in each case resulting from a report made under section 723 shall appoint a guardian ad litem for the recipient.</p>	NONE	NONE
Report by person not employed by or under contract with DCH, facility, or CMHSP	<p>330.1723b Report by person not employed by or under contract to department, facility, or community mental health services program. [M.S.A. 14.800(723b)]</p> <p>Sec. 723b. Section 723 does not prohibit an individual who is not employed by or under contract to the department, a licensed facility, or a community mental health services program and who has reasonable cause to suspect the criminal abuse of a recipient from making a report to the appropriate law enforcement agency or to the department or community mental health services program.</p>	NONE	NONE
Violation of 723 or making of false report as	<p>330.1723c Violation of " 330.1723 or making of false report as misdemeanor; civil liability. [M.S.A. 14.800(723c)]</p>	NONE	NONE

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misdemeanor; civil liability	<p>Sec. 723c. (1) An individual who intentionally violates section 723 or who knowingly makes a false report pursuant to section 723 is guilty of a misdemeanor.</p> <p>(2) An individual who violates section 723 is civilly liable for the damages proximately caused by the violation.</p>		
Fingerprints, photographs, audiotape, or use of 1-way glass	<p>330.1724 Fingerprints, photographs, audiotape, or use of 1-way glass. [M.S.A. 14.800(724)]</p> <p>Sec. 724. (1) A recipient of mental health services shall not be fingerprinted, photographed, audiotaped, or viewed through a 1-way glass except in the circumstances and under the conditions set forth in this section. As used in this section, photographs include still pictures, motion pictures, and videotapes.</p> <p>(2) Fingerprints, photographs, or audiotapes may be taken and used and 1-way glass may be used in order to provide services, including research, to a recipient or in order to determine the name of the recipient only when prior written consent is obtained from 1 of the following: (a) The recipient if 18 years of age or over and competent to consent.</p> <p>(b) The guardian of the recipient if the guardian is legally empowered to execute such a consent.</p> <p>(c) The parent with legal and physical custody of the recipient if the recipient is less than 18 years of age.</p> <p>(3) Fingerprints, photographs, or audiotapes taken in order to provide services to a recipient, and any copies of them, shall be kept as part of the record of the recipient.</p> <p>(4) Fingerprints, photographs, or audiotapes taken in order to determine the name of a recipient shall be kept as part of the record of the recipient, except that when necessary the fingerprints, photographs, or audiotapes may be delivered to others for assistance in determining the name of the recipient. Fingerprints, photographs, or audiotapes so delivered shall be returned together with copies that were</p>	Fingerprints, photographs, audiotape, or use of 1-way glass	<p>R325.14305</p> <p>(5) A recipient has the right to give prior informed consent, consistent with federal confidentiality regulations, for the use and future disposition of products of special observation and audiovisual techniques, such as 1-way vision mirrors, tape recorders, television, movies, or photographs.</p> <p>(6) Fingerprints may be taken and used in connection with treatment or research or to determine the name of a recipient only if expressed written consent has been obtained from the recipient. Fingerprints shall be kept as a separate part of the recipient's records and shall be destroyed or returned to the recipient when the fingerprints are no longer essential to treatment or research.</p>

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	<p>made. An individual receiving fingerprints, photographs, or audiotapes shall be informed of the requirement that return be made. Upon return, the fingerprints, photographs, or audiotapes, together with copies, shall be kept as part of the record of the recipient.</p> <p>(5) Fingerprints, photographs, or audiotapes in the record of a recipient, and any copies of them, shall be given to the recipient or destroyed when they are no longer essential in order to achieve 1 of the objectives set forth in subsection (2), or upon discharge of the resident, whichever occurs first.</p> <p>(6) Photographs may be taken for purely personal or social purposes. A photograph of a recipient shall not be taken or used under this subsection if the recipient has indicated his or her objection.</p> <p>(7) Photographs or audiotapes may be taken and 1-way glass may be used for educational or training purposes only when express written consent is obtained from 1 of the following: (a) The recipient if 18 years of age or over and competent to consent.</p> <p>(b) The guardian of the recipient if the guardian is legally empowered to execute such a consent.</p> <p>(c) The parent with legal and physical custody of the recipient if the recipient is less than 18 years of age.</p> <p>(8) This section does not apply to recipients of mental health services referred under chapter 10.</p>		
<p>Communication by mail and telephone; visits.</p>	<p>330.1726 Communication by mail and telephone; visits. [M.S.A. 14.800(726)]</p> <p>Sec. 726. (1) A resident is entitled to unimpeded, private, and uncensored communication with others by mail and telephone and to visit with persons of his or her choice, except in the circumstances and under the conditions set forth in this section.</p>	<p>Private communications with physicians and attorney and visits</p>	<p>R325.14306</p> <p>(1) A recipient has the right to associate and have private communications and consultations with his or her physician and attorney.</p> <p>(2) A program shall post its policy concerning visitors in a public place.</p> <p>(3) Unless contraindicated by program policy or individual treatment plan, a recipient is allowed visits from family members, friends, and other persons of his</p>

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	<p>(2) Each facility shall endeavor to implement the rights guaranteed by subsection (1) by making telephones reasonably accessible, by ensuring that correspondence can be conveniently and confidentially received and mailed, and by making space for visits available. Writing materials, telephone usage funds, and postage shall be provided in reasonable amounts to residents who are unable to procure such items.</p> <p>(3) Reasonable times and places for the use of telephones and for visits may be established and, if established, shall be in writing and posted in each living unit of a residential program.</p> <p>(4) The right of a resident to communicate by mail or telephone or receive visitors shall not be further limited except as authorized in the resident's individual plan of services.</p> <p>(5) A limitation upon the rights guaranteed by subsection (1) shall not apply between a resident and an attorney or a court, or between a resident and other individuals if the communication involves matters that are or may be the subject of legal inquiry.</p>		<p>or her choice at reasonable times, as determined by the program director or according to posted visitors' hours. A recipient shall be informed in writing of visitors' hours upon admission to the program.</p> <p>(4) To protect the privacy of all other recipients, a program director shall ensure, to the extent reasonable and possible, that the visitors of recipients will only see or have contact with the individual they have reason to visit.</p>
Personal property	<p>330.1728 Personal property. [M.S.A. 14.800(728)]</p> <p>Sec. 728. (1) A resident is entitled to receive, possess, and use all personal property, including clothing, except in the circumstances and under the conditions set forth in this section.</p> <p>(2) Each facility shall provide a reasonable amount of storage space to each resident for his or her clothing and other personal property. The resident shall be permitted to inspect personal property at reasonable times.</p> <p>(3) A facility may exclude particular kinds of personal property from the facility. Any exclusions shall be officially adopted and shall be in writing and posted in</p>	Property and storage	<p>R 325.14306(7)</p> <p>A recipient has the right to a reasonable amount of personal storage space for clothing and other personal property. All such items shall be returned upon discharge.</p>

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	<p>each residential unit.</p> <p>(4) The individual in charge of the plan of services for a resident may limit the rights guaranteed by subsection (1) if each limitation is essential for 1 of the following purposes:</p> <p>(a) In order to prevent theft, loss, or destruction of the property, unless a waiver is signed by the resident.</p> <p>(b) In order to prevent the resident from physically harming himself, herself, or others.</p> <p>(5) A limitation adopted under the authority of subsection (4), the date it expires, and justification for its adoption shall be promptly noted in the record of the resident.</p> <p>(6) A limitation adopted under the authority of subsection (4) shall be removed when the circumstance that justified its adoption ceases to exist.</p> <p>(7) A receipt shall be given to a resident and an individual designated by the resident for any of his or her personal property taken into the possession of the facility. Any personal property in the possession of a facility at the time the resident to whom the property belongs is released from the facility shall be returned to the resident.</p>		
Accepting funds for use of resident	<p>330.1732 Accepting funds for use of resident. [M.S.A. 14.800(732)]</p> <p>Sec. 732. A state facility may accept funds that a parent, guardian, or other individual wishes to provide for the use or benefit of a resident of the facility. Unless otherwise restricted by law, the possession and use of funds so provided are governed by section 730, the individual plan of services, and any additional directions given by the provider of the funds.</p>	Financial rights	<p>R 325.14306(8)</p> <p>A recipient has the right to deposit money, earnings, or income in his or her name in an account with a commercial financial institution. A recipient has the right to get money from the account and to spend it or use it as he or she chooses, unless restricted by program policy or by the treatment plan for the recipient. A recipient has the right to receive all money or other belongings held for him or her by the program within 24 hours of discharge.</p>
Facility as rep. Payee or fiduciary.	<p>330.1734 Facility as representative payee or fiduciary. [M.S.A. 14.800(734)]</p>	NONE	NONE

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	<p>Sec. 734. In the absence of any other responsible party, a state facility may accept an appointment to serve as a representative payee, fiduciary, or in a similar capacity for payments to a resident under a public or private benefit arrangement unless otherwise restricted by law. Funds received under that arrangement are subject to section 730 except to the extent laws or regulations governing payment of the benefits provide otherwise.</p>		
<p>Performance of labor by resident.</p>	<p>330.1736 Performance of labor by resident. [M.S.A. 14.800(736)]</p> <p>Sec. 736. (1) A resident may perform labor that contributes to the operation and maintenance of the facility for which the facility would otherwise employ someone only if the resident voluntarily agrees to perform the labor, engaging in the labor would not be inconsistent with the individual plan of services for the resident, and the amount of time or effort necessary to perform the labor would not be excessive. In no event shall discharge or privileges be conditioned upon the performance of such labor.</p> <p>(2) A resident who performs labor that contributes to the operation and maintenance of the facility for which the facility would otherwise employ someone shall be compensated appropriately and in accordance with applicable federal and state labor laws, including minimum wage and minimum wage reduction provisions.</p> <p>(3) A resident who performs labor other than that described in subsection (2) shall be compensated an appropriate amount if an economic benefit to another individual or agency results from his or her labor.</p> <p>(4) The governing body of the facility may provide for compensation of a resident when he or she performs labor not governed by subsection (2) or (3).</p> <p>(5) Subsections (1), (2), and (3) do not apply to labor of a</p>	<p>Labor by recipient</p>	<p>R325.14306(6) A recipient has the right to be free from doing work which the program would otherwise employ someone else to do, unless the work and the rationale for its therapeutic benefit are included in program policy or in the treatment plan for the recipient.</p>

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	<p>personal housekeeping nature or labor performed as a condition of residence in a small group living arrangement.</p> <p>(6) One-half of any compensation paid to a resident under this section is exempt from collection under this act as payment for services</p>		
Physical Restraint	<p>330.1740 Physical restraint. [M.S.A. 14.800(740)]</p> <p>Sec. 740. (1) A resident shall not be placed in physical restraint except in the circumstances and under the conditions set forth in this section or in other law.</p> <p>(2) A resident may be restrained only as provided in subsection (3), (4), or (5) after less restrictive interventions have been considered, and only if restraint is essential in order to prevent the resident from physically harming himself, herself, or others, or in order to prevent him or her from causing substantial property damage. Consideration of less restrictive measures shall be documented in the medical record. If restraint is essential in order to prevent the resident from physically harming himself, herself, or others, the resident may be physically held with no more force than is necessary to limit the resident's movement, until a restraint may be applied.</p> <p>(3) A resident may be temporarily restrained for a maximum of 30 minutes without an order or authorization in an emergency. Immediately after imposition of the temporary restraint, a physician shall be contacted. If, after being contacted, the physician does not order or authorize the restraint, the restraint shall be removed.</p> <p>(4) A resident may be restrained prior to examination pursuant to an authorization by a physician. An authorized restraint may continue only until a physician can personally examine the resident or for 2 hours, whichever is less. If it is not possible for the physician to examine the resident within 2 hours, a physician may reauthorize the restraint for another 2 hours. Authorized restraint may not continue for more than 4 hours.</p>	Physical and Chemical restraints	<p>R325.14306(5)</p> <p>A recipient has the right to be free from physical and chemical restraints, except those authorized in writing by a physician for a specified and limited time. Written policies and procedures which set forth the circumstances that require the use of restraints and which designate the program personnel responsible for applying restraints shall be approved in writing by a physician and shall be adopted by the program governing authority. Restraints may be applied in an emergency to protect the recipient from injury to self or others. The restraint shall be applied by designated staff. Such action shall be reported to a physician immediately and shall be reduced to writing in the client record within 24 hours.</p>

MH Right	MHC Cite	Comparable SA Right	SA Rule Cite
	<p>(5) A resident may be restrained pursuant to an order by a physician made after personal examination of the resident. An ordered restraint shall continue only for that period of time specified in the order or for 8 hours, whichever is less.</p> <p>(6) A restrained resident shall continue to receive food, shall be kept in sanitary conditions, shall be clothed or otherwise covered, shall be given access to toilet facilities, and shall be given the opportunity to sit or lie down.</p> <p>(7) Restraints shall be removed every 2 hours for not less than 15 minutes unless medically contraindicated or whenever they are no longer essential in order to achieve the objective which justified their initial application.</p> <p>(8) Each instance of restraint requires full justification for its application, and the results of each periodic examination shall be placed promptly in the record of the resident.</p> <p>(9) If a resident is restrained repeatedly, the resident's individual plan of services shall be reviewed and modified to facilitate the reduction of the use of restraints.</p> <p>R 330.7243 Restraint and seclusion. Rule 7243. (1) A provider shall keep a separate, permanent chronological record specifically identifying all instances when physical restraint or seclusion has been used. The record shall include all of the following information:</p> <ul style="list-style-type: none"> (a) The name of the resident. (b) The type of physical restraint or conditions of seclusion. (c) The name of the authorizing and ordering physician. (d) The date and time placed in temporary, authorized, and ordered physical restraint or seclusion. (e) The date and time the resident was removed from temporary, authorized, and ordered physical restraint or seclusion. <p>(2) A resident who is in restraint or seclusion shall be inspected at least once every 15 minutes by designated personnel.</p> <p>(3) A provider shall ensure that documentation of staff</p>		

MH Right	MHC Cite	Comparable SA Right	SA Rule Cite
	<p>monitoring and observation is entered into the medical record of the resident.</p> <p>(4) A resident in physical restraint or seclusion shall be provided hourly access to a toilet.</p> <p>(5) A resident in physical restraint or seclusion shall have an opportunity to bathe, or shall be bathed as often as needed, but at least once every 24 hours.</p> <p>(6) If an order for restraint or seclusion is to expire and the continued use of restraint or seclusion is clinically indicated and must be extended, then a physician's reauthorization or reordering of restraint or seclusion shall be in compliance with both of the following provisions:</p> <p>(a) If the physical restraint device is a cloth vest and is used to limit the resident's movement at night to prevent the resident from injuring himself or herself in bed, the physician may reauthorize or reorder the continued use of the cloth vest device pursuant to the provisions of section 740(4) and (5) of the act.</p> <p>(b) Except as specified in subdivision (a) of this subrule, a physician who orders or reorders restraint or seclusion shall do so in accordance with the provisions of sections 740(5) and 742(5) of the act. The required examination by a physician shall be conducted not more than 30 minutes before the expiration of the expiring order for restraint or seclusion.</p> <p>(7) If a resident is removed from restraint or seclusion for more than 30 minutes, then the order or authorization shall terminate.</p> <p>(8) A provider shall ensure that a secluded or restrained resident is given an explanation of why he or she is being secluded or restrained and what he or she needs to do to have the restraint or seclusion order removed. The explanation shall be provided in clear behavioral terms and documented in the record.</p> <p>(9) For restrained residents, a provider shall ensure that an assessment of the circulation status of restrained limbs is conducted and documented at 15-minute intervals or more often if medically indicated.</p> <p>(10) For purposes of this rule, a time out intervention</p>		

MH Right	MHC Cite	Comparable SA Right	SA Rule Cite
	program as defined in R 330.7001 is not a form of seclusion.		
Seclusion	<p>330.1742 Seclusion.</p> <p>Sec. 742. (1) Seclusion shall be used only in a hospital or center or in a child caring institution licensed under Act No. 116 of the Public Acts of 1973, being sections 722.111 to 722.128 of the Michigan Compiled Laws. A resident or an individual placed in a child caring institution shall not be kept in seclusion except in the circumstances and under the conditions set forth in this section.</p> <p>(2) A resident may be placed in seclusion only as provided under subsection (3), (4), or (5) and only if it is essential in order to prevent the resident from physically harming others, or in order to prevent the resident from causing substantial property damage.</p> <p>(3) Seclusion may be temporarily employed for a maximum of 30 minutes in an emergency without an authorization or an order. Immediately after the resident is placed in temporary seclusion, a physician shall be contacted. If, after being contacted, the physician does not authorize or order the seclusion, the resident shall be removed from seclusion.</p> <p>(4) A resident may be placed in seclusion under an authorization by a physician. Authorized seclusion shall continue only until a physician can personally examine the resident or for 1 hour, whichever is less.</p> <p>(5) A resident may be placed in seclusion under an order of a physician made after personal examination of the resident to determine if the ordered seclusion poses an undue health risk to the resident. Ordered seclusion shall continue only for that period of time specified in the order or for 8 hours, whichever is less. An order for a minor shall continue for a maximum of 4 hours.</p> <p>(6) A secluded resident shall continue to receive food, shall</p>	NONE	NONE

MH Right	MHC Cite	Comparable SA Right	SA Rule Cite
	<p>remain clothed unless his or her actions make it impractical or inadvisable, shall be kept in sanitary conditions, and shall be provided a bed or similar piece of furniture unless his or her actions make it impractical or inadvisable.</p> <p>(7) A secluded resident shall be released from seclusion whenever the circumstance that justified its use ceases to exist.</p> <p>(8) Each instance of seclusion requires full justification for its use, and the results of each periodic examination shall be placed promptly in the record of the resident.</p> <p>(9) If a resident is secluded repeatedly, the resident's individual plan of services shall be reviewed and modified to facilitate the reduced use of seclusion.</p> <p>R 330.7243 Restraint and seclusion. Rule 7243. (1) A provider shall keep a separate, permanent chronological record specifically identifying all instances when physical restraint or seclusion has been used. The record shall include all of the following information: (a) The name of the resident. (b) The type of physical restraint or conditions of seclusion. (c) The name of the authorizing and ordering physician. (d) The date and time placed in temporary, authorized, and ordered physical restraint or seclusion. (e) The date and time the resident was removed from temporary, authorized, and ordered physical restraint or seclusion. (2) A resident who is in restraint or seclusion shall be inspected at least once every 15 minutes by designated personnel. (3) A provider shall ensure that documentation of staff monitoring and observation is entered into the medical record of the resident. (4) A resident in physical restraint or seclusion shall be provided hourly access to a toilet. (5) A resident in physical restraint or seclusion shall have an opportunity to bathe, or shall be bathed as often as</p>		

MH Right	MHC Cite	Comparable SA Right	SA Rule Cite
	<p>needed, but at least once every 24 hours.</p> <p>(6) If an order for restraint or seclusion is to expire and the continued use of restraint or seclusion is clinically indicated and must be extended, then a physician's reauthorization or reordering of restraint or seclusion shall be in compliance with both of the following provisions:</p> <p>(a) If the physical restraint device is a cloth vest and is used to limit the resident's movement at night to prevent the resident from injuring himself or herself in bed, the physician may reauthorize or reorder the continued use of the cloth vest device pursuant to the provisions of section 740(4) and (5) of the act.</p> <p>(b) Except as specified in subdivision (a) of this subrule, a physician who orders or reorders restraint or seclusion shall do so in accordance with the provisions of sections 740(5) and 742(5) of the act. The required examination by a physician shall be conducted not more than 30 minutes before the expiration of the expiring order for restraint or seclusion.</p> <p>(7) If a resident is removed from restraint or seclusion for more than 30 minutes, then the order or authorization shall terminate.</p> <p>(8) A provider shall ensure that a secluded or restrained resident is given an explanation of why he or she is being secluded or restrained and what he or she needs to do to have the restraint or seclusion order removed. The explanation shall be provided in clear behavioral terms and documented in the record.</p> <p>(9) For restrained residents, a provider shall ensure that an assessment of the circulation status of restrained limbs is conducted and documented at 15-minute intervals or more often if medically indicated.</p> <p>(10) For purposes of this rule, a time out intervention program as defined in R 330.7001 is not a form of seclusion.</p>		
Freedom of movement	<p>330.1744 Freedom of movement. [M.S.A. 14.800(744)]</p> <p>Sec. 744. (1) The freedom of movement of a recipient shall</p>	NONE	NONE

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	<p>not be restricted more than is necessary to provide mental health services to him or her, to prevent injury to him or her or to others, or to prevent substantial property damage, except that security precautions appropriate to the condition and circumstances of an individual admitted by order of a criminal court or transferred as a sentence-serving convict from a penal institution may be taken.</p> <p>(2) A restriction adopted under the authority of subsection (1), the date it expires, and justification for its adoption shall be promptly noted in the record of the recipient.</p> <p>(3) A restriction adopted under the authority of subsection (1) shall be removed when the circumstance that justified its adoption ceases to exist.</p>		
Confidentiality	748, 7051	Review, copy, receive summary of record	<p>42 CFR part 2 R 325.14304(4)</p> <p>A recipient has the right to review, copy, or receive a summary of his or her program records, unless, in the judgment of the program director, such action will be detrimental to the recipient or to others for either of the following reasons:</p> <p>(a) Granting the request for disclosure will cause substantial harm to the relationship between the recipient and the program or to the program's capacity to provide services in general.</p> <p>(b) Granting the request for disclosure will cause substantial harm to the recipient. If the program director determines that such action will be detrimental, the recipient is allowed to review nondetrimental portions of the record or a summary of the nondetrimental portions of the record. If a recipient is denied the right to review all or part of his or her record, the reason for the denial shall be stated to the recipient. An explanation of what portions of the record are detrimental and for what reasons, shall be stated in the client record and shall be signed by the program director.</p>
Child abuse or	748a		42 CFR part 2

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neglect investigation; request for mental health records...			
Statement correcting or amending information	<p>330.1749 Statement correcting or amending information. [M.S.A. 14.800(749)]</p> <p>Sec. 749. A recipient, guardian, or parent of a minor recipient, after having gained access to treatment records, may challenge the accuracy, completeness, timeliness, or relevance of factual information in the recipient's record. The recipient, guardian, or parent of a minor recipient shall be allowed to insert into the record a statement correcting or amending the information at issue. The statement shall become part of the record.</p>	NONE	NONE
Privileged communications	<p>330.1750 Privileged communications. [M.S.A. 14.800(750)]</p> <p>Sec. 750. (1) Privileged communications shall not be disclosed in civil, criminal, legislative, or administrative cases or proceedings, or in proceedings preliminary to such cases or proceedings, unless the patient has waived the privilege, except in the circumstances set forth in this section.</p> <p>(2) Privileged communications shall be disclosed upon request under 1 or more of the following circumstances: (a) If the privileged communication is relevant to a physical or mental condition of the patient that the patient has introduced as an element of the patient's claim or defense in a civil or administrative case or proceeding or that, after the death of the patient, has been introduced as an element of the patient's claim or defense by a party to a civil or administrative case or proceeding.</p> <p>(b) If the privileged communication is relevant to a matter under consideration in a proceeding governed by this act, but only if the patient was informed that any communications could be used in the proceeding.</p>		42 CFR part 2

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	<p>(c) If the privileged communication is relevant to a matter under consideration in a proceeding to determine the legal competence of the patient or the patient's need for a guardian but only if the patient was informed that any communications made could be used in such a proceeding.</p> <p>(d) In a civil action by or on behalf of the patient or a criminal action arising from the treatment of the patient against the mental health professional for malpractice.</p> <p>(e) If the privileged communication was made during an examination ordered by a court, prior to which the patient was informed that a communication made would not be privileged, but only with respect to the particular purpose for which the examination was ordered.</p> <p>(f) If the privileged communication was made during treatment that the patient was ordered to undergo to render the patient competent to stand trial on a criminal charge, but only with respect to issues to be determined in proceedings concerned with the competence of the patient to stand trial.</p> <p>(3) In a proceeding in which subsections (1) and (2) prohibit disclosure of a communication made to a psychiatrist or psychologist in connection with the examination, diagnosis, or treatment of a patient, the fact that the patient has been examined or treated or undergone a diagnosis also shall not be disclosed unless that fact is relevant to a determination by a health care insurer, health care corporation, nonprofit dental care corporation, or health maintenance organization of its rights and liabilities under a policy, contract, or certificate of insurance or health care benefits.</p> <p>(4) Privileged communications may be disclosed under section 946 to comply with the duty set forth in that section.</p>		
Definitions	R 330.7001 Definitions.	NONE	NONE

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	<p>Rule 7001. As used in this part:</p> <p>(a) "Abuse class I" means a nonaccidental act or provocation of another to act by an employee, volunteer, or agent of a provider that caused or contributed to the death, or sexual abuse of, or serious physical harm to a recipient.</p> <p>(b) "Abuse class II" means any of the following:</p> <p>(i) A nonaccidental act or provocation of another to act by an employee, volunteer, or agent of a provider that caused or contributed to nonserious physical harm to a recipient.</p> <p>(ii) The use of unreasonable force on a recipient by an employee, volunteer, or agent of a provider with or without apparent harm.</p> <p>(iii) Any action or provocation of another to act by an employee, volunteer, or agent of a provider that causes or contributes to emotional harm to a recipient.</p> <p>(iv) An action taken on behalf of a recipient by a provider who assumes the recipient is incompetent, despite the fact that a guardian has not been appointed, that results in substantial economic, material, or emotional harm to the recipient.</p> <p>(c) "Abuse class III" means the use of language or other means of communication by an employee, volunteer, or agent of a provider to degrade, threaten, or sexually harass a recipient.</p> <p>(g) "Neglect class I" means either of the following:</p> <p>(i) Acts of commission or omission by an employee, volunteer, or agent of a provider that result from noncompliance with a standard of care or treatment required by law, rules, policies, guidelines, written directives, procedures, or individual plan of service and that cause or contribute to serious physical harm to a recipient.</p> <p>(ii) The failure to report abuse or neglect of a recipient when the abuse or neglect results in the death of, or serious physical harm, to the recipient.</p> <p>(h) "Neglect class II" means either of the following:</p> <p>(i) Acts of commission or omission by an employee, volunteer, or agent of a provider that result from noncompliance with a standard of care or treatment</p>		

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	<p>required by law, rules, policies, guidelines, written directives, procedures, or individual plan of service and that cause or contribute to nonserious physical harm or emotional harm to a recipient.</p> <p>(ii) The failure to report abuse or neglect of a recipient when the abuse or neglect results in nonserious harm to the recipient.</p> <p>(i) "Neglect class III" means either of the following:</p> <p>(i) Acts of commission or omission by an employee, volunteer, or agent of a provider that result from noncompliance with a standard of care or treatment required by law, rules, policies, guidelines, written directives, procedures, or individual plan of service that either placed or could have placed a recipient at risk of physical harm.</p>		
Informed consent	<p>R 330.7003 Informed consent. Rule 7003. (1) All of the following are elements of informed consent:</p> <p>(a) 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 a court of guardianship powers and only to the extent of the scope and duration of the guardianship. An individual shall be presumed legally competent regarding matters that are not within the scope and authority of the guardianship.</p> <p>(b) Knowledge. To consent, a recipient or legal representative must have basic information about the procedure, risks, other related consequences, and other relevant information. The standard governing required disclosure by a doctor is what a reasonable patient needs to know in order to make an informed decision. Other relevant information includes all of the following:</p> <p>(i) The purpose of the procedures.</p> <p>(ii) A description of the attendant discomforts, risks, and benefits that can reasonably be expected.</p> <p>(iii) A disclosure of appropriate alternatives advantageous to the recipient.</p> <p>(iv) An offer to answer further inquiries.</p>	Informed consent	<p>R325.14304(8) A recipient has the right to information concerning any experimental or research procedure proposed as a part of his or her treatment or prevention services and has the right to refuse to participate in the experiment or research without jeopardizing his or her continuing services. A program shall comply with state and federal rules and regulations concerning research which involves human subjects.</p> <p>R325.14305(2) A recipient has the right to refuse treatment and to be informed of the consequences of that refusal. When a refusal of treatment prevents a program from providing services according to ethical and professional standards, the relationship with the recipient may be terminated upon reasonable notice.</p>

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	<p>(c) Comprehension. An individual must be able to understand what the personal implications of providing consent will be based upon the information provided under subdivision (b) of this subrule.</p> <p>(d) Voluntariness. There shall be free power of choice without the intervention of an element of force, fraud, deceit, duress, overreaching, or other ulterior form of constraint or coercion, including promises or assurances of privileges or freedom. There shall be an instruction that an individual is free to withdraw consent and to discontinue participation or activity at any time without prejudice to the recipient.</p> <p>(2) A provider shall establish written policies that include procedures for evaluating comprehension and for assuring disclosure of relevant information and measures to ensure voluntariness before obtaining consent. The policies and procedures shall specify for specific circumstances the types of information that shall be disclosed and steps that may be taken to protect voluntariness. The procedures shall include a mechanism for determining whether guardianship proceedings should be considered.</p> <p>(3) Informed consent shall be reobtained if changes in circumstances substantially change the risks, other consequences, or benefits that were previously expected.</p> <p>(4) A written agreement documenting an informed consent shall not include any exculpatory language through which the recipient, or a person consenting on the recipient's behalf, waives or appears to waive, a legal right, including a release of a provider or its agents from liability for negligence. The agreement shall embody the basic elements of informed consent in the particular context. The individual, guardian, or parent consenting shall be given adequate opportunity to read the document before signing it. The requirement of a written consent shall not eliminate, where essential to the individual's understanding or otherwise deemed advisable, a reading of the document to the individual or an oral explanation in a language the individual understands. A note of the explanation and by</p>		

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	<p>whom made shall be placed in the record along with the written consent.</p> <p>(5) A consent is executed when it is signed by the appropriate individual.</p>		
Assumption of competency	<p>R 330.7009 Civil rights.</p> <p>Rule 7009. (1) A provider shall establish measures to prevent and correct a possible violation of civil rights related to the service provision. A violation of civil rights shall be regarded as a violation of recipient rights and shall be subject to remedies established for recipient rights violations.</p> <p>(2) A recipient shall be permitted, to the maximum extent feasible and in any legal manner, to conduct personal and business affairs and otherwise exercise all rights, benefits, and privileges not divested or limited.</p> <p>(3) An adult recipient, and a minor when state law allows consent by a minor, shall be presumed legally competent. The presumption may be rebutted only by court appointment of a guardian or exercise by a court of guardianship powers and only to the extent of the scope and duration of that guardianship.</p>	NONE	NONE
Search and seizure	<p>R 330.7009 Civil rights.</p> <p>(7) A recipient's property or living area shall not be searched by a provider unless such a search is authorized in the resident's plan of service or there is reasonable cause to believe that the resident is in possession of contraband or property that is excluded from the resident's possession by the written policies, procedures, or rules of the provider. The following conditions apply to all searches:</p> <p>(a) A search of the resident's living area or property shall occur in the presence of a witness. The resident shall also be present unless he or she declines to be present.</p> <p>(b) The circumstances surrounding the search shall be entered in the resident's record, and shall include all the following:</p> <p>(i) The reason for initiating the search.</p> <p>(ii) The names of the individuals performing and</p>	NONE	NONE

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	<p>witnessing the search. (iii) The results of the search, including a description of the property seized.</p>		
Treatment by spiritual means	<p>R 330.7135 Treatment by spiritual means. Rule 7135. (1) A provider shall permit a recipient to have access to treatment by spiritual means upon the request of the recipient, a guardian, if any, or a parent of a minor recipient. (2) A provider shall assure that the opportunity for contact with agencies providing treatment by spiritual means is provided in the same manner as recipients are permitted to see private mental health professionals. (3) Requests for printed, recorded, or visual material essential or related to treatment by spiritual means, and to a symbolic object of similar significance shall be honored and made available at the recipient's expense. (4) Treatment by spiritual means includes the right of recipients, guardians, or parents of a minor to refuse medication or other treatment on spiritual grounds that predate the current allegations of mental illness or disability, but does not extend to circumstances where either of the following provisions applies: (a) A guardian or the provider has been empowered by a court to consent to or provide treatment and has done so. (b) A recipient poses harm to himself or herself or others and treatment is essential to prevent physical injury. (5) The right to treatment by spiritual means does not include the right to any of the following: (a) To use mechanical devices or chemical or organic compounds that are physically harmful. (b) To engage in activity prohibited by law. (c) To engage in activity that physically harms the recipient or others. (d) To engage in activity that is inconsistent with court-ordered custody or voluntary placement by a person other than the recipient. (6) A provider shall develop written policies and procedures concerning treatment by spiritual means that</p>	NONE	NONE

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	<p>include both of the following:</p> <p>(a) Recourse to court proceedings if medication or other treatment for a minor is refused.</p> <p>(b) Notice to a person who requests treatment by spiritual means of a denial of the request and the reasons for denial.</p> <p>(7) A provider shall provide for the administrative review or appeal of a denial of treatment by spiritual means at the option of a person requesting such treatment.</p>		
<p>Entertainment, information, and news</p>	<p>R 330.7139 Resident's right to entertainment materials, information, and news.</p> <p>Rule 7139. (1) A provider shall not prevent a resident from acquiring entertainment materials, information and news at his or her expense, or from reading written or printed material, or from viewing or listening to television, radio, recordings, or movies made available at a facility for reasons of, or similar to, censorship.</p> <p>(2) A provider may limit access to entertainment materials, information, or news only if such a limitation is specifically approved in the resident's individualized plan of service.</p> <p>(3) A provider shall document each instance when a limitation is imposed in the resident's record.</p> <p>(4) A provider shall not limit access to entertainment materials, information or news when such limitations can no longer be clinically justified.</p> <p>(5) Material not prohibited by law may be read or viewed by a minor unless there is an objection by the minor's parent or guardian who has legal custody of the minor.</p> <p>(6) A provider shall establish written policies and procedures that provide for all of the following:</p> <p>(a) Any general program restrictions on access to material for reading, listening, or viewing.</p> <p>(b) Determining a resident's interest in, and provide for, a daily newspaper.</p> <p>(c) Permit attempts by the staff person in charge of the plan of service to persuade a parent or guardian of a minor to withdraw objections to material desired by the minor.</p> <p>(d) A mechanism for residents to appeal denial of their</p>	<p>NONE</p>	<p>NONE</p>

MH Right	MHC Cite	Comparable SA Right	SA Rule Cite
	<p>right to entertainment materials, information and news, and to remedy a wrongful denial.</p> <p>(e) Any specific restrictions on a living unit or for the therapeutic benefit of the residents as a group.</p>		
Medications	<p>R 330.7158 Medication.</p> <p>Rule 7158. (1) A provider shall only administer medication at the order of a physician and in compliance with the provisions of section 719 of the act, if applicable.</p> <p>(2) A provider shall assure that medication use conforms to federal standards and the standards of the medical community.</p> <p>(3) A provider shall not use medication as punishment, for the convenience of the staff, or as a substitute for other appropriate treatment.</p> <p>(4) A provider shall review the administration of a psychotropic medication periodically as set forth in the recipient's individual plan of service and based upon the recipient's clinical status.</p> <p>(5) If an individual cannot administer his or her own medication, a provider shall ensure that medication is administered by or under the supervision of personnel who are qualified and trained pursuant to Act No.368 of the Public Acts of 1978, as amended, being 333.1101 et seq. of the Michigan Compiled Laws.</p> <p>(6) A provider shall record the administration of all medication in the recipient's clinical record.</p> <p>(7) A provider shall ensure that medication errors and adverse drug reactions are immediately and properly reported to a physician and recorded in the recipient's clinical record.</p> <p>(8) A provider shall ensure that the use of psychotropic medications is subject to the following restrictions:</p> <p>(a) A provider shall not administer prescribed psychotropic medications to a recipient unless the recipient consents or unless administration of chemotherapy is necessary to prevent physical harm or injury to the recipient or others.</p> <p>(b) Psychotropic medications shall not be administered to any of the following persons:</p>	NONE	NONE

MH Right	MHC Cite	Comparable SA Right	SA Rule Cite
	<p>(i) A resident who has been admitted by medical certification or by petition until after a final adjudication as required under section 468(2) of the act.</p> <p>(ii) A defendant undergoing examination at the center for forensic psychiatry or other certified facility to determine competency to stand trial.</p> <p>(iii) A person acquitted of a criminal charge by reason of insanity while undergoing examination and evaluation at the center for forensic psychiatry.</p> <p>(c) A provider may administer chemotherapy to prevent physical harm or injury after signed documentation of the physician is placed in the resident's clinical record and when the actions of a resident or other objective criteria clearly demonstrate to a physician that the resident poses a risk of harm to himself, herself or others.</p> <p>(d) Initial administration of psychotropic chemotherapy may not be extended beyond 48 hours, unless there is consent. The duration of psychotropic chemotherapy shall be as short as possible and at the lowest possible dosage that is therapeutically effective. The chemotherapy shall be terminated as soon as there is little likelihood that the resident will pose a risk of harm to himself, herself, or others.</p> <p>(e) Additional courses of chemotherapy may be prescribed and administered if a resident decompensates and again poses a risk to himself, herself or others.</p> <p>(9) A provider shall ensure that only medication that is authorized in writing by a physician is given to residents upon his or her leave or discharge from the providers program and that enough medication is made available to ensure the recipient has an adequate supply until he or she can become established with another provider.</p>		
Health, hygiene, and grooming	<p>R 330.7171 Resident health, hygiene, and personal grooming. Rule 7171. Provisions for resident health, hygiene, and personal grooming shall include assisting and training to</p>	NONE	NONE

MH Right	MHC Cite	Comparable SA Right	SA Rule Cite
	<p>exercise maximum capability in personal grooming practices, including bathing, tooth-brushing, shampooing, hair grooming, shaving, and care of nails. In addition, a resident shall be provided with all of the following:</p> <ul style="list-style-type: none"> (a) Toilet articles. (b) A toothbrush and dentifrice. (c) An opportunity for shower or tub bath at least once every 2 days, unless medically contraindicated. (d) The services of a barber or a beautician on a regular basis. (e) If a male, the opportunity to shave daily. 		
NONE	NONE	Right to review written fee schedule and receive explanation of bill	<p>R325-14304</p> <p>(6) A recipient has the right to review a written fee schedule in programs where recipients are charged for services. Policies on fees and any revisions thereto shall be approved by the governing authority of the program and shall be recorded in the administrative record of the program.</p> <p>(7) A recipient is entitled to receive an explanation of his or her bill, regardless of the source of payment.</p>
NONE	NONE	Notice of discharge/non-compliance	<p>R325.14305(3)</p> <p>A recipient shall be informed if a program has a policy for discharging recipients who fail to comply with program rules and shall receive, at admission and thereafter upon request, a notification form that includes written procedures which explain all of the following:</p> <ul style="list-style-type: none"> (a) The types of infractions that can lead to discharge. (b) Who has the authority to discharge recipients. (c) How and in what situations prior notification is to be given to the recipient who is being considered for discharge. (d) The mechanism for review or appeal of a discharge decision.