



## **CENTRA WELLNESS NETWORK PROCEDURE 03.15 CONSENT TO TREATMENT**

### **I. PURPOSE STATEMENT:**

Centra Wellness Network's (CWN) Governing Body establishes and evaluates policies and related procedures as required by statutory and contractual obligations.

CWN reserves the right in its sole discretion to adopt and implement policies and procedures that ensure a safe, functional and professional workplace that operates with integrity using person-centered focus and planning, trauma informed practices and respect of others, cultural sensitivity and transparency in communication and practice. Organizationally and in practice, CWN is responsive to the needs of clients, community and staff.

Any statements and procedures are subject to review and/or unilateral change, modification, suspension or cancelation in whole or in part of any published/unpublished policies or procedures without notice and without having to give cause, justification, or consideration to any employee. Recognition of these rights and prerogatives of CWN is a term and condition of and maintaining employment.

Policies and Procedures are approved by the Board and/or upon recommendation by the Executive Director or his/her designee.

### **II. APPLICATION:**

Agency Wide.

### **III. DEFINITIONS:**

#### Consent:

A written agreement executed by a recipient, a minor recipient's parent or a recipient's legal representative with authority to execute consent, or a verbal agreement of a recipient that is witnessed and documented by an individual other than the individual providing treatment.

Legal Competency: A recipient 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 guardianship. A recipient shall be presumed legally competent regarding matters that are not within the scope and authority of guardianship.

#### Comprehension:

A recipient must be able to understand what the personal implications of providing consent will be based upon the information provided.

#### Empowered Guardian:

A person who has been designated by the county probate court as guardian with the specific authority to give consent.

#### Knowledge:

To consent, a recipient or legal representative must have basic information about the procedures, 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 the following:

- a. The purpose of the procedure(s).
- b. A description of the attendant discomforts, risks, and benefits that can reasonably be expected.
- c. A disclosure of appropriate alternatives advantageous to the recipient.
- d. An offer to answer further inquiries.

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Parent: when used in these procedures refers to:

- a. A parent of a minor child.
- b. A person with whom the child resides and from whom the child receives care and support, who has legal authority to make decisions on behalf of the child.
- c. A representative from the Juvenile Court, or Family Independence Agency Protective Services with proper court authority.

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.

Written:

Consent must be an agreement in writing that includes the basic elements of consent.

**IV. POLICY STATEMENT:**

The intent of this procedure is to ensure that written informed consent is obtained from the legally empowered individual prior to the initiation of services.

**V. PROCEDURES:**

The following procedures are established for obtaining consent and for evaluating comprehension. These procedures specify under specific circumstances the types of information that shall be disclosed and steps that may not be taken without endangering voluntariness. These procedures shall precede an evaluation of competency for purposes of determining whether guardianship proceedings are necessary.

A. Intake:

1. At the time of intake and/or initial evaluation, each recipient shall be asked to sign a Consent for Treatment form. The recipient/guardian will be informed that the consent can be withdrawn at any time without prejudice to the recipient/guardian. This form will be placed in the case record.
2. If the recipient cannot read or understand the material provided:
  - a. The provider shall make a reasonable attempt to assist the recipient in understanding the materials.
  - b. A note describing the explanation of the materials and who provided the explanation shall be entered in the recipient's records.
3. If a recipient refuses to sign:
  - a. The reason and circumstances shall be documented on the form by the staff involved and
  - b. the responsible case holder assigned to the recipient shall consult with his/her supervisor regarding the appropriate action to take.
4. Copies of all legal documents empowering an individual to provide consent for another (guardianship authority, divorce document, power of attorney, etc.) will be requested at intake and placed in the recipient's record.
5. Service recipients ordered by court of law to receive mental health services on an involuntary basis represent a special classification. An informed consent for services need not be obtained prior to providing service, but efforts shall always be made to obtain written consent whenever possible before services are initiated. A copy of the court order will be requested and placed in the record.

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**B. Individual Plan of Service:**

1. The recipient or legal representative shall sign the Individual Plan of Service (IPOS) indicating their consent to the treatment including medical services described therein. This shall be done each time the IPOS is changed or if changes in circumstances substantially change the risks, other consequences, or benefits that were previously expected.
2. A recipient or legal representative may at any time request a review or modification of the IPOS. These requests shall be directed to the Case responsible case holder, who will schedule a meeting with the recipient (parent or legal guardian) to discuss the request.
3. If a recipient or legal representative refuses to sign:
  - a. The reason shall be documented on the IPOS form, and
  - b. The primary case holder shall consult with his/her supervisor or designee to determine the appropriate action to take.

**C. Minors:**

1. A minor 14 years of age or older may request and receive mental health services and a mental health professional may provide services on an out-patient basis (excluding pregnancy termination referral services and use of psychotropic drugs) without the consent or knowledge of the minor's parent, guardian, or person in loco parentis.
2. The minor's parent, guardian, or person in loco parentis is not informed of the services without the consent of the minor unless the treating mental health professional determines a compelling need for disclosure based upon substantial probability of harm to minor or another and if the minor is notified of the treating professional's intent to inform.
3. Services provided to the minor are limited to not more than 12 sessions or 4 months per request and after these expire, the mental health professional shall terminate services or with the consent of the minor, notify the parent, guardian, or person in loco parentis to obtain consent to provide further out-patient services.

**D. Revocation of Consent**

1. If a recipient/legal representative revokes the consent, the responsible case holder shall request that it be in writing. If the recipient/legal representative refuses to put the revocation in writing the responsible staff person shall document such.
2. A recipient/legal representative is free to withdraw consent and to discontinue participation or activity at any time without prejudice to the recipient and/or legal representative.

**E. Competency Evaluation**

1. During the course of treatment, the responsible case holder shall determine if the recipient is able to understand the nature of a procedure/service the potential risks, consequences and other relevant information concerning the proposed service.
2. If it is determined that the recipient is unable to understand the above areas then the responsible case holder shall take the necessary steps to secure a psychological evaluation of competency.
3. The responsible case holder may petition the court for guardianship only in those areas that the recipient needs assistance, and only after all alternatives to guardianship have been explored and dismissed.

**VI. EXHIBITS:**

N/A

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**VII. REFERENCES:**

<b>Authority and Related Directives Trace</b>	
Federal	CFR 438.100 (2) (iii) (iv); 438.206 (3); 438.224; 42 CFR Subchapter IV, Mental Health Rights and Advocacy, Section 9501. (O) (2) (B) (C) (E)
State	MHC 330.1752, 330.1750; 330.1712; 330.1707; AR 330.7003
NMRE	Administrative Manual Policy #07-01-014
County	Interlocal Agreement of December 1992 Section IX(j)
CARF	CARF 2022 Behavioral Health Standards
Other	Board By-Laws