

**Primary Health Choice, Inc.**  
**Human Rights Committee & CFAC Meeting**  
**Facilitator: Alice Hunt**  
**Date: 01/23/2020**  
**Sign In Sheet**

Print	Signature
Wanda Barnes	Wanda Barnes
Richard Hanner	(Redacted)
Ceil McMillian	Ceil McMillian
Connie Locklear	Connie Locklear
James Brown	James Brown
Shonia Gilchrist	Shonia Gilchrist
Elizabeth Locklear	Elizabeth Locklear
LaDawnia McLean	LaDawnia McLean
Keeshawn McLean	Keeshawn McLean
Alyssa Moore	Alyssa Moore
Rosalind Davis	Rosalind Davis -
Darryl Baldwin	Darryl Baldwin
Cheryl Perry	Jermaine Perry
Jeronie Welleone	Jeronie Townsend
Rosalind Antoine	Rosalind Antoine
Sherawn S. Oxendine	Sherawn S. Oxendine
Denice Cox	Denice Cox
Lacyshara mon	LATAYA O. mon

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Primary Health Choice, Inc.  
219 West Broad Street  
St. Pauls, NC 28384

Meeting Agenda  
January 23, 2020

Type of Meeting: Human Rights/CR Committee Meeting & Consumer/Family Advocacy Committee Meeting/Safety Committee

Invitees: Alice Hunt, Dr. Cheryl Davis, Thad Davis, Crystal Oxendine, Ed Rogers, Shervain Oxendine, Alan Capistrant, Sandra Johnson, Ronnie McEachin, Sharon Townsend, Misty Bryan, Nancy Pineda and Guest/Members

Agenda Topics:

1. Introductions
2. Review of Agenda
3. Confidentiality/HIPAA Agreement
4. Committee Member Form (if applicable)
5. Client Satisfaction Survey
6. Consumer Handbook
7. Consumer Rights/Coloring Handbook/Flyer
8. Restrictive Interventions-*None Reported*
9. Review on Rights Restrictions on Programs-*Day Supports, including Daily Reminders*
10. Areas of Human Rights Committee to Review
  - Complaints-(2) *Quality Care Concerns-Desk Reviews (SE Training/Paid Claims),*  
    1. (1) *Consumer Complaint-Service Delivery*
  - Incidents-(12)
  - Appeals-*None to Report*
  - Any Breach of Confidentiality Issues-*(None)*
  - Investigations-*None to Report*
  - Use of Protective Devices-*None to Report*
  - Behavioral Plans-*None to Report*
11. Accommodations-*Request for office supplies, paper products, computer/laptop, IT equipment, chairs, curtains, office furniture, first aide, gloves, safety equipment, microwave, appliances, board game, arts & crafts, maintenance*
12. Consumer Satisfaction Survey- Polite, Understanding, Prompt, always take time to listen, always willing to make suggestions for my benefit, always willing to see me, consistent, caregivers show compassion for clients, courteous staff at check in, appointments for most part are timely, Professional, Reliable, Reminder about appointments, Doctor to talk to, Medication if need is available, supportive, efficiency, kindness, friendly staff, helpful, great sense delivery, Great locations, Accessible QPs, Clean office, works to keep positive relationship with family in regards to diagnosis., hours of service, communication with case manager, QP is easy to talk to, Work with my schedule, always a phone call away, great crisis response, Improvement: Add color- Décor, boxed tissues, back up staff, need to pay staff more money, need a day program, need to appreciate staff members better, worthy, doctors visit wait is long
13. Consumer Suggestions- *Thanking us for changing Office Manager, improve office morals*
14. *Consumer Follow up Survey- In the process of starting back with IHH*
15. Fire Drills-*All drills conducted no concerns was reported.*
16. Health & Safety Form Summary-*No Health/Safety Concerns to report during this quarter.*

Education/Training

- Flyer on Medicaid Fraud and Abuse
- HRC

Updates

- Opening of Adult Meaningful Day Program/Brochure
- New Service Peer Support Services

Suggestions

- Any other suggestions?

Light Refreshments

Door Prizes

**Primary Health Choice, Inc.  
219 West Broad Street  
St. Pauls, NC 28384**

**Meeting Agenda**

**Client Rights/Human Rights Committee should discuss the following topics at meetings:**

- Discuss Operation Procedures for the Committee
  - Meet Quarterly
  - Location must be in NC
  - Training with members atleast annually
  - Compliance with confidentiality rules
- Discuss areas of concerns for the Committee review at meetings.
  - Complaints
  - Quality of Concern Issues
  - Abuse, Neglect and Exploitation
  - Any Breach of confidentiality
  - Client Rights Issues
  - Incident Reports
  - Policy & Procedures involving Human Rights
  - Appeal/investigations
  - Use of Protective Devices
  - Behavioral Plans

## CLIENT RIGHTS

- a. Confidentiality of all personal and treatment related information.
- b. The right to privacy, security, and respect of property.
- c. The right for protection from abuse, neglect, retaliation, humiliation, and exploitation.
- d. The right to have access to, review, and obtain copies of pertinent information needed to make decision regarding treatment in a timely manner.
- e. The rights to informed consent or refusal or expression of choice regarding participation in all aspects of care/services and planning of care/services to the extent permitted by law including: 1) Service delivery, 2) Release of Information, 3) Concurrent services, 4) Composition of the service team.
- f. The right to access or referral to legal entities for appropriate representation.
- g. The right to access to self-help and advocacy support services.
- h. The right to investigation and resolution of alleged infringements of rights.
- i. The right to provision of care in the least restrictive environment.
- j. The right to adequate and humane care.
- k. The right to evidence-based information about alternative treatments, medications, and modalities.
- l. The cost of services that will be billed to his/her insurance(s) and/or self (verbally and in writing).
- m. The value or purpose of any technical procedure that will be performed, including the benefits, risks, and who will perform the task/procedure.
- n. The right to protection from the behavioral disruptions of other person served.
- o. The right to 24-hour crisis intervention.
- p. The right to equal access to treatment for all persons in need regardless of race, ethnicity, gender, age, sexual orientation, or sources of payment.
- q. The right to a grievance procedure that includes the rights to: be informed of appeal procedures, initiate appeals, have access to the grievance procedures posted in a conspicuous place, receive a decision in writing, and appeal to an unbiased source.

## **PRIMARY HEALTH CHOICE, INC.**

Mental Health & Home Health Services  
"Individuals First Choice"

### **CONFIDENTIALITY/HIPAA AGREEMENT**

You are being asked by *Primary Health Choice* (hereafter referred to as "we" or "us") to sign and comply with this Agreement as a condition of membership with the Human Rights Committee (HRC), or other affiliation with us. The reason that we have asked you to sign and comply with this Agreement is that we are legally required to maintain the privacy of individually identifiable health information that is protected health information ("PHI") for purposes of the Health Insurance Portability and Accountability Act of 1996. During your membership or other affiliation with us, you may be assigned functions that require you to discuss PHI. In addition, you may also see or hear other confidential information pertaining to our operations or our clients operations, such as financial information.

By signing this Agreement, you understand and agree that:

- You will follow our policies and procedures in dealing with PHI and will not disclose PHI and/or Confidential Information unless such disclosure is required by your role or function. You agree to ask the Chairman or your case manager if you have any questions about whether a use or disclosure is permitted.
- You agree that you will not access or view information other than that required to do your role or duty with as it relates to the HRC. You agree that if you have any questions about whether access to certain information is required for you in your role or function, you will immediately ask your case manager or the HRC Chairman for clarification.
- You agree to discuss PHI and/or Confidential Information only with authorized individuals and only to the extent necessary to do your role or function within the HRC. You agree that you will not discuss any PHI or Confidential Information in an area where unauthorized individuals may hear such information (for example, hallways, lounges, elevators, public transportation, cafeterias, restaurants, social events). You agree that you will not discuss any PHI or Confidential Information in public areas even if specifics such as names are not used.
- You agree that you will not make any unauthorized transmissions, copies, disclosures, inquiries, modifications, or purging of PHI (or medical information of any kind) or Confidential Information.
- If your membership or other affiliation with us ends, you agree that you will immediately return all property (keys, documents, ID badges, etc.) to us. You agree that your obligations under this Agreement continue after the end of your membership or other affiliation.
- You understand that violation of any of the promises or representations made in this Agreement may result in disciplinary action, up to and including your termination and/or suspension, restriction or loss of privileges, as well as potential personal civil and criminal legal penalties.
- You understand that any PHI or Confidential Information that you receive, access, or view during your membership or other affiliation with us belongs to us or to our clients and does not belong to you.

I have read this Agreement and agree to comply with all of its terms as a condition of my membership or other affiliation with Primary Health Choice.

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Signature

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Print Name

---

Date

# Primary Health Choice, Inc

Consumer Name: \_\_\_\_\_ MID#: \_\_\_\_\_

DOB: \_\_\_\_\_ MR#: \_\_\_\_\_

## Client Right's Committee Orientation Form

As I enter the opportunity to serve on the Client Right's Committee for Primary Health Choice, Inc., I acknowledge that I have been instructed in or given written materials regarding the following:

- Rights and responsibilities of the person served.
- Grievance and appeal procedures.
- Ways in which input is given regarding:
  - (a) The quality of care.
  - (b) Achievement of outcomes.
  - (c) Satisfaction of the person served.
- An explanation of the organization's:
  - (1) Services and activities.
  - (2) Expectations.
  - (3) Hours of operation.
  - (4) Access to after-hour services.
  - (5) Code of ethics.
  - (6) Confidentiality policy.
  - (7) HIPAA
  - (8) Requirements for follow-up for the mandated person served, regardless of his or her discharge outcome.
- An explanation of any and all financial obligations, fees, and financial arrangements for services provided by the organization.
- Familiarization with the premises, including emergency exits and/or shelters, fire suppression equipment, and first aid kits.
- The program's policies regarding:
  - (1) The use of seclusion or restraint.
  - (2) Smoking.
  - (3) Illicit or licit drugs brought into the program.
  - (4) Weapons brought into the program.

# Primary Health Choice, Inc

Consumer Name: \_\_\_\_\_ MID#: \_\_\_\_\_

DOB: \_\_\_\_\_ MR#: \_\_\_\_\_

(5) Abuse and Neglect

- Identification of the person responsible for service coordination.
- A copy of the program rules to the person served that identifies the following:
  - (1) Any restrictions the program may place on the person served.
  - (2) Events, behaviors, or attitudes that may lead to the loss of rights or privileges for the person served.
  - (3) Means by which the person served may regain rights or privileges that have been restricted.
- Education regarding advance directives, if appropriate.
- Identification of the purpose and process of the assessment.
- A description of how the individual plan will be developed and the person's participation in it.
- Information regarding transition criteria and procedures.
- When applicable, an explanation of the organization's services and activities include:
  - (1) Expectations for consistent court appearances.
  - (2) Identification of therapeutic interventions, including:
    - (a) Sanctions.
    - (b) Interventions.
    - (c) Incentives.
    - (d) Administrative discharge criteria.
- The right to serve on this committee to become knowledgeable of the functions of Primary Health Choice, Inc. and serve as a voice for the persons served by the agency.

I understand that it is my sole responsibility to assist in ensuring safe, respectful, purposeful, and competent treatment, and rehabilitation services are provided to clients receiving services within the agency. I understand that it is my sole purpose to attend quarterly Client Right's Committee Meetings as scheduled and/or notified.

Committee Member (*Print*) Name

Committee Member Signature

\_\_\_\_\_  
Date

Primary Health Choice, Inc.

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Consumer Name: \_\_\_\_\_  
Medicaid/Insurance #: \_\_\_\_\_  
Medical Record: \_\_\_\_\_

Date of Birth: \_\_\_\_\_  
SS# (optional): \_\_\_\_\_  
MCO: \_\_\_\_\_

**RECEIPT OF CLIENT RIGHTS IN G.S. 122-C AND APSM 95-2**  
(To be completed at initial intake only)

I have reviewed and received a written summary of my Client's Rights as specified in NC G.S. 122-C and APSM 95-2. I am aware of my rights as a consumer of services provided by Primary Health Choice, Inc. I understand that if I have any problems or concerns, I may contact the Agency's Corporate Compliance Office, Alice Hunt, at 910-865-3500 or the Disability Rights of North Carolina at 1-877-235-4210.

\_\_\_\_\_  
Consumer/Legally Responsible Party \_\_\_\_\_ Date \_\_\_\_\_  
\_\_\_\_\_  
Primary Health Choice, Inc. Staff \_\_\_\_\_ Date \_\_\_\_\_

**RECEIPT OF CONSUMER HANDBOOK**  
(To be completed at initial intake only)

I acknowledge that I have reviewed and received a copy of the "Consumer Handbook" that is a guide for understanding the mental health, developmental disabilities and substance abuse services system in North Carolina, as provided by Primary Health Choice, Inc. I understand that this handbook is designed to provide me with valuable information about my care and services. I was also afforded the opportunity to ask questions and have them answered.

\_\_\_\_\_  
Consumer/Legally Responsible Party \_\_\_\_\_ Date \_\_\_\_\_  
\_\_\_\_\_  
Primary Health Choice, Inc. Staff \_\_\_\_\_ Date \_\_\_\_\_



Primary Health Choice, Inc.

Mental Health & Home Health Services  
"Individual's First Choice"

### REQUEST FOR ACCOMMODATIONS/REMOVAL OF BARRIERS

Date of Request: \_\_\_\_\_

Name: \_\_\_\_\_ Office Location: \_\_\_\_\_

Please describe what you need from Primary Health Choice to remove any barriers to work environment, language, physical needs for disabilities, or any other area that will improve *your* access to our facility (*if related to PC issues fill out box below*):  
\_\_\_\_\_  
\_\_\_\_\_

#### TECHNOLOGY REQUEST TYPE

Computer  
 Internet  
 Telephone

Copier  
 Printer  
 Other:

Email  
 Scanner

Problem Descriptions:  
\_\_\_\_\_

What were you doing when the problem occurred?  
\_\_\_\_\_

Were there any error messages? If yes, please explain:  
\_\_\_\_\_

What do you think we could do to solve the problem?  
\_\_\_\_\_

Tell us what we can do until the problem is corrected, if anything:  
\_\_\_\_\_

(Completed by IT Staff/Personnel assigned to task)

Date Assigned \_\_\_\_\_  
Assigned To: \_\_\_\_\_

*Computer Information:*

Make: \_\_\_\_\_  
Operating System: \_\_\_\_\_

Model: \_\_\_\_\_  
Serial #: \_\_\_\_\_

*Printer/Scanner Information:*

Make: \_\_\_\_\_

Model: \_\_\_\_\_

Solution(s) Description:  
\_\_\_\_\_

Date Correction Implemented: \_\_\_\_\_

IT/Personnel Staff Signature: \_\_\_\_\_

I acknowledge that the above corrections have been repaired by IT Staff.

Staff Signature

Date

# CONSUMER COLORING HANDBOOK



**Primary Health Choice, Inc.**

QUALITY BEHAVIORAL HEALTH CARE

P.O. BOX 159  
219 WEST BROAD STREET  
ST. PAULS, NC 28384  
PHONE: (910) 865-3500  
FAX: (910) 865-4124

EFFECTIVE JUNE 11, 2018



THE RIGHT TO BE TREATED EQUALLY



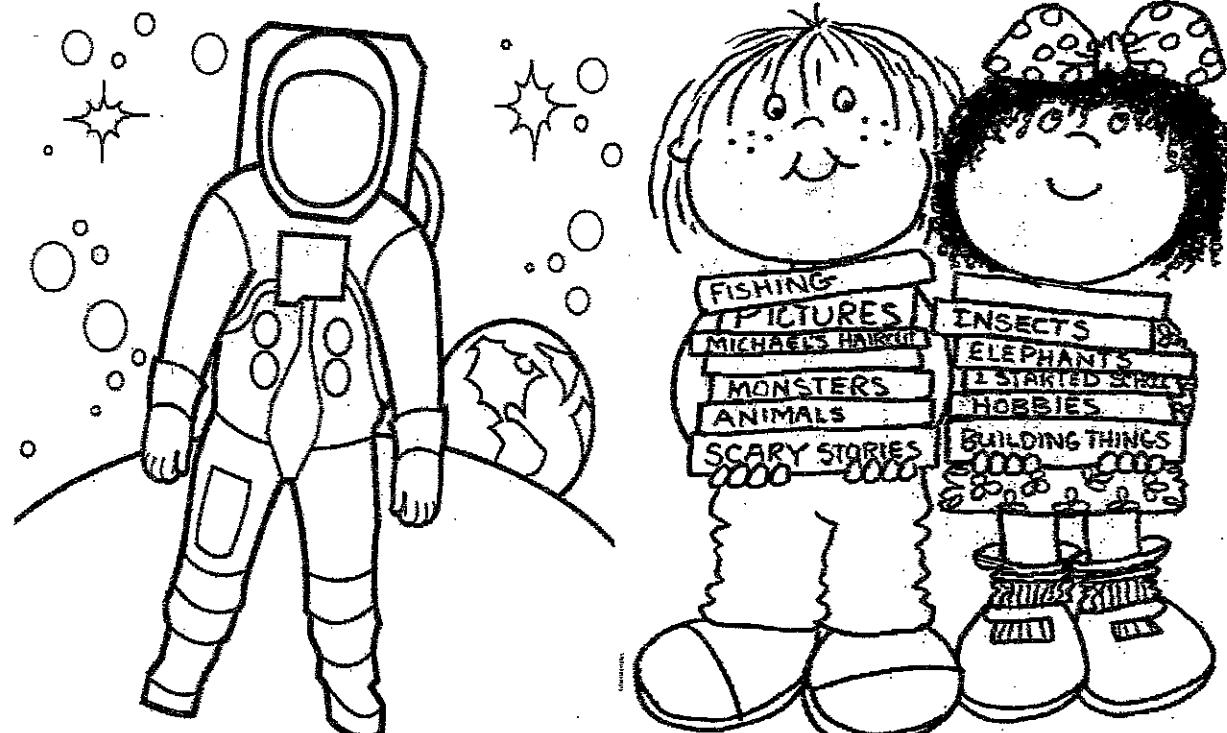
THE RIGHT TO PRAY IF I WANT!



THE RIGHT TO HAVE FRIENDS!

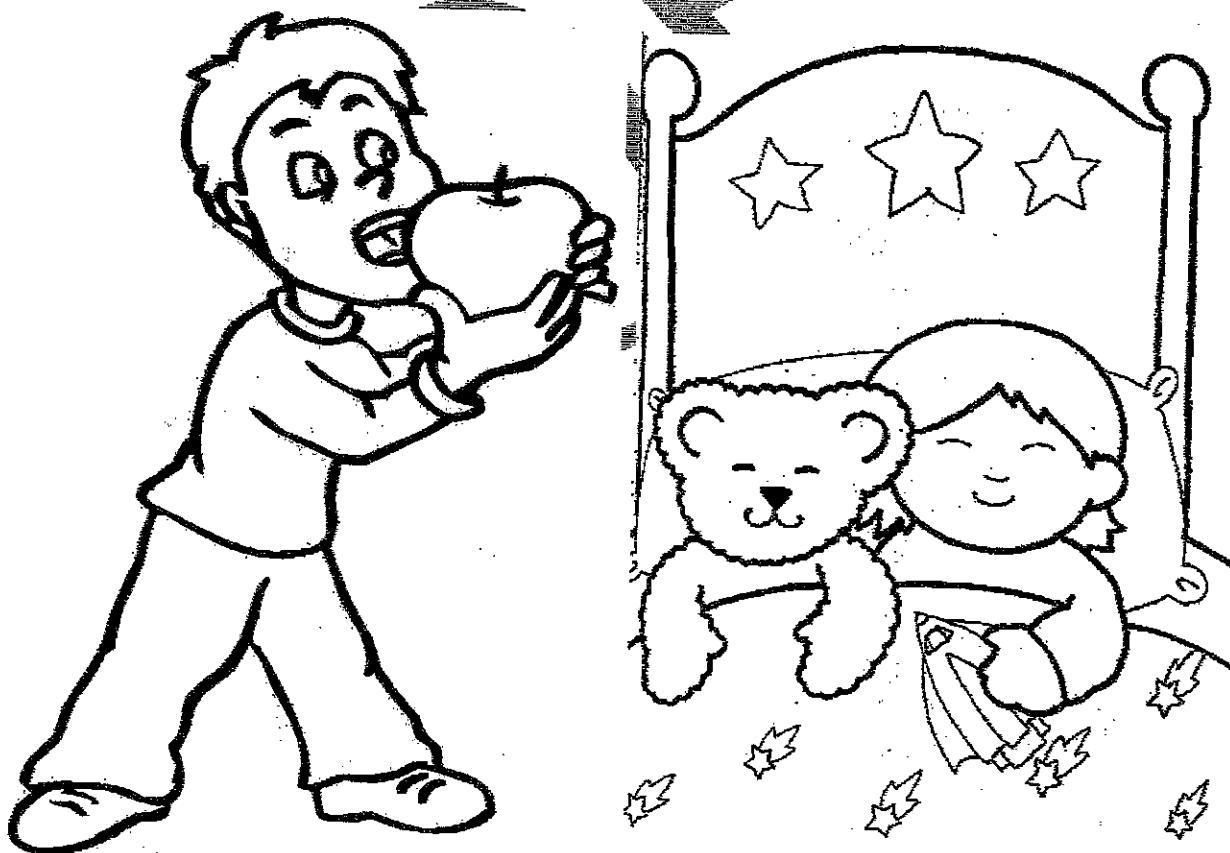


THE RIGHT TO HAVE A FAMILY!



THE RIGHT TO BE ANYTHING I WANT TO BE!

THE RIGHT TO LEARN!

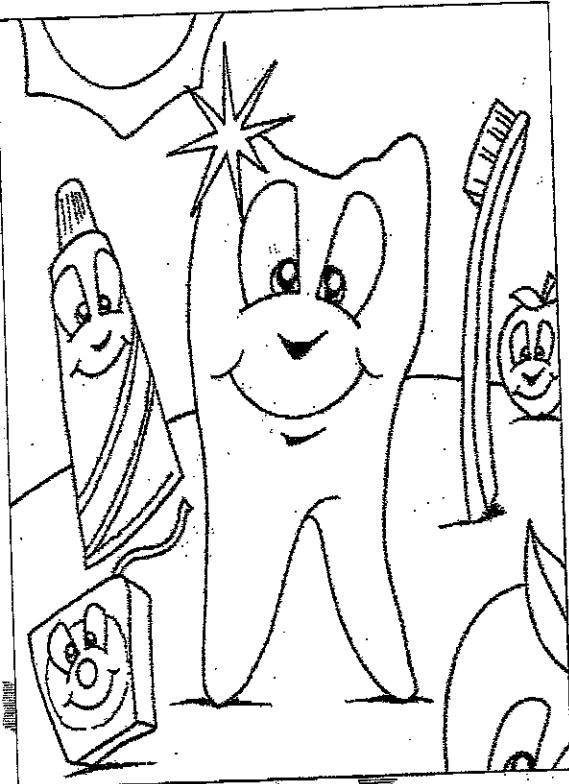


THE RIGHT TO EAT HEALTHY!

THE RIGHT TO HAVE A SAFE PLACE TO  
LIVE AND SLEEP!



THE RIGHT TO HAVE MY EYES  
EXAMINED!



THE RIGHT TO CARE FOR MY TEETH  
PROPERLY!



THE RIGHT TO MEDICAL ATTENTION  
AND MEDICATION IF I NEED IT!

FREEDOM FROM NO ONE WILL  
STEAL MY MONEY!



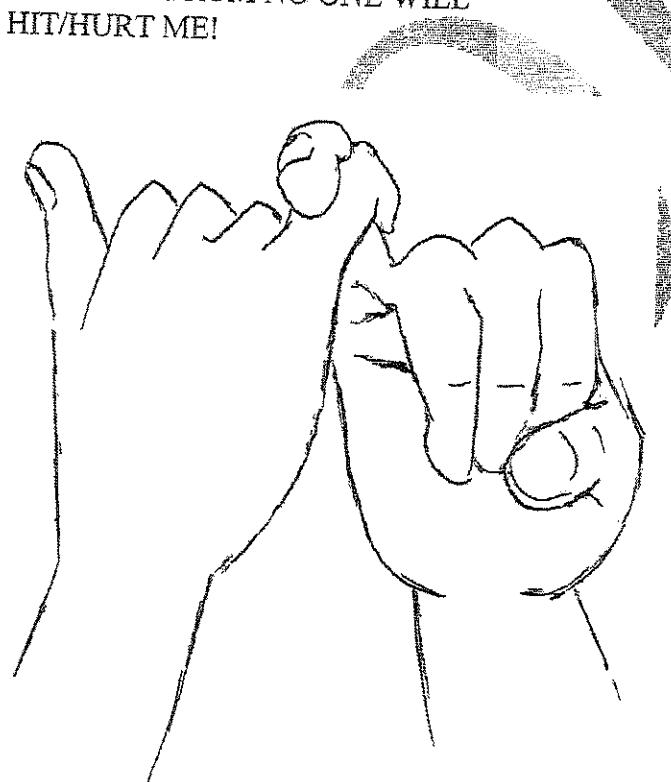
FREEDOM FROM NO ONE WILL  
HIT/HURT ME!

## Verbal Bullying

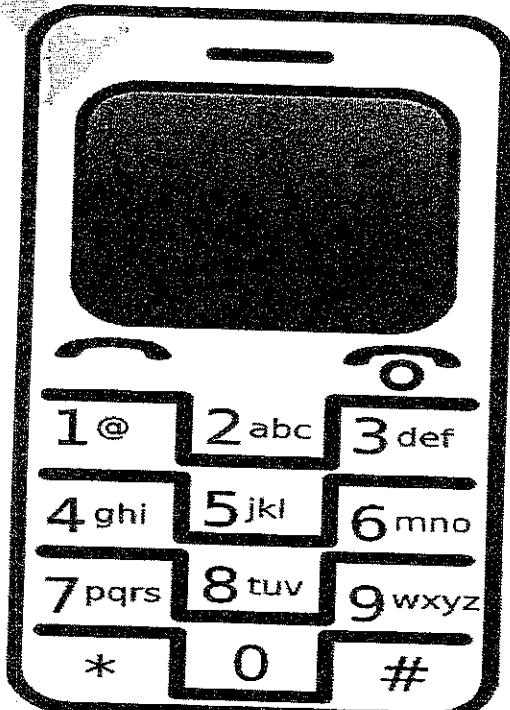
When you hurt  
someone with words.



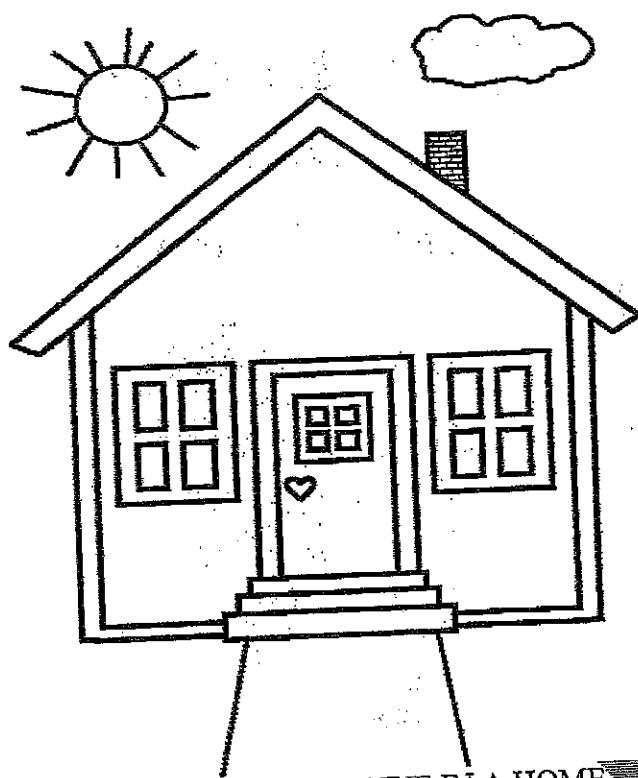
FREEDOM FROM NO ONE WILL TEASE  
OR HURT MY FEELINGS!



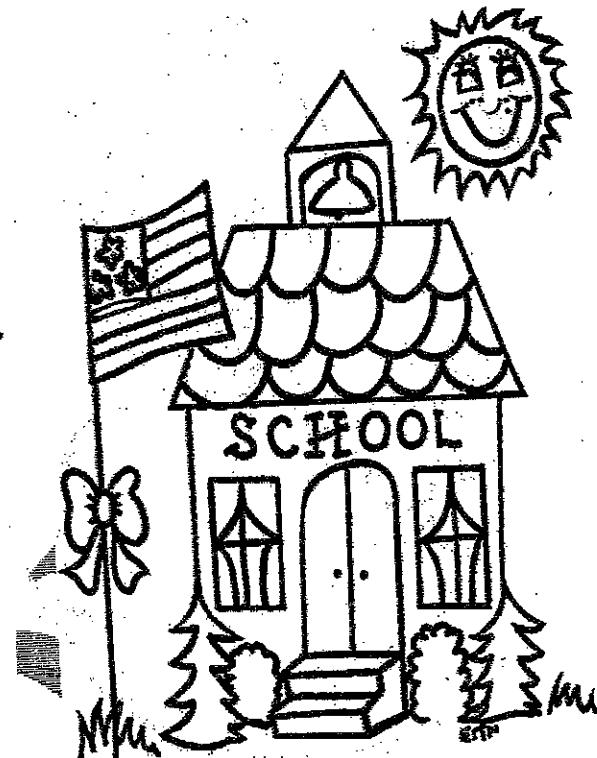
THE RIGHT TO CONFIDENTIALITY  
TO KNOW THAT WHAT I SAY IS JUST  
BETWEEN US!



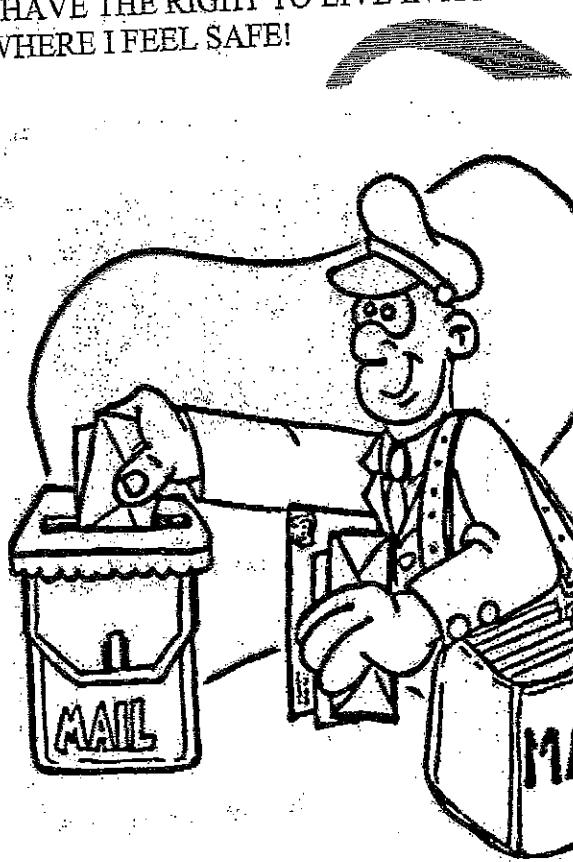
I HAVE THE RIGHT TO MAKE AND  
RECEIVE SAFE PHONE CALLS!



I HAVE THE RIGHT TO LIVE IN A HOME  
WHERE I FEEL SAFE!



I HAVE THE RIGHT TO GO TO  
SCHOOL!

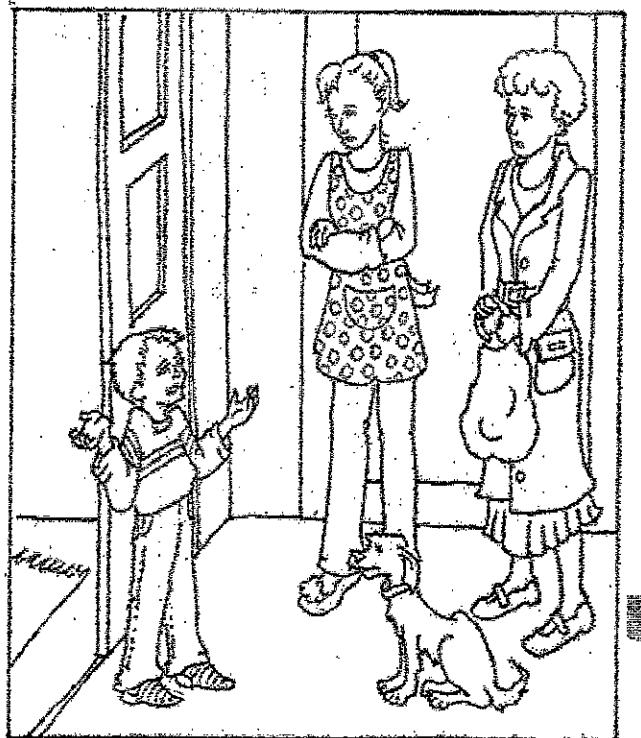


I HAVE THE RIGHT TO SEND AND RECEIVE



I HAVE THE RIGHT TO SEE A

HEALTHY MAIL!

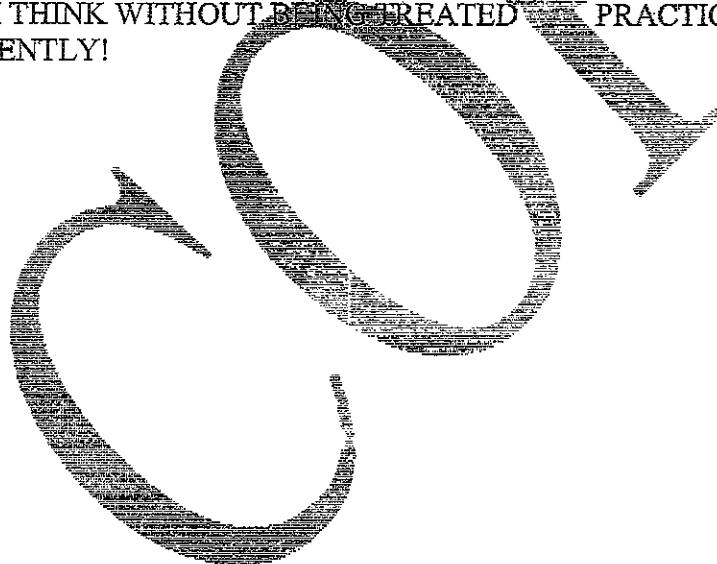


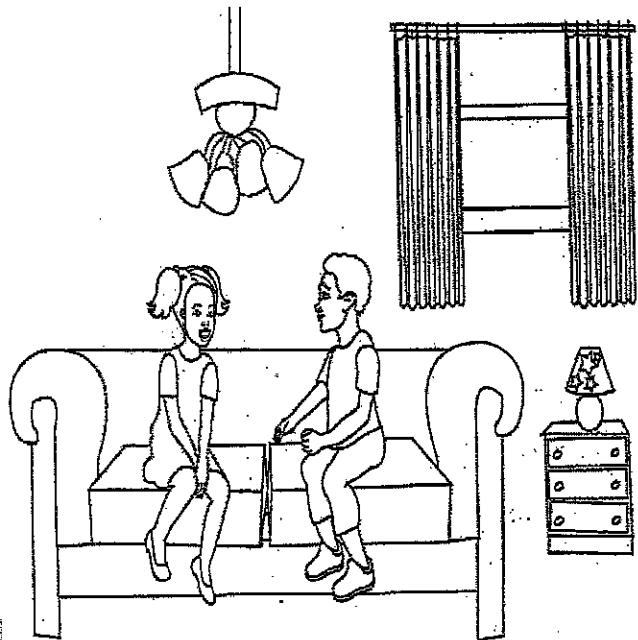
HEARING DOCTOR!



I HAVE THE RIGHT TO COMPLAIN OR SAY  
WHAT I THINK WITHOUT BEING TREATED  
DIFFERENTLY!

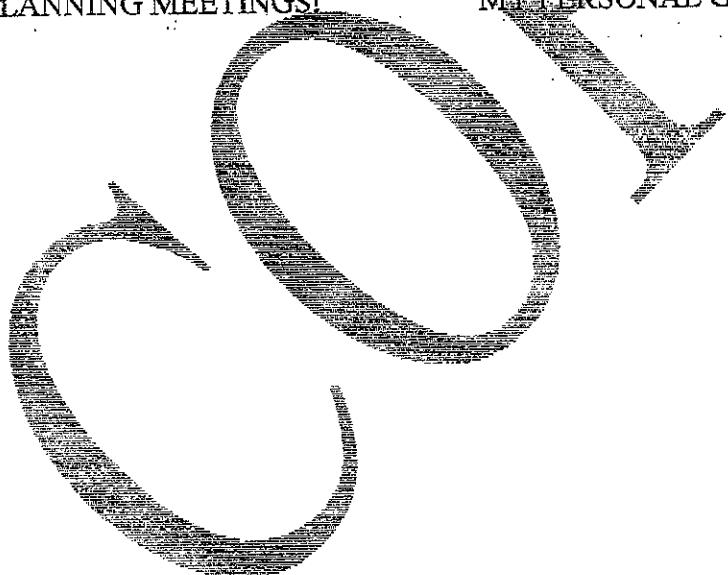
THE RIGHT TO LEARN ABOUT AND  
PRACTICE MY OWN CULTURE!





I HAVE THE RIGHT TO PARTICIPATE  
IN MY PLANNING MEETINGS!

I HAVE THE RIGHT MAKE CHOICES FOR  
MY PERSONAL GOALS!



# Consumer Handbook

Revised 11.7.2017



## Primary Health Choice, Inc.

QUALITY BEHAVIORAL HEALTH CARE

P.O. BOX 159  
219 WEST BROAD STREET  
ST. PAULS, NC 28384  
PHONE: (910) 865-3500  
FAX: (910) 865-4124

**If you have questions or do not understand any information contained in this handbook,  
please contact your individual service provider for assistance.**

**Office Hours of Operation:**

8am – 5pm Monday-Thursday, Friday 8am – 12pm

**Mission Statement:**

"Primary Health Choice, Inc. is committed to helping and providing all individuals and families with the best of services to enhance, grow, and maintain a high quality of life. The needs of each and every individual we serve are first and foremost. We strive on the beliefs that all individuals should receive the best services regardless of any factor."

Our mission is rooted in the following core values, which drive the development of our Code of Ethics:

<b>E</b> quality	Promotes the dignity and respect of the professional relationship with the consideration of individuals.
<b>T</b> rust	Promptly providing accurate and personalized services when medically necessary.
<b>H</b> umanity	Respect for client rights and individual autonomy.
<b>I</b> ntegrity	Provides truthful and accurate data.
<b>C</b> onsistency	Assures that continuity of care is delivered in a professional manner at all times.
<b>S</b> incerity	Commitment and dedication to providing the best practice models as set forth by State and Federal guidelines.

**Services:** We provide the following services:

**Outpatient Services:** Primary Health Choice, Inc. offers the following array of outpatient services:

- **Comprehensive Clinical Assessments, to include Psychiatric Diagnostic Interview and Diagnostic Assessment:** This is a clinical face-to-face evaluation performed by a licensed professional to:
  - Assess your presenting mental, developmental disability, and/or substance abuse conditions and symptoms.
  - Assist the clinician in gathering the information essential to arriving at a clinical diagnosis and formulating a clinical opinion about a recommended course of action in terms of services, supports and treatment.
  - Determine whether you are appropriate for and can benefit from services.
  - Evaluate your readiness and motivation to engage in treatment.

- Recommend a level of placement using the ASAM Criteria if you have substance abuse issues.
- **Diagnostic Assessments:** A Diagnostic Assessment is an intensive clinical and functional face-to-face evaluation of a consumer's mental health , developmental disability or substance use condition. The assessment results in the issuance of the Diagnostic Assessment report with a recommendation regarding whether the consumer meets target population criteria and includes a recommendation for Enhanced Benefit services that provides the basis for the development of the Person-Centered Plan. For substance use-focused Diagnostic Assessment, the designated diagnostic tool specified by DMH (e.g., SUDDS IV, ASI, SASSI) for specific substance use disorder benefit plan populations (i.e., Work First, DWI, etc.) must be used. In addition, any elements included in this service definition that are not covered by the tool must be completed.
- **Outpatient Mental Health and Substance Abuse Services including individual, group & family therapy:** Primary Health Choice, Inc. uses a holistic approach to treatment, taking into consideration the emotional, mental, physical, social and spiritual aspects of individuals, as well as their surrounding environment and support systems. Through counseling, educational sessions, individual, group or family therapy, wellness education and self-management skills building and more, our clinical services are aimed at partnering with the individuals and families we serve to assist them in strengthening coping and self-management skills, realize internal or untapped internal and external strengths, and lead the full, meaningful lives they envision.
- **Psychiatry Services:** Primary Health Choice, Inc. offers and/or assists persons served to access psychiatric services, as an adjunct to other services provided. These services, which are provided consistent with guidelines for professional practice as determined by the American Psychiatric Association (APA), include the following medically necessary services: psychiatric evaluation and diagnosis; medication evaluation and medication management. The services may be provided either face-to-face or, in some Agency offices, by Tele-psychiatry. Regardless of the method, the services will be provided by a Licensed Medical Doctor (MD) with specialized training in Psychiatry, or a Nurse Practitioner (NP) with experience in psychiatric service delivery, or a Physician's Assistant (PA) with experience in psychiatric services delivery. Both the NP and PA must be under supervision of a Licensed MD Psychiatrist, at the time of service provision.
- **Intensive In Home Services:** This is a time-limited intensive family preservation intervention intended to stabilize the living arrangement, promote reunification or prevent the utilization of out-of-home therapeutic resources (i.e., psychiatric hospital, therapeutic foster care, residential treatment facility) for the identified youth through the age of 20 (17 for State funded services).

This service is available 24 hours a day, 7 days a week, and 365 days a year. A typical recipient receives 2-8 hours per week of service through structured, face-to-face, scheduled appointments. These services are delivered primarily to children in their family's home with a family focus to:

- Defuse the current crisis, evaluate its nature, and intervene to reduce the likelihood of a recurrence;
  - Ensure linkage to needed community services and resources;
  - Provide self help and living skills training for youth;
  - Provide parenting skills training to help the family build skills for coping with the youth's disorder;
  - Monitor and manage the presenting psychiatric and/or addiction symptoms; and
  - Work with caregivers in the implementation of home-based behavioral supports. Services may include crisis management, intensive case management, individual and/or family therapy, substance abuse intervention, skills training, and other rehabilitative supports to prevent the need for an out-of-home, more restrictive services.
- **NC Innovations Waiver Services:** This program was implemented as an alternative to an Intermediate Care Facility. The program allows individuals to be served in the community instead of institutional settings. Services include:
  - Community Living & Supports
  - Community Navigator
  - Community Networking
  - Crisis
  - Day Supports
  - Peer Support Specialist B3
  - Respite
  - Respite B3
  - Supported Employment
  - Supported Living
- **Developmental Therapy Services:** Developmental Therapy is a disability service that includes behavioral interventions and daily living activities based on the individual's strengths and needs. It is a direct service that may take place in the individual's home or community setting on a periodic basis. Eligibility for developmental therapy is when an individual is defined as developmentally disabled and is experiencing behavior, skill building challenges. This service is often utilized during the waiting period for approved NC Innovations Waiver services.
- **Personal Assistance Services:** Personal Assistance Services are designed to assist an individual with a disability to perform daily living functions that the individual would typically perform without assistance if the individual did not have a disability. The services are designed to increase the individual's control in life and ability to perform everyday activities. This service is often utilized during the waiting period for approved NC Innovations Waiver services.

**Consent to Treat:** Each consumer who is admitted to and receiving services from the Agency must complete a consent to treat form. The consumer has a right to receive age appropriate treatment for MH/IDD/SA illness or disability, including access to medical care and habilitation, regardless of age or degree of mental illness, developmental disabilities, or substance. Each consumer within 30 days of admission to the facility, has the right to an individualized written

treatment plan setting forth a program to maximize the development of restoration of his/her capabilities. The client and the consumer's legally responsible person shall be informed in advance of the potential risks and alleged benefits of the treatment choices. Consent to treat can be withdrawn at any time by the person who gave consent.

**Your Responsibilities:**

**Transportation:** Understand that staff may transport you at times, if it applies to specific goals in your treatment or person-centered plan and is consistent with the guidelines of the service you are receiving. However, it is not part of the general service to take you places that are not part of your treatment or person-centered plan.

**Appointments:** Understand that time with staff is extremely important, and you agree to make every effort to keep all scheduled appointments. Legacy reserves the right to discharge you from service if you do not show for scheduled appointments.

**Assessments:** Primary Health Choice, Inc. staff will work with you to cater your service(s) around your preferences, needs and wants. In order for us to get to know you better, you will be asked to participate in an assessment. The assessment you receive is dependent upon your specific needs.

An assessment shall be completed for you, according to governing body policy, prior to the delivery of services, and shall include, but not be limited to:

- your presenting problem;
- your needs and strengths;
- a provisional or admitting diagnosis with an established diagnosis determined within 30 days of admission, unless you are admitted to a detoxification or other 24-hour medical program shall have an established diagnosis upon admission;
- a pertinent social, family, and medical history; and
- evaluations or assessments, such as psychiatric, substance abuse, medical, and vocational, as appropriate to the client's needs.

When services are provided prior to the establishment and implementation of the treatment/habilitation or service plan, hereafter referred to as the "plan," strategies to address your presenting problem shall be documented.

The plan shall be developed based on the assessment and in partnership with you or your legally responsible person or both, within 30 days of your admission if you are expected to receive services beyond 30 days.

The plan shall include:

- the outcome(s) that are anticipated to be achieved by provision of the service and a projected date of achievement;
- strategies;
- staff responsible;
- a schedule for review of the plan at least annually in consultation with you or your legally responsible person or both;
- basis for evaluation or assessment of outcome achievement; and

- written consent or agreement by you or your responsible party, or a written statement by the provider stating why such consent could not be obtained

**Person-Centered Planning:** Person-Centered planning is the process used to design your individual plan of supports; service(s) or treatment is called person-centered planning (PCP) and includes the following important points:

- Your planning meeting occurs at a time and place that is convenient for you.
- You can invite the people you want to your meeting.
- You get the information you need and ask for from the people at your meeting.
- The people at your meeting listen to you and respect your opinions and wishes.
- The people at your meeting work together so you can be more independent and more involved in your community.
- Consider the team's suggestions if you do not agree with the plan.
- You are satisfied with the final plan.
- You sign and receive a copy of the plan.

It is important that you participate in the design of your PCP. Your option matters! You can participate in your PCP by providing goals that you would like to accomplish and how you would like to achieve them. Throughout your course of treatment, documentation will be completed to evaluate your progress. The documentation will be used to help focus on your areas of concern. During the course of treatment, incentive programs may be provided to assist you in reaching your goals such as positive behavioral approach program. Positive Behavioral Approach program can be explained to you by the qualified professional or clinician providing services to you.

**Fees:** We accept Medicaid, private pay and other insurance as payment. If you have a co-pay for the service(s) you are receiving, payment is expected at the time of the service. Fees for services are only authorized for the length of the requested authorization timeframe. Fees for services are based on the fee schedule based on the cost of providing service(s). Consumers will be notified in writing of any adjustments for fee of service. Consumers will not be denied services due to inability to pay, Agency will assist consumer with applying for IPRS State funds.

**Additional behavioral expectations and responsibilities which you agree to comply with for successful completion of treatment also include:**

1. Be on time
2. Call if you can't make an appointment, as failure to meet scheduled appointments will be defined as non-compliance
3. Let staff know about any changes in medical needs
4. Treat staff with consideration
5. Be involved in your treatment and services
6. Bring your medications to Dr's appointments
7. Make financial arrangements
8. Familiarize yourself with the premises, including emergency exits and/or shelters, fire suppression equipment and first aid kits.
9. Attend sessions with assigned staff member who will set up the treatment schedule.
10. Participation in any illegal or suspicious activity or acting out, or defacing Primary Health Choice, Inc. property, will not be tolerated. Any threat or act of violence directed toward staff, other clients, or visitor to the facility is grounds for immediate dismissal from the program. Any individual dismissed under these circumstances will be barred

from reentry for one (1) year and must have approval from the staff and Executive Director.

11. Selling, giving away or using drugs on Primary Health Choice, Inc.'s premises will be defined as non-compliance and will result in an immediate discharge.
12. Stealing from Primary Health Choice, Inc., its staff or other clients will result in an immediate discharge. Primary Health Choice, Inc. is not responsible for loss or theft of any personal property.
13. Known or suspected abuse or neglect will be reported immediately.
14. Spouses, family members or significant others will be permitted to participate in your treatment with your expressed permission and consent.
15. You are encouraged to discuss with your assigned counselor sexual and/or physical abuse, with expectation of a referral to the most appropriate service provider for assistance.
16. You will be dress appropriately whenever entering Primary Health Choice, Inc.
17. You will be expected to honor the Federal Confidentiality Law.
18. **SERVE ON OUR COMMITTEES (PLEASE!)**

**Your Rights:** To ensure that you have a clear understanding of your rights, Primary Health Choice, Inc. communicates and shares these rights in a manner that is understandable to you. Your rights are shared with you prior to, or at the beginning of service delivery, and are reviewed annually. For your rights, please refer to your copy of NC G.S. 122-C and APSM 95-2.

**Ways to give us input:**

- Annual Self Governance Meetings
- Satisfaction Surveys
- Talk to local Administrator for additional ways you can have input into services, quality of care and outcomes related to your services or service delivery in general.
- Serve on the Human Rights Committee
- Complete Suggestion Forms, which are available in the lobby

**Discharge from Service:** Unless court ordered, you have the right to request to be discharged from any program at any time, for any reason. You have the right to appropriate discharge and/or transition planning and you will receive a 10 day written notice for enhanced services and a 30 day written notice for outpatient services. In some instances the Agency may decide to administratively discharge you from services for the following reasons: changes in service definition requirements for eligibility, it is determined that you need service(s) not offered by the Agency, you are not participating in services as it is defined in your Person Centered Plan, not showing for appointments or failure to pay. If you are discharged and continue to need services then the Agency will ensure linkage to appropriate care with 72 hours of discharge. The Agency completes 30/60/90 day follow-up surveys to ensure continuity of care and assess the future needs of the consumer.

**Appeals Process:** You have the right to appeal access to services. Upon receiving the discharge written notice, you have the right to contact your local MCO Utilization Management Department or Customer Services with your concerns. The MCO will follow their protocol and inform you of the steps to follow.

**Suspension from Services:** You have the right to be free from the threat or fear of unwarranted suspension from services. Suspension of services would occur when the reasons listed below present a temporary problem, but can be corrected (as determined by the Director). Suspension from services would occur at such time when it is in your best interest or the company's due to one or more of the following reasons: (1) imminent danger of abuse to other individuals exists; (2) extensive property damage poses an imminent risk of danger to self or other persons; (3) funding for treatment/care does not meet your clinical needs; (4) individual's choices exceed the company's ability or willingness to provide adequate support; (5) failure to pay. If you are suspended from services you will be notified in writing of the reason(s) for the suspension and what conditions must be met for you to resume services.

**Termination of Agreement/Transition to Alternative Service Provider:** You, the Client, Parent, Guardian or Case Manager agree to provide Primary Health Choice, Inc. with a 10 day written notice of your intent to terminate the agreement with Primary Health Choice, Inc. This notice is to help provide a positive transition from the care and services you would be receiving from Primary Health Choice, Inc. and your alternative choice for such services.

**Identification of Potential Risk:** When an employee identifies a potential risk to a consumer, the employee will assess the risk. During the assessment the employee will make recommendations and approach risk with the necessary treatment to deescalate and/or stop potential risk. If the recommendations for treatment cannot be achieved the employee will seek referral options and assist consumer with the transition.

**Professional Conduct:** The agency will ensure that all employees conduct themselves in professional manner. Employees must adhere to the guidelines below; but not limited to, for delivering services and interacting with consumers at all times.

- Employees shall not exploit relationships with consumers for personal or business advantages, other than proper, reasonable and agreed upon compensation for his/her services to the consumer.
- Employees shall not solicit consumers
- Employees will inform the Agency of any possible or apparent conflicts of interest
- Employees shall not engage in any sexual activity with consumers

**Confidentiality/HIPAA:** All consumers receiving services will have their confidentiality ensured by the Health Insurance Portability and Accountability Act (HIPAA). Any consent for the release of information will be read and explained as much as may be necessary. The information being requested will only be used for the specified purpose and protected as directed by State and Federal HIPAA regulations. A complete privacy statement is at the end of this handbook. If you are receiving services because you have been ordered by a court of law, then appropriate reporting will be followed per the requirements of the court. The confidentiality of alcohol and drug abuse records maintained by this program is protected by Federal Law and regulations and violations of the Federal law and regulation by a program area crime. Suspected violations may be reported to appropriate authorities in accordance with Federal regulations. (42CFR, Part 2); (45CFR, Parts 160 and 164).

When we disclose mental health and developmental disabilities information protected by state law (G.S. 122 C) or substance abuse treatment information protected by federal law (42 C.F.R. Part 2), we must inform the recipient of the information that re-disclosure is prohibited except as permitted or required by the two laws. Information to be disclosed may include HIV infection,

AIDS or AIDS-related conditions, drug abuse, alcohol abuse, psychological or psychiatric conditions, or genetic testing. Confidential information relative to a client with HIV infection, AIDS or AIDS related conditions shall only be released in accordance with G.S. 130A-143. Whenever authorization is required for the release of this information, the consent shall specify that the information to be released includes information relative to HIV infection, AIDS or AIDS related conditions. Our Notice of Privacy Practices describes circumstances where disclosure is permitted or required by the laws.

Your data is maintained in a computerized system for financial, statistical, and program planning purposes. Only authorized staff members have access to this data.

**Process for filling a grievance/complaint:**

Notify the agency of any dissatisfaction with services. We will not take any action against you or change our treatment of you in any way if you file a complaint. To file a written complaint, you may bring your complaint to your QP, his/her supervisor, the Corporate Compliance Officer or you may mail it to the following address:

**Corporate Compliance Officer-Alice Hunt**  
**Primary Health Choice, Inc.**  
**219 West Broad Street**  
**St. Pauls, NC 28384**  
**Telephone #: (910) 865-3500**

All grievances regarding incidents, which occur within the Agency, shall be submitted to the Agency's Human Rights Committee for review and, if needed, corrective action will be implemented for Incidents of actual or alleged Human Rights violations.

As a consumer of Primary Health Choice, Inc. your rights are protected by program policy as well as by State and Federal laws. If you have concerns, complaints, or grievances which you wish to express, or if you feel your rights have been infringed upon, you are encouraged to discuss them with your case manager, or if you prefer, you may go directly to the supervisor and or Program director. You also have the right to contact your local Managed Care Organization (MCO). For their contact information, please contact the Agency's Corporate Compliance Officer.

**Disability Rights North Carolina**  
2626 Glenwood Avenue Suite 550  
Raleigh, NC 27608  
Telephone: Voice (919) 856-2195  
Toll Free Voice (877) 235-4210, TTY 888-268-5535 Fax: (877) 235-4210  
Email: [info@disabilityrightsnc.org](mailto:info@disabilityrightsnc.org)  
Governor's Advocacy Council for Persons with Disabilities at 1-800-821-6922.

***Please Note: Please refer to your Notice of Privacy Practices for additional information on the Consumer Grievance/Complaint Process.***

**Education about advanced directives:** Primary Health Choice, Inc. has provided forms and instruction about advanced medical and mental health directives. Please refer to Article 3: Client's Rights, Advance Instruction and Statement of Confidentiality.

**Use of Crisis Prevention Intervention:** CPI is an approved preventive intervention program. This program equips employees with proven strategies for safely defusing anxious, hostile, or violent behavior at the earliest possible stage. This program prepares employees to safely remove themselves and others from a dangerous situation by learning:

- How to identify behaviors that could lead to a crisis.
- How to most effectively respond to each behavior to prevent the situation from escalating.
- How to use verbal and nonverbal techniques to defuse hostile behavior and resolve a crisis before it can become violent.
- How to cope with your own fear and anxiety.
- How to assess risk levels and consider the issues that impact decision making.
- How to use CPI's disengagement skills to avoid injury if behavior becomes physical.

CPI's disengagement skills are also demonstrated and practiced for employees to safely remove themselves and others from a dangerous situation by learning:

- How to identify behaviors that could lead to a crisis.
- How to most effectively respond to each behavior to prevent the situation from escalating.
- How to use verbal and nonverbal techniques to defuse hostile behavior and resolve a crisis before it can become violent.
- How to cope with your own fear and anxiety.
- How to assess risk levels and consider the issues that impact decision making.
- How to use CPI's disengagement skills to avoid injury if behavior becomes physical.

\*No physical holds are utilized at any given time.\*

**Use of seclusion and restraint:** The use of seclusion and restraint is not prohibited.

**Agency Rules:**

**Dress:** This is a comfortable and casual environment. Please be respectful when choosing your attire, by avoiding suggestive clothing, t-shirts with inappropriate or offensive messages. We have learned that individuals feel better when they dress in a clean and neat manner, but we also understand that it can be a struggle.

**Tobacco Use:** Tobacco use is prohibited in all Agency offices. Smoking areas are available outside of the building for adult smokers. Please only smoke in designated areas.

**Prescription/Over-the-Counter Medications:** We understand that you may have prescription or over the counter medications with you when you visit our office locations. We ask that you do not bring medications onto the premises unless absolutely necessary. If you must have medications with you when you are visiting an Agency office, please keep your medications on you at all times.

**Illegal Drugs/Illlicit Drugs:** Agency offices are drug free.

**Weapons/Contraband items:** No weapons or contraband items are allowed in Agency offices or while in the community with staff. Weapons/contraband items are considered anything which may cause physical harm. This includes, but is not limited to: guns, knives, pepper spray, stun

guns, explosive or flammable liquids, aerosol products, drugs and drug-related items or paraphernalia, e-cigarettes, etc...

**Referring a Friend:** We would love for you to tell your friends about our programs and would be happy to arrange a meeting with them.

**Personal Items:** Please do not leave any personal items unattended at the Agency office or staff's vehicle. We cannot be held responsible for any lost, stolen or damaged items.

**Religion and Spirituality:** We provide care to individuals from families with varied religious backgrounds and beliefs. We do not promote or teach religious doctrine at our centers; however, we have designed our programs to teach caring and respect for others, regardless of religious affiliation.

The following list includes Holidays when the office is closed. Check with your staff regarding service availability for these days.

- New Years Eve & Day
- Martin Luther King Day
- Good Friday
- Memorial Day
- Independence Day
- Labor Day
- Thanksgiving Day & the day after
- Christmas Eve and Christmas Day and Day After

**Search and Seizure:** Employees may search you and your possessions when it is reasonable to believe that you may have items in your possession that are dangerous, illegal, stolen or otherwise prohibited by agency.

**Emergencies:**

**Crisis Services:** This service has after hours crisis staff available, as required by the authorizing agencies. If you are eligible for this service you will receive this information during the orientation process.

**After Hours Crisis Response:** Primary Health Choice, Inc. provides a 24 hour a day, 7 day a week, 365 day a year emergency telephone number for the use of you or your family members in crisis situations. The individual answering this phone number will be qualified to provide crisis intervention up to and including face-to-face services. The crisis number is: **1-888-739-1445**

During working hours, every call that is determined by the screening components to meet the criteria of emergent or urgent levels of care, shall be evaluated by clinical staff or by a qualified staff member immediately for appropriate stabilization.

**After hours**, the on call professional for immediate crisis intervention will evaluate every caller determined to meet emergent care status. Face-to-face evaluation will be completed within 2 hours. Follow up by assigned therapist will be completed within 48 hours of call. All consumers who meet urgent care status shall be seen within 48 hours and those meeting routine care status will be seen within 14 calendar days.

**\*\*Each office has Emergency Evacuation Exits posted and First Aid Kits are available at each location. You will receive specific information during Orientation that is specific to the office at which you are receiving services\*\*.**

**Privacy Statement:**

We understand that information about you and your health is personal. Primary Health Choice, Inc. (the Agency) is required by law to maintain the privacy of your health information, to follow the terms of this notice, and to provide you with this notice of our legal duties and privacy practices with respect to your health information. We are required to follow the terms of the notice that is currently in effect. A paper copy of this Notice may be obtained from the Agency upon request.

**How the Agency May Use or Disclose Your Health Information:** The Agency protects the privacy of your health information. For some activities, we must have your written authorization to use or disclose your health information. However, the law permits the agency to use or disclose your health information for the following purposes without your authorization:

**For Payment:** We may use and disclose your health information so that your services may be billed to, and payment may be collected from an insurance company or a third party.

**For Health Care Operations:** We may use and disclose health information about you for quality assurance operations. Unless you provide us with alternative instructions, we may send reminders and other materials related to your health care to your home. These uses and disclosures are necessary to run the Agency and make sure that you receive quality customer service.

**As Required by Law.** We will disclose health information about you when required to do so by federal, state or local law.

**To Avoid a Serious Threat to Health or Safety.** We may use and disclose health information about you when necessary to prevent a serious threat to your health and safety or the health and safety of the public or another person. Any disclosure, however, would only be to someone able to help prevent the threat.

**Public Health Risks.** We may disclose health information about you for public health activities. These activities generally include the following: (1) to prevent or control disease, injury or disability; (2) to report reactions to medications or problems with products; (3) to notify people of recalls of products they may be using; (4) to notify a person who may have been exposed to a disease or may be at risk for contracting or spreading a disease or condition; and (5) to notify the appropriate government authority if we believe a person has been the victim of abuse, neglect or domestic violence when required or authorized by law,

For Health Oversight Activities. We may disclose health information to a health oversight agency for activities authorized by law. These oversight activities, which are necessary for the government to monitor the health care system, include audits, investigations, inspections and licensure.

Lawsuits and Disputes. If you are involved in a lawsuit or dispute, we may disclose health information about you in response to a court order or administrative order. We may also disclose health information about you in response to a subpoena, discovery request or other lawful process by someone else involved in the dispute, but only if efforts have been made to tell you about the request (which may include written notice to you) or to obtain an order protecting the information requested.

For Specific Government Functions. The Agency may disclose health information for the following specific government functions: (1) health information of military personnel, as required by military command authorities; (2) health information of inmates, to a correctional institution or law enforcement official; (3) in response to a request from law enforcement, if certain conditions are satisfied; and (4) for national security reasons.

Advance Instruction: Professionals may disclose advance instruction for mental health treatment or confidential information from an advance instruction to a physician, psychologist, or other professional when it is determined that disclosure is necessary to give effect to or provide treatment in accordance with the advance instruction.

Next of Kin/Family Member/Designee/Advocate: In response to a written request of the next of kin/family member/designee/advocate who has a legitimate role in the therapeutic services offered, the Agency shall: (1) Provide the information requested based upon determination that providing this information will be to the consumer's therapeutic benefit, and provided that the client or his legally responsible person has consented in writing to the release of the information requested; or (2) Refuse to provide the information requested based upon the responsible professional's determination that providing this information will be detrimental to the therapeutic relationship between client and professional; or (3) Refuse to provide the information requested based upon the responsible professional's determination that the next of kin/family member/designee/advocate does not have a legitimate need for the information requested. The CEO or Clinical Supervisor will make this determination.

**When the Agency May Not Use or Disclose Your Health Information:** Except as described in the Notice of Privacy Practices, the Agency will not use or disclose your health information without your written authorization. If you do authorize the Agency to use or disclose your health information for another purpose, you may revoke your authorization in writing at any time.

**You Have the Following Rights With Respect to Your Health Information:**

You have the right to request restrictions on certain uses and disclosures of your health information. The Agency is not required to agree to a restriction that you request. If we do agree to any restriction, we will put the agreement in writing and follow it, except in emergency situations. We cannot agree to limit the uses or disclosures of information that are required by law.

You have the right to inspect and copy your health information as long as the Agency maintains the health information. Your health information usually will include treatment and billing

records. To inspect or copy your health information, you must submit a written request to the local office Administrator. We may charge a fee for the costs of copying, mailing or other supplies that are necessary to grant your request. We may deny your request to inspect and copy in certain limited circumstances. If you are denied access to your health information, you may request that the denial be reviewed.

You have the right to request that the Agency amend your health information that is incorrect or incomplete. To request an amendment, you must submit a written request to the Clinical Director, along with the reason for the request. The Agency is not required to amend health information that is accurate and complete. The Agency will provide you with information about the procedure for addressing any disagreement with a denial.

You have a right to receive an accounting of disclosures of your health information we have made for purposes other than disclosures (1) for Agency treatment, payment or health care operation, (2) to you or based upon your authorization and (3) for certain government functions. To request an accounting, you must submit a written request to the local office providing services. You must specify the time period, which may not be longer than three years.

You may request communications of your health information by alternative means or at alternative locations. For example, you may request that we contact you about health matters only in writing or at a different residence or post office box. To request confidential communication of your health information, you must submit a written request to the local office providing services. Your request must state how or when you would like to be contacted. We will accommodate all reasonable requests.

If you would like to exercise one or more of these rights, contact the local office that provided you services or submit a written request to your local office Administrator.

#### **Changes to the Notice of Privacy Practices**

The Agency reserves the right to change the Notice. We reserve the right to make the revised or changed Notice effective for health information we already have about you as well as any information we receive in the future. Any revised Notice will be posted. Upon request, we will provide a revised Notice to you. (See Notice of Privacy Practices)

I have been given a copy of Primary Health Choice, Inc.'s Consumer Handbook, which was revised effective November 7, 2017.

## Health and Safety Information

The most important thing to remember in a crisis... Take care of yourself and your own family before you start helping others!

### Emergency/Important Phone Numbers

Poison Control: \_\_\_\_\_ First Aid: \_\_\_\_\_  
Fire Department: \_\_\_\_\_ Ambulance: \_\_\_\_\_  
Police: \_\_\_\_\_ Medical Clinic: \_\_\_\_\_  
Clinic Address: \_\_\_\_\_ Gas Company: \_\_\_\_\_  
Water Company: \_\_\_\_\_ Insurance Company: \_\_\_\_\_  
Power Company: \_\_\_\_\_ Bank: \_\_\_\_\_

### Build an Emergency Kit

Some disasters strike without any warning. Have you thought about those supplies you'll need the most? They will usually be the hardest to come by. Enlist your children to help gather supplies for your family's emergency kit. It'll bring you a sense of relief, and your kids a feeling of empowerment.

Make sure you have enough supplies to last for at least three days. Think about where you live and your needs. Consider having a large kit at home, and smaller portable kit in the car or your workplace.

- 3-day supply of non-perishable food (dried fruit, canned tuna fish, peanut butter, etc.)
- Can opener
- Paper plates, plastic cups and utensils, paper towels
- Moist towelettes, garbage bags and plastic ties for personal sanitation
- Water – at least a gallon per person, per day for drinking and hygiene
- First aid kit Prescription medication and glasses
- Sleeping bag or warm blanket for everyone in your family
- Change of clothes to last for at least 3 days, including sturdy shoes; consider the weather where you live
- Matches in a waterproof container
- Toothbrush, toothpaste, soap and other personal items
- Feminine hygiene supplies
- Fire extinguisher
- Wrench or pliers to turn off utilities
- Dust mask, and plastic sheeting and duct tape, to help filter contaminated air
- Battery-powered or hand-cranked radio and extra batteries
- Flashlights and extra batteries Cell phone with charger, extra battery and solar charger
- Whistle to signal for help
- Household chlorine bleach and medicine dropper (when diluted nine parts water to one part bleach, bleach can be used as a disinfectant. Or in an emergency, you can use it to treat water by using 16 drops of regular household liquid bleach per gallon of water. Do not use scented, color safe or bleaches with added cleaners.)
- Local maps
- Cash or traveler's checks
- Emergency reference material such as first aid book or information from [www.ready.gov](http://www.ready.gov)

- Books, games or puzzles (let your kids pick these out themselves!)
- Your child's favorite stuffed animal or security blanket
- Pet food and extra water for your pet
- Don't forget to think about infants, elderly, pets, or any family members with special needs!
- Important family documents such as copies of insurance policies, ID, and bank records in a waterproof, portable container
- Pet supplies
- Infant formula and diapers
- Paper and pencil

### Plan to Evacuate

A wide variety of emergencies may cause an evacuation. In some instances you may have a day or two to prepare, while other situations might call for an immediate evacuation. Planning ahead is vital to ensuring that you can evacuate quickly and safely, no matter what the circumstances.

#### Before an Evacuation

- Learn the types of disasters that are likely in your community and the local emergency, evacuation, and shelter plans for each specific disaster.
- Plan how you will leave and where you will go if you are advised to evacuate.
  - Identify several places you could go in an emergency such as a friend's home in another town or a motel. Choose destinations in different directions so that you have options during an emergency.
  - If needed, identify a place to stay that will accept pets. Most public shelters allow only service animals.
  - Be familiar with alternate routes and other means of transportation out of your area.
  - Always follow the instructions of local officials and remember that your evacuation route may be on foot depending on the type of disaster.
- Develop a family/household communication and re-unification plan so that you can maintain contact and take the best actions for each of you and re-unite if you are separated.
- Assemble supplies that are ready for evacuation, both a "go-bag" you can carry when you evacuate on foot or public transportation and supplies for traveling by longer distances if you have a personal vehicle.
- If you have a car:
  - Keep a full tank of gas in it if an evacuation seems likely. Keep a half tank of gas in it at all times in case of an unexpected need to evacuate. Gas stations may be closed during emergencies and unable to pump gas during power outages. Plan to take one car per family to reduce congestion and delay.
  - Make sure you have a portable emergency kit in the car.
- If you do not have a car, plan how you will leave if needed. Make arrangements with family, friends or your local government.

## **During an Evacuation**

- A list of open shelters can be found on
- Listen to a battery-powered radio and follow local evacuation instructions.
- Take your emergency supply kit.
- Leave early enough to avoid being trapped by severe weather.
- Take your pets with you, but understand that only service animals may be permitted in public shelters. Plan how you will care for your pets in an emergency now.
- If time allows:
  - Call or email the out-of-state contact in your family communications plan. Tell them where you are going.
  - Secure your home by closing and locking doors and windows.
  - Unplug electrical equipment such as radios, televisions and small appliances. Leave freezers and refrigerators plugged in unless there is a risk of flooding. If there is damage to your home and you are instructed to do so, shut off water, gas and electricity before leaving.
  - Leave a note telling others when you left and where you are going.
  - Wear sturdy shoes and clothing that provides some protection such as long pants, long-sleeved shirts and a hat.
  - Check with neighbors who may need a ride.
- Follow recommended evacuation routes. Do not take shortcuts; they may be blocked.
- Be alert for road hazards such as washed-out roads or bridges and downed power lines. Do not drive into flooded areas.

## **After an Evacuation**

If you evacuated for the storm, check with local officials both where you're staying and back home before you travel.

- Residents returning to disaster-affected areas after significant events should expect and prepare for disruptions to daily activities, and remember that returning home before storm debris is cleared is dangerous.
- Let friends and family know before you leave and when you arrive.
- Charge devices and consider getting back-up batteries in case power-outages continue.
- Fill up your gas tank and consider downloading a fuel app to check for outages along your route.
- Bring supplies such as water and non-perishable food for the car ride.
- Avoid downed power or utility lines; they may be live with deadly voltage.
- Stay away and report them immediately to your power or utility company.
- Only use generators away from your home and NEVER run a generator inside a home or garage, or connect it to your home's electrical system.

Should you need assistance with developing an emergency/preparedness plan, please contact your case manager.

## Other Helpful Resources:

Other Helpful Resources Organization	Phone Number	Web Address
Alcohol/Drug Council of North Carolina	1-800-6884232 919-4930003	<a href="http://www.alcoholdrughelp.org">www.alcoholdrughelp.org</a>
The Arc of North Carolina	1-800-6628706	<a href="http://www.arcnc.org">www.arcnc.org</a>
Disability Rights North Carolina	1-877-2354210	<a href="http://www.disabilityrightsnc.org">www.disabilityrightsnc.org</a>
Exceptional Children's Assistance Center (ECAC)	1-800-9626817	<a href="http://www.ecac-parentcenter.org">www.ecac-parentcenter.org</a>
Mental Health Association North Carolina, Inc.	1-888-8810740	<a href="http://www.mha-nc.org/english">www.mha-nc.org/english</a>
National Council on Alcoholism and Drug Dependence, Inc	1-800-NCA CALL (Hope Line)	<a href="http://www.ncadd.org">www.ncadd.org</a>
NC Assistive Technology Program	1-919-855-3500	<a href="https://www.ncdhhs.gov/divisions/vocational-rehabilitation-services/north-carolina-assistive-technology-program">https://www.ncdhhs.gov/divisions/vocational-rehabilitation-services/north-carolina-assistive-technology-program</a>
NC CARELINE	1-800-6627030	<a href="http://www.ncdhhs.gov/ocs/careline.htm">www.ncdhhs.gov/ocs/careline.htm</a>
NC Care LINK		<a href="http://www.nccarelink.gov">www.nccarelink.gov</a>
NC Division of Health Service Regulation	1-800-6243004	<a href="http://www.ncdhhs.gov/dhsr">www.ncdhhs.gov/dhsr</a>
NC Mental Health Consumers Organization, Inc.	1-800-3263842	<a href="http://www.ncmhcosupport.org">www.ncmhcosupport.org</a>
Substance Abuse and Mental Health Services Administration (SAMHSA)	1-800-6624357	<a href="http://www.samhsa.gov">www.samhsa.gov</a>
Veterans Services	919-7337011 ext. 216 or 1-800-662-7030	<a href="http://www.nccarelink.gov">www.nccarelink.gov</a>
NC Poison Control Center	1-800-848-6946	<a href="http://nepoisoncenter.org">nepoisoncenter.org</a>

Office Locations/Contact Numbers

Clinton Office  
910.590.3177

Dunn Office  
910.230.3760

Elizabethtown Office  
910.862.3040

Fayetteville Office  
910.339.0963

Goldsboro Office  
919.705.5955

Kenansville Office  
910.296.1200

Kinston Office  
252.522.1301

Laurinburg Office  
910.277.0001

Lumberton Counseling Center Office  
910.738.3939

Lumberton Home Care & CAP Office  
910.738.7339

Lumberton Day Supports Office  
910.739.7000

Raeford Office  
910.875.1485

Red Springs Office  
910.359.0021

Rockingham Office  
252.443.2748

Rocky Mount Office  
252.443.2748  
Sanford Office  
919.774.7044

St. Pauls Corporate Office  
910.865.3500

Whiteville Office  
910.642.9900

## Client Orientation Form

As a client of Primary Health Choice Inc., upon admission I have been oriented to services in a matter that is understandable and documented in regards to the following:

- Consent to treat.
- Rights and responsibilities of the person served.
- Grievance/complaint
- Appeal procedures.
- Ways in which input is given regarding:
  - (a) The quality of care.
  - (b) Achievement of outcomes.
  - (c) Satisfaction of the person served.
- An explanation of the organization's:
  - (1) Services and activities.
  - (2) Behavioral expectations and responsibilities.
  - (3) Hours of operation.
  - (4) Access to after-hour services.
  - (5) Code of ethics.
  - (6) Identification of potential risk.
  - (7) Confidentiality policy.
  - (8) Professional conduct.
  - (9) HIPAA
- (10) Requirements for follow-up for the mandated person served, regardless of his or her discharge outcome.
- An explanation of any and all financial obligations, fees, and financial arrangements for services provided by the organization.
- Familiarization with the premises, including emergency exits and/or shelters, fire suppression equipment, and first aid kits.
- The program's policies regarding:
  - (1) The use of seclusion or restraint.
  - (2) Smoking.
  - (3) Illegal, illicit or prescription drugs brought into the program.
  - (4) Weapons/contraband brought into the program.
  - (5) Abuse, Neglect and Exploitation
- Identification of the person responsible for service coordination.

- A copy of the program rules to the person served that identifies the following:
  - (1) Any restrictions the program may place on the person served.
  - (2) Events, behaviors, or attitudes that may lead to the loss of rights or privileges for the person served.
  - (3) Means by which the person served may regain rights or privileges that have been restricted.
  - (4) Suspension from services would occur at such time when it is in your best interest or the company's due to the risk of harm to the client or others.
- Education regarding advance directives, if appropriate.
- Identification of the purpose and process of the assessment.
- A description of
  - How the individual plan will be developed
  - The person's participation in goal development and achievement.
  - The potential course of treatment/services.
  - How motivational incentives may be used.
- Information regarding transition/discharge criteria and procedures.
- When applicable, an explanation of the organization's services and activities include:
  - (1) Expectations for legally required appointments, sanctions or court notifications..
  - (2) Identification of therapeutic interventions, including:
    - (a) Sanctions.
    - (b) Interventions.
    - (c) Incentives.
    - (d) Administrative discharge criteria.
- Advanced Directives
- The right to serve on committee's within the agency including, but not limited to Client's Right Committee.
- Health and Safety
- Helpful Resources
- Office locations/contact telephone numbers

# Areas for Human Rights Committee to Review

## 1) Complaints

### ● Abuse, Neglect and Exploitation

Primary Health Choice, Inc had (0) abuse, neglect and/or exploitation incidents to report for this quarter.

### ● Primary Health Choice, Inc. had (1) consumer's grievances to report for this quarter.

- Delivery of Services

### ● Quality of Care Concerns

- Primary Health Choice, Inc. had (2) Quality of Care Concerns reported by MCOs.

- SE Training
- Paid Claims

### ● Any Breach of Confidentiality

- Primary Health Choice, Inc. had (0) Alleged breach of confidentiality issues to report. Substantiated POC put in place for corrective action.

## 2) Incidents

- An “incident,” as defined in 10A NCAC 27G. 0103(b)(32), is “any happening which is not consistent with the routine operation of a facility or service or the routine care of a consumer and that is likely to lead to adverse effects upon the consumer.”

## Areas for Human Rights Committee to Review

- The Incident Reporting System is to ensure that serious adverse events involving persons receiving publicly-funded mental health, developmental disabilities, and/or substance abuse (mh/dd/sa) are addressed quickly and analyze trends to prevent future occurrences and improve the service system.
- Primary Health Choice, Inc. had (1) Level III Incidents, (5) Level II Incidents, and (0) Level I Incidents for the Quarter. No trends or a pattern was identified.
  - Level III-(1)
    - Death unknown cause
  - Level II-(11)
    - II-Suicidal Behaviors/Ideation/IVC'D
    - II-Consumer's Behaviors/Aggressive Behaviors/IVC'D
    - II-Client Injury
  - Primary Health Choice, Inc. did not perform any restrictive Inventions on any consumers for this quarter.

### 3) Health/Safety

- No H/S Concerns to report for this quarter.

## Our Philosophy

## Primary Health Choice, Inc.

Primary Health Choice, Inc. (PHC) is determined to promote dignity and respect with consideration for the individual. PHC will promptly provide accurate and personalized services. We respect our clients rights and their individual autonomy, while providing truthful and accurate data. This agency assures that continuity of care is delivered in a professional manner at all times. We are committed agency that is dedicated to provide the best practice models as set forth by State and Federal guidelines.

## MISSION STATEMENT

Primary Health Choice, Inc. is committed to helping and providing all individuals and families with the best of services to enhance, grow and maintain a high quality of life. The needs of each and every individual we serve are first and foremost. We strive on the beliefs that all individuals should receive the best services regardless of any factors.

## PRIMARY HEALTH CHOICE, INC.

### Other Services:

- Day Supports
- Intensive in Home Developmental Therapy
- Personal Assistance
- NC Innovations Waiver Services
- Diagnostic Assessments
- Medication Management
- Psychiatric Services

## Adult Meaningful Day Program



SANFORD OFFICE  
1518 SOUTH HORNER  
BLVD

SANFORD, NC 27330  
PHONE: 919-774-7044



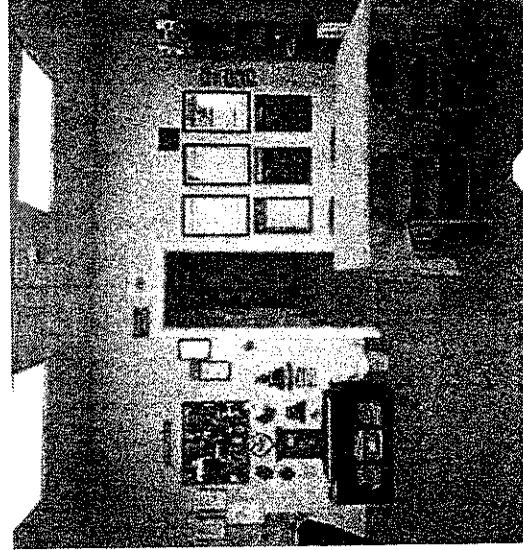
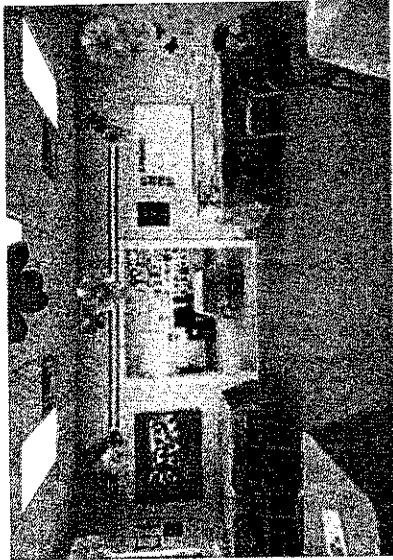
[www.primaryhealthchoice.org](http://www.primaryhealthchoice.org)

## What is an Adult Meaningful Day Program?

As an alternative to traditional day program Primary Health Choice, Inc. Adult Meaningful Day Program is offered in small group settings, catering to the distinct interests of participants, encouraging a personal approach, and enabling a focus on learning and using new skills and knowledge. We offer three distinct programs for participants to choose from: Reading, Creative Writing, Art, Music, Technology, Leisure, and Getting Out into the Community.

## Where does the Group go daily?

People served in the Adult Meaningful Day Program share the same places at the same time as their neighbors in the community. They shop at local supermarkets, local restaurants, make purchases in neighborhood shops, visit museums and use local libraries, attend events, buy memberships, join community advocacy organizations, and visit members in their community (such as nursing homes and rest homes).



## What does the Group do daily?

Participants can choose from a wide variety of activities.

- Art activities
- Dance/creative movement
- Singing & musical activities
- Drama & performance skills
- Crafts
- Small-group games
- Independent leisure activities
- Community integration activities
- Social skills development
- Health and Fitness

## The Goal of the Meaningful Day Program

- Develop Social Relationships
- Develop Health and Safety skills
- Improve Personal care and ADL Skills
- Develop Money Management Skills

**PRIMARY HEALTH CHOICE, INC.**



**A PRIMARY CHOICE, INC.**

COME AND GET TO KNOW US!

# OPEN HOUSE

**Services we provide:**

**Adult Meaningful Day Program**

**NC Innovations Waiver**

**24/7/365 Crisis Line**

**Phone: 919-292-0417**

**January 30, 2020 | 10AM TO 2 PM**

**1518 S. Horner Blvd. Sanford, NC 27330**

**\* Refreshments will be provided**

**Visit our website at [www.primaryhealthchoice.org](http://www.primaryhealthchoice.org) for  
more information about our company's services**

# The Universal Declaration of HUMAN RIGHTS

Adopted by the General Assembly of the United Nations in 1948, the Universal Declaration states basic rights and freedoms that everyone everywhere is entitled to.

## WE ARE ALL BORN FREE AND EQUAL

### EVERYONE IS ENTITLED TO THESE RIGHTS

NO MATTER YOUR RACE, RELIGION OR NATIONALITY

### EVERYONE HAS THE RIGHT TO LIFE, FREEDOM AND SAFETY

No one has the right to hold you in slavery.

No one has the right to torture you.

You have the right to recognition everywhere as a person before the law.

We are all equal before the law and are entitled to equal protection of the law.

You have the right to seek legal help if your rights are violated.

No one has the right to wrongly imprison you or force you to leave your country.

You have the right to a fair and public trial.

Everyone is innocent until PROVEN guilty.

You have the right to privacy. No one can interfere with your reputation, family, home or correspondence.

You can travel wherever you want.

You have the right to seek asylum in another country if you are being persecuted in your own country.

Everyone has the right to a nationality.

All adults have the right to marriage and to raise a family.

You have the right to own property.

Everyone has the right to belong to a religion.

Freedom of Expression: You have the right to free thought and to voice your opinions to others.

Everyone has the right to gather as a peaceful assembly.

You have the right to help choose and to take part in governing your country, directly or through chosen representatives.

You have the right to social security and are entitled to economic, social and cultural help from your government.

Workers' rights: Every adult has the right to a job, a fair wage and to join a trade union.

You have the right to leisure and rest from work.

Everyone has the right to an adequate standard of living for themselves and their family.

Everyone has the right to education.

Your intellectual property as an artist or scientist should be protected.

We are all entitled to social order so we can enjoy these rights.

You have the responsibility to respect the rights of others

## NO ONE CAN TAKE AWAY ANY OF YOUR RIGHTS

# **Primary Health Choice, Inc.**

## **Client Satisfaction Survey**

**Service Location:**  Counseling Center  Red Springs  Maxton  
 St. Pauls Day Tx  Lumberton Day Tx  Raeford  
 Fayetteville  Lumberton PSR  Elizabethtown

**Service :**  CAP MR/DD  Community Support Team  Day Treatment  
 PSR  MH/SA TCM  TCM I/DD  
 IIH  Psychiatric Services  Therapy  
 Other : \_\_\_\_\_

To provide you with the best possible services, Primary Health Choice would like to receive some feedback from you or your family member/advocate regarding our services. By completing this survey, we will be able to identify our strengths and weaknesses and make improvements. Please let us know if you need assistance in completing this survey.

**Please circle the choice after each question that best fits your answer:**

1. I would rate the quality of professional and courteous service that I (my child) currently receives from the Primary Health Choice staff as:

1. Poor    2. Below Average    3. Average    4. Above Average    5. Excellent

- 
2. I would rate the level of courtesy and professionalism shown to me (my child) by the Primary Health Choice staff as:

1. Poor    2. Below Average    3. Average    4. Above Average    5. Excellent

- 
3. I would rate the orientation to services that I (my child) received from the Primary Health Choice staff as:

1. Poor    2. Below Average    3. Average    4. Above Average    5. Excellent

4. I would rate my (my child's) access to Primary Health Choice services, including after hours and emergencies as:

1. Poor      2. Below Average    3. Average    4. Above Average    5. Excellent

---

5. I would rate the evaluation of my (my child's) progress at Primary Health Choice as:

1. Poor      2. Below Average    3. Average    4. Above Average    5. Excellent

---

6. I would rate the efficiency of Primary Health Choice staff in meeting my (my child's) needs as:

1. Poor      2. Below Average    3. Average    4. Above Average    5. Excellent

---

7. I would rate the quality of clinical/support services that I (my child) receive at Primary Health Choice as:

1. Poor      2. Below Average    3. Average    4. Above Average    5. Excellent

---

8. I would rate the effectiveness of clinical/support services that I (my child) receive at Primary Health Choice as:

1. Poor      2. Below Average    3. Average    4. Above Average    5. Excellent

---

9. I would tell someone else that the quality of services offered by Primary Health Choice are:

1. Poor      2. Below Average    3. Average    4. Above Average    5. Excellent

---

10. I would rate my overall satisfaction with all services that I (my child) have received at Primary Health Choice as:

1. Poor      2. Below Average    3. Average    4. Above Average    5. Excellent

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**Please answer Yes or No for the following, if applicable. A response line is provided after each question to provide more information.**

11. Since receiving services from Primary Health Choice have you (your child) been able to maintain gainful employment? YES or NO. If yes, where (if applicable)

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12. Since receiving services from Primary Health Choice, do you notice improvements in your (your child's) social skills and relationships with family and friends? YES or NO

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13. Since receiving services from Primary Health Choice do you find that you (your child) have been compliant with maintaining support and abstinence from substances? YES or NO

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14. Do you find that the staff members of Primary Health Choice are:

- Professional                    YES or NO \_\_\_\_\_
- Courteous                    YES or NO \_\_\_\_\_
- Dressed appropriately            YES or NO \_\_\_\_\_
- Timely with visits            YES or NO \_\_\_\_\_

15. Please list 3 strengths that you find are exhibited at Primary Health Choice:

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16. Please list 3 areas of improvement that could be made at Primary Health Choice:

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**(The next two questions are for the parents of children only)**

17. Since entering the services of Primary Health Choice has your child's grades in school improved? YES or NO: If "YES" please be specific.

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18. Since entering the services of Primary Health Choice has your child experienced less school suspension, bus suspensions, and/or expulsions? YES or NO: If YES, please be specific.

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Additional Comments:

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## Rights Restrictions

### Allowed/Not Allowed

- Allowed-Smoking only in Smoking Areas of Public Areas
  - Not Allowed-No smoking in facility
  - Not Allowed-No weapons on PHC Property
- Allowed-Owning a weapon at home if the home or living facilities allows you to have one.
  - Allowed-Have a copy of your medical record chart.
  - Not Allowed-Have a copy of your Medical Records that includes information that may be harmful to you or to others close to you.
  - Allowed-To have pets
- Not Allowed-To have pets inside the facility unless they are "Assistive or Service Animals".
  - Allowed-To have medications
- Not Allowed-To have a medication that is not prescribed for you.
  - Allowed-To sale items of your choice
- Not Allowed-To sale items at the facility unless approved  
**(No Solicitation)**



# **Primary Health Choice, Inc.**

Mental Health & Home Health Services  
"Individual's First Choice"

## **Restrictions for Day Supports**

**Violation of the listed behaviors could result to suspension or discharge from the program!**

**No Bullying**

**No Fighting**

**No Stealing**

**No Drugs**

**No Alcohol**

**No Smoking inside the building or on company vehicles**

**No Profanity inside the building or on company vehicles**

**No Sharing or Selling prescription medications**

**No Sexual Harassment**

**No Damaging Property**

**Non-compliant with services**

[www.primaryhealthchoice.org](http://www.primaryhealthchoice.org)

Corporate Office: P.O. Box 159, St. Pauls, NC 28384

Toll Free Contact: 1-(888)-739-1445

"Several offices located throughout the Eastern & Central Region"



North Carolina Department of Health and Human Services  
Office of Public Affairs

2001 Mail Service Center • Raleigh, North Carolina 27699-2001  
Tel 919-733-9190 • Fax 919-733-7447

Beverly Eaves Perdue, Governor

Lanier M. Cansler, Secretary

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**PUBLIC SERVICE MESSAGE:**

**Medicaid Fraud and Abuse Cost YOU!**

The North Carolina Department of Health and Human Services is asking anyone with knowledge of Medicaid fraud or abuse to report it by calling toll-free **1-877-DMA-TIP1 (1-877-362-8471)**.

If you are unsure what Medicaid fraud or abuse is, it could include any of several dishonest acts – from letting someone else use your Medicaid card to undergoing unnecessary medical procedures. A more complete list is available on the web at <http://www.dhhs.state.nc.us/dma/provider/fraud.htm>.

Thinking “it doesn’t hurt anyone” is just wrong. Every dollar wasted or stolen is a dollar that could have been spent on providing health care to someone who needs it and who follows the rules. And those dollars add up—tens of millions in North Carolina each year. Whether you’re a provider, recipient or simply a taxpayer, Medicaid fraud and abuse cost **YOU!**

If you know of Medicaid fraud or abuse, call **1-877-DMA-TIP1**, or call the DHHS Care-Line (English or Spanish) at **1-800-662-7030**.



## **PRIMARY HEALTH CHOICE, INC.**

## **Mental Health & Home Health Services**

**“Individuals First choice”**

Date: \_\_\_\_\_

**Office:** \_\_\_\_\_

Type of Meeting: \_\_\_\_\_ Client Rights Committee Meeting

**Meeting Facilitators:** \_\_\_\_\_

**Attendees:** \_\_\_\_\_ **Signatures**

### **Others:**


Meeting Called to Order at \_\_\_\_\_ am/pm

#### **Review and Approval of last Meeting Minutes from date:**

## Meeting Minutes

## Suggestions

*There being no further discussions, the meeting adjourned at \_\_\_\_\_ am/pm.*

The below signatures is acknowledgment of the person taking notes and the review of the notes by Administration.

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### **Person taking the Minutes**

Date

---

**Administration Approval**

Date

Article 3.  
Client's Rights, Advance Instruction and Statement of Confidentiality  
Part 1. Client's Rights

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**§ 122C-51. Declaration of policy on clients' rights.**

It is the policy of the State to assure basic human rights to each client of a facility. These rights include the right to dignity, privacy, humane care, and freedom from mental and physical abuse, neglect, and exploitation. Each facility shall assure to each client the right to live as normally as possible while receiving care and treatment.

It is further the policy of this State that each client who is admitted to and is receiving services from a facility has the right to treatment, including access to medical care and habilitation, regardless of age or degree of mental illness, developmental disabilities, or substance abuse. Each client has the right to an individualized written treatment or habilitation plan setting forth a program to maximize the development or restoration of his capabilities. (1973, c. 475, s. 1; c. 1436, ss. 1, 8; 1985, c. 589, s. 2; 1989, c. 625, s. 7; 1997-442, s. 1.)

**§ 122C-52. Right to confidentiality.**

(a) Except as provided in G.S. 132-5 and G.S. 122C-31(h), confidential information acquired in attending or treating a client is not a public record under Chapter 132 of the General Statutes.

(b) Except as authorized by G.S. 122C-53 through G.S. 122C-56, no individual having access to confidential information may disclose this information, provided, however, a HIPAA covered entity or business associate receiving confidential information that has been disclosed pursuant to G.S. 122C-53 through G.S. 122C-56 may use and disclose such information as permitted or required under 45 Code of Federal Regulations Part 164, Subpart E.

(c) Except as provided by G.S. 122C-53 through G.S. 122C-56, each client has the right that no confidential information acquired be disclosed by the facility.

(d) No provision of G.S. 122C-205 and G.S. 122C-53 through G.S. 122C-56 permitting disclosure of confidential information may apply to the records of a client when federal statutes or regulations applicable to that client prohibit the disclosure of this information.

(e) Except as required or permitted by law, disclosure of confidential information to someone not authorized to receive the information is a Class 3 misdemeanor and is punishable only by a fine, not to exceed five hundred dollars (\$500.00). (1955, c. 887, s. 12; 1963, c. 1166, s. 10; 1965, c. 800, s. 4; 1973, c. 47, s. 2; c. 476, s. 133; c. 673, s. 5; c. 1408, s. 2; 1979, c. 147; 1983, c. 383, s. 10; c. 491; c. 638, s. 22; c. 864, s. 4; 1985, c. 589, s. 2; 1985 (Reg. Sess., 1986), c. 863, s. 11; 1987, c. 749, s. 2; 1993, c. 539, s. 920; 1994, Ex. Sess., c. 24, s. 14(c); 2009-299, s. 5; 2011-314, s. 2(a).)

**§ 122C-53. Exceptions; client.**

(a) A facility may disclose confidential information if the client or his legally responsible person consents in writing to the release of the information to a specified person. This release is valid for a specified length of time and is subject to revocation by the consenting individual.

(b) A facility may disclose the fact of admission or discharge of a client to the client's next of kin whenever the responsible professional determines that the disclosure is in the best interest of the client.

(c) Upon request a client shall have access to confidential information in his client record except information that would be injurious to the client's physical or mental well-being as

Article 3.  
Client's Rights, Advance Instruction and Statement of Confidentiality  
Part 1. Client's Rights

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determined by the attending physician or, if there is none, by the facility director or his designee. If the attending physician or, if there is none, the facility director or his designee has refused to provide confidential information to a client, the client may request that the information be sent to a physician or psychologist of the client's choice, and in this event the information shall be so provided.

(d) Except as provided by G.S. 90-21.4(b), upon request the legally responsible person of a client shall have access to confidential information in the client's record; except information that would be injurious to the client's physical or mental well-being as determined by the attending physician or, if there is none, by the facility director or his designee. If the attending physician or, if there is none, the facility director or his designee has refused to provide confidential information to the legally responsible person, the legally responsible person may request that the information be sent to a physician or psychologist of the legally responsible person's choice, and in this event the information shall be so provided.

(e) A client advocate's access to confidential information and his responsibility for safeguarding this information are as provided by subsection (g) of this section.

(f) As used in subsection (g) of this section, the following terms have the meanings specified:

- (1) "Internal client advocate" means a client advocate who is employed by the facility or has a written contractual agreement with the Department or with the facility to provide monitoring and advocacy services to clients in the facility in which the client is receiving services; and
- (2) "External client advocate" means a client advocate acting on behalf of a particular client with the written consent and authorization:
  - a. In the case of a client who is an adult and who has not been adjudicated incompetent under Chapter 35A or former Chapters 33 or 35 of the General Statutes, of the client; or
  - b. In the case of any other client, of the client and his legally responsible person.

(g) An internal client advocate shall be granted, without the consent of the client or his legally responsible person, access to routine reports and other confidential information necessary to fulfill his monitoring and advocacy functions. In this role, the internal client advocate may disclose confidential information received to the client involved, to his legally responsible person, to the director of the facility or his designee, to other individuals within the facility who are involved in the treatment or habilitation of the client, or to the Secretary in accordance with the rules of the Commission. Any further disclosure shall require the written consent of the client and his legally responsible person. An external client advocate shall have access to confidential information only upon the written consent of the client and his legally responsible person. In this role, the external client advocate may use the information only as authorized by the client and his legally responsible person.

(h) In accordance with G.S. 122C-205, the facility shall notify the appropriate individuals upon the escape from and subsequent return of clients to a 24-hour facility.

(i) Upon the request of (i) a client who is an adult and who has not been adjudicated incompetent under Chapter 35A or former Chapters 33 or 35 of the General Statutes, or (ii) the

Article 3.  
Client's Rights, Advance Instruction and Statement of Confidentiality  
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legally responsible person for any other client, a facility shall disclose to an attorney confidential information relating to that client. (1973, c. 475, s. 1; c. 1436, ss. 2-5; 1985, c. 589, s. 2; 1989 (Reg. Sess., 1990), c. 1024, s. 26(d); 1995, c. 507, s. 23.4.)

**§ 122C-54. Exceptions; abuse reports and court proceedings.**

(a) A facility shall disclose confidential information if a court of competent jurisdiction issues an order compelling disclosure.

(al) Upon a determination by the facility director or his designee that disclosure is in the best interests of the client, a facility may disclose confidential information for purposes of filing a petition for involuntary commitment of a client pursuant to Article 5 of this Chapter or for purposes of filing a petition for the adjudication of incompetency of the client and the appointment of a guardian or an interim guardian under Chapter 35A of the General Statutes.

(b) If an individual is a defendant in a criminal case and a mental examination of the defendant has been ordered by the court as provided in G.S. 15A-1002, the facility shall send the results or the report of the mental examination to the clerk of court, to the district attorney or prosecuting officer, and to the attorney of record for the defendant as provided in G.S. 15A-1002(d).

(c) Certified copies of written results of examinations by physicians and records in the cases of clients voluntarily admitted or involuntarily committed and facing district court hearings and rehearings pursuant to Article 5 of this Chapter shall be furnished by the facility to the client's counsel, the attorney representing the State's interest, and the court. The confidentiality of client information shall be preserved in all matters except those pertaining to the necessity for admission or continued stay in the facility or commitment under review. The relevance of confidential information for which disclosure is sought in a particular case shall be determined by the court with jurisdiction over the matter.

(d) Any individual seeking confidential information contained in the court files or the court records of a proceeding made pursuant to Article 5 of this Chapter may file a written motion in the cause setting out why the information is needed. A district court judge may issue an order to disclose the confidential information sought if he finds the order is appropriate under the circumstances and if he finds that it is in the best interest of the individual admitted or committed or of the public to have the information disclosed.

(d1) After a judicial determination that an individual shall be involuntarily committed for either inpatient or outpatient mental health treatment pursuant to Article 5 of this Chapter, the clerk of superior court in the county where the judicial determination was made shall, as soon as practicable, cause a report of the commitment to be transmitted to the National Instant Criminal Background Check System (NICS). Reporting of an individual involuntarily committed to outpatient mental health treatment under this subsection shall only be reported if the individual is found to be a danger to self or others. The clerk shall also cause to be transmitted to NICS a record where an individual is found not guilty by reason of insanity or found mentally incompetent to proceed to criminal trial. The clerk, upon receipt of documentation that an affected individual has received a relief from disabilities pursuant to G.S. 122C-54.1 or any applicable federal law, shall cause the individual's record in NICS to be updated. The record of involuntary commitment shall be accessible only by an entity having proper access to NICS and

Article 3.  
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Part 1. Client's Rights

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shall remain otherwise confidential as provided by this Article. The clerk shall effect the transmissions to NICS required by the subsection according to protocols which shall be established by the Administrative Office of the Courts.

(e) Upon the request of the legally responsible person or the minor admitted or committed, and after that minor has both been released and reached adulthood, the court records of that minor made in proceedings pursuant to Article 5 of this Chapter may be expunged from the files of the court. The minor and his legally responsible person shall be informed in writing by the court of the right provided by this subsection at the time that the application for admission is filed with the court.

(f) A State facility and the psychiatric service of the University of North Carolina Hospitals at Chapel Hill may disclose confidential information to staff attorneys of the Attorney General's office whenever the information is necessary to the performance of the statutory responsibilities of the Attorney General's office or to its performance when acting as attorney for a State facility or the psychiatric service of the University of North Carolina Hospitals at Chapel Hill.

(g) A facility may disclose confidential information to an attorney who represents either the facility or an employee of the facility, if such information is relevant to litigation, to the operations of the facility, or to the provision of services by the facility. An employee may discuss confidential information with his attorney or with an attorney representing the facility in which he is employed.

(h) A facility shall disclose confidential information for purposes of complying with Article 3 of Chapter 7B of the General Statutes and Article 6 of Chapter 108A of the General Statutes, or as required by other State or federal law.

(i) G.S. 132-1.4 shall apply to the records of criminal investigations conducted by any law enforcement unit of a State facility, and information described in G.S. 132-1.4(c) that is collected by the State facility law enforcement unit shall be public records within the meaning of G.S. 132-1.

(j) Notwithstanding any other provision of this Chapter, the Secretary may inform any person of any incident or event involving the welfare of a client or former client when the Secretary determines that the release of the information is essential to maintaining the integrity of the Department. However, the release shall not include information that identifies the client directly, or information for which disclosure is prohibited by State or federal law or requirements, or information for which, in the Secretary's judgment, by reference to publicly known or available information, there is a reasonable basis to believe the client will be identified.

(1955, c. 887, s. 12; 1963, c. 1166, s. 10; 1973, c. 47, s. 2; c. 476, s. 133; c. 673, s. 5; c. 1408, s. 2; 1977, c. 696, s. 1; 1979, c. 147; c. 915, s. 20; 1983, c. 383, s. 10; c. 491; c. 638, s. 22; c. 864, s. 4; 1985, c. 589, s. 2; 1987, c. 638, ss. 1, 3.1; 1989, c. 141, s. 9; 1993, c. 516, s. 12; 1998-202, s. 13(dd); 2003-313, s. 2; 2008-210, s. 1; 2009-299, s. 6.)

**§ 122C-54.1. Restoration process to remove mental commitment bar.**

(a) Any individual over the age of 18 may petition for the removal of the mental commitment bar to purchase, possess, or transfer a firearm when the individual no longer suffers from the condition that resulted in the individual's involuntary commitment for either inpatient or

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outpatient mental health treatment pursuant to Article 5 of this Chapter and no longer poses a danger to self or others for purposes of the purchase, possession, or transfer of firearms pursuant to 18 U.S.C. § 922, G.S. 14-404, and G.S. 14-415.12. The individual may file the petition with a district court judge upon the expiration of any current inpatient or outpatient commitment. No individual who has been found not guilty by reason of insanity may petition a court for restoration under this section.

(b) The petition must be filed in the district court of the county where the respondent was the subject of the most recent judicial determination that either inpatient or outpatient treatment was appropriate or in the district court of the county of the petitioner's residence. An individual disqualified from firearms possession due to a comparable out-of-State mental commitment shall make application in the county of residence. The clerk of court upon receipt of the petition shall schedule a hearing using the regularly scheduled commitment court time and provide notice of the hearing to the petitioner and the district attorney. Copies of the petition must be served on the director of the inpatient and outpatient treatment facility, in-State or out-of-State, and the district attorney in the petitioner's current county of residence.

(c) The burden is on the petitioner to establish by a preponderance of the evidence that the petitioner no longer suffers from the condition that resulted in commitment and no longer poses a danger to self or others for purposes of the purchase, possession, or transfer of firearms pursuant to 18 U.S.C. § 922, G.S. 14-404, and G.S. 14-415.12. The district attorney shall present any and all relevant information to the contrary. For these purposes, the district attorney may access and use any and all mental health records, juvenile records, and criminal history of the petitioner wherever maintained. The applicant must sign a release for the district attorney to receive any mental health records of the applicant. This hearing shall be closed to the public, unless the court finds that the public interest would be better served by conducting the hearing in public. If the court determines the hearing should be open to the public, upon motion by the petitioner, the court may allow for the in camera inspection of any mental health records. The court may allow the use of the record but shall restrict it from public disclosure, unless it finds that the public interest would be better served by making the record public. The district court shall enter an order that the petitioner does or does not continue to suffer from the condition that resulted in commitment and does or does not continue to pose a danger to self or others for purposes of the purchase, possession, or transfer of firearms pursuant to 18 U.S.C. § 922, G.S. 14-404, and G.S. 14-415.12. The court shall include in its order the specific findings of fact on which it bases its decision. The decision of the district court may be appealed to the superior court for a hearing de novo. After a denial by the superior court, the applicant must wait a minimum of one year before reapplying. Attorneys designated by the Attorney General shall be available to represent the State, or assist in the representation of the State, in a restoration proceeding when requested to do so by a district attorney and approved by the Attorney General. An attorney so designated shall have all the powers of the district attorney under this section.

(d) Upon a judicial determination to grant a petition under this section, the clerk of superior court in the county where the petition was granted shall forward the order to the National Instant Criminal Background Check System (NICS) for updating of the respondent's record. (2008-210, s. 2.)

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**§ 122C-55. Exceptions; care and treatment.**

(a) Any facility may share confidential information regarding any client of that facility with any other facility when necessary to coordinate appropriate and effective care, treatment or habilitation of the client. For the purposes of this section, coordinate means the provision, coordination, or management of mental health, developmental disabilities, and substance abuse services and other health or related services by one or more facilities and includes the referral of a client from one facility to another.

(al) Any facility may share confidential information regarding any client of that facility with the Secretary, and the Secretary may share confidential information regarding any client with a facility when necessary to conduct quality assessment and improvement activities or to coordinate appropriate and effective care, treatment or habilitation of the client. For purposes of this subsection, subsection (a6), and subsection (a7) of this section, the purposes or activities for which confidential information may be disclosed include, but are not limited to, case management and care coordination, disease management, outcomes evaluation, the development of clinical guidelines and protocols, the development of care management plans and systems, population-based activities relating to improving or reducing health care costs, and the provision, coordination, or management of mental health, developmental disabilities, and substance abuse services and other health or related services. As used in this section, "facility" includes an LME and "Secretary" includes the Community Care of North Carolina Program, or other primary care case management programs that contract with the Department to provide a primary care case management program for recipients of publicly funded health and related services.

(a2) Any area or State facility or the psychiatric service of the University of North Carolina Hospitals at Chapel Hill may share confidential information regarding any client of that facility with any other area facility or State facility or the psychiatric service of the University of North Carolina Hospitals at Chapel Hill when necessary to conduct payment activities relating to an individual served by the facility. Payment activities are activities undertaken by a facility to obtain or provide reimbursement for the provision of services and may include, but are not limited to, determinations of eligibility or coverage, coordination of benefits, determinations of cost-sharing amounts, claims management, claims processing, claims adjudication, claims appeals, billing and collection activities, medical necessity reviews, utilization management and review, precertification and preauthorization of services, concurrent and retrospective review of services, and appeals related to utilization management and review.

(a3) Whenever there is reason to believe that a client is eligible for benefits through a Department program, any State or area facility or the psychiatric service of the University of North Carolina Hospitals at Chapel Hill may share confidential information regarding any client of that facility with the Secretary, and the Secretary may share confidential information regarding any client with an area facility or State facility or the psychiatric services of the University of North Carolina Hospitals at Chapel Hill. Disclosure is limited to that information necessary to establish initial eligibility for benefits, determine continued eligibility over time, and obtain reimbursement for the costs of services provided to the client.

(a4) An area authority or county program may share confidential information regarding any client with any area facility, and any area facility may share confidential information regarding any client of that facility with the area authority or county program, when the area

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authority or county program determines the disclosure is necessary to develop, manage, monitor, or evaluate the area authority's or county program's network of qualified providers as provided in G.S. 122C-115.2(b)(1)b., G.S. 122C-141(a), the State Plan, and rules of the Secretary. For the purposes of this subsection, the purposes or activities for which confidential information may be disclosed include, but are not limited to, quality assessment and improvement activities, provider accreditation and staff credentialing, developing contracts and negotiating rates, investigating and responding to client grievances and complaints, evaluating practitioner and provider performance, auditing functions, on-site monitoring, conducting consumer satisfaction studies, and collecting and analyzing performance data.

(a5) Any area facility may share confidential information with any other area facility regarding an applicant when necessary to determine whether the applicant is eligible for area facility services. For the purpose of this subsection, the term "applicant" means an individual who contacts an area facility for services.

(a6) When necessary to conduct quality assessment and improvement activities or to coordinate appropriate and effective care, treatment, or habilitation of the client, the Department's Community Care of North Carolina Program, or other primary care case management program, may disclose confidential information acquired pursuant to subsection (a1) of this section to a health care provider or other entity that has entered into a written agreement with the Community Care of North Carolina Program, or other primary care case management program, to participate in the care management support network and systems developed and maintained by the primary care case manager for the purpose of coordinating and improving the quality of care for recipients of publicly funded health and related services. Health care providers and other entities receiving confidential information that has been disclosed pursuant to this subsection may use and disclose the information as permitted or required under 45 Code of Federal Regulations Part 164, Subpart E.

(a7) A facility may share confidential information with one or more HIPAA covered entities or business associates for the same purposes set forth in subsection (a1) of this section. Before making disclosures under this subsection, the facility shall inform the client or his legally responsible person that the facility may make such disclosures unless the client or his legally responsible person objects in writing or signs a non-disclosure form that shall be supplied by the facility. If the client or his legally responsible person objects in writing or signs a non-disclosure form, the disclosures otherwise permitted by this subsection are prohibited. A covered entity or business associate receiving confidential information that has been disclosed by a facility pursuant to this subsection may use and disclose the information as permitted or required under 45 Code of Federal Regulations Part 164, Subpart E; provided however, that such confidential information shall not be used or disclosed for discriminatory purposes including, without limitation, employment discrimination, medical insurance coverage or rate discrimination, or discrimination by law enforcement officers.

(b) A facility, physician, or other individual responsible for evaluation, management, supervision, or treatment of respondents examined or committed for outpatient treatment under the provisions of Article 5 of this Chapter may request, receive, and disclose confidential information to the extent necessary to enable them to fulfill their responsibilities.

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(c) A facility may furnish confidential information in its possession to the Division of Adult Correction of the Department of Public Safety when requested by that department regarding any client of that facility when the inmate has been determined by the Division of Adult Correction of the Department of Public Safety to be in need of treatment for mental illness, developmental disabilities, or substance abuse. The Division of Adult Correction of the Department of Public Safety may furnish to a facility confidential information in its possession about treatment for mental illness, developmental disabilities, or substance abuse that the Division of Adult Correction of the Department of Public Safety has provided to any present or former inmate if the inmate is presently seeking treatment from the requesting facility or if the inmate has been involuntarily committed to the requesting facility for inpatient or outpatient treatment. Under the circumstances described in this subsection, the consent of the client or inmate shall not be required in order for this information to be furnished and the information shall be furnished despite objection by the client or inmate. Confidential information disclosed pursuant to this subsection is restricted from further disclosure.

(d) A responsible professional may disclose confidential information when in his opinion there is an imminent danger to the health or safety of the client or another individual or there is a likelihood of the commission of a felony or violent misdemeanor.

(e) A responsible professional may exchange confidential information with a physician or other health care provider who is providing emergency medical services to a client. Disclosure of the information is limited to that necessary to meet the emergency as determined by the responsible professional.

(e1) A State facility may furnish client identifying information to the Department for the purpose of maintaining an index of clients served in State facilities which may be used by State facilities only if that information is necessary for the appropriate and effective evaluation, care and treatment of the client.

(e2) A responsible professional may disclose an advance instruction for mental health treatment or confidential information from an advance instruction to a physician, psychologist, or other qualified professional when the responsible professional determines that disclosure is necessary to give effect to or provide treatment in accordance with the advance instruction.

(f) A facility may disclose confidential information to a provider of support services whenever the facility has entered into a written agreement with a person to provide support services and the agreement includes a provision in which the provider of support services acknowledges that in receiving, storing, processing, or otherwise dealing with any confidential information, he will safeguard and not further disclose the information.

(g) Whenever there is reason to believe that the client is eligible for financial benefits through a governmental agency, a facility may disclose confidential information to State, local, or federal government agencies. Except as provided in subsections (a3) and (g1) of this section, disclosure is limited to that confidential information necessary to establish financial benefits for a client. Except as provided in subsection (g1) of this section, after establishment of these benefits, the consent of the client or his legally responsible person is required for further release of confidential information under this subsection.

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(g1) A State facility operated under the authority of G.S. 122C-181 may disclose confidential information for the purpose of collecting payment due the facility for the cost of care, treatment, or habilitation.

(h) Within a facility, employees, students, consultants or volunteers involved in the care, treatment, or habilitation of a client may exchange confidential information as needed for the purpose of carrying out their responsibility in serving the client.

(i) Upon specific request, a responsible professional may release confidential information to a physician or psychologist who referred the client to the facility.

(j) Upon request of the next of kin or other family member who has a legitimate role in the therapeutic services offered, or other person designated by the client or his legally responsible person, the responsible professional shall provide the next of kin or other family member or the designee with notification of the client's diagnosis, the prognosis, the medications prescribed, the dosage of the medications prescribed, the side effects of the medications prescribed, if any, and the progress of the client, provided that the client or his legally responsible person has consented in writing, or the client has consented orally in the presence of a witness selected by the client, prior to the release of this information. Both the client's or the legally responsible person's consent and the release of this information shall be documented in the client's medical record. This consent shall be valid for a specified length of time only and is subject to revocation by the consenting individual.

(k) Notwithstanding the provisions of G.S. 122C-53(b) or G.S. 122C-206, upon request of the next of kin or other family member who has a legitimate role in the therapeutic services offered, or other person designated by the client or his legally responsible person, the responsible professional shall provide the next of kin, or family member, or the designee, notification of the client's admission to the facility, transfer to another facility, decision to leave the facility against medical advice, discharge from the facility, and referrals and appointment information for treatment after discharge, after notification to the client that this information has been requested.

(l) In response to a written request of the next of kin or other family member who has a legitimate role in the therapeutic services offered, or other person designated by the client, for additional information not provided for in subsections (j) and (k) of this section, and when such written request identifies the intended use for this information, the responsible professional shall, in a timely manner:

- (1) Provide the information requested based upon the responsible professional's determination that providing this information will be to the client's therapeutic benefit, and provided that the client or his legally responsible person has consented in writing to the release of the information requested; or
- (2) Refuse to provide the information requested based upon the responsible professional's determination that providing this information will be detrimental to the therapeutic relationship between client and professional; or
- (3) Refuse to provide the information requested based upon the responsible professional's determination that the next of kin or family member or designee does not have a legitimate need for the information requested.

(m) The Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services shall adopt rules specifically to define the legitimate role referred to in

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subsections (j), (k), and (l) of this section. (1955, c. 887, s. 12; 1963, c. 1166, s. 10; 1973, c. 47, s. 2; c. 476, s. 133; c. 673, s. 5; c. 1408, s. 2; 1979, c. 147; 1983, c. 383, s. 10; c. 491; c. 638, s. 22; c. 864, s. 4; 1985, c. 589, s. 2; c. 695, s. 15; 1987, c. 638, ss. 2, 3; 1989, c. 141, s. 10; c. 438; c. 625, s. 8; 1989 (Reg. Sess., 1990), c. 1024, s. 27; 1991, c. 359, s. 1; c. 544, s. 1; 1998-198, s. 4; 2003-313, s. 3; 2009-65, s. 1(a), (b); 2009-487, s. 5; 2009-570, s. 43; 2011-102, ss. 3, 4; 2011-145, ss. 10.14, 19.1(h); 2011-314, s. 2(b); 2011-391, s. 23.)

#### § 122C-56. Exceptions; research and planning.

(a) The Secretary may require information that does not identify clients from State and area facilities for purposes of preparing statistical reports of activities and services and for planning and study. The Secretary may also receive confidential information from State and area facilities when specifically required by other State or federal law.

(b) The Secretary may have access to confidential information from private or public agencies or agents for purposes of research and evaluation in the areas of mental health, developmental disabilities, and substance abuse. No confidential information shall be further disclosed.

(c) A facility may disclose confidential information to persons responsible for conducting general research or clinical, financial, or administrative audits if there is a justifiable documented need for this information. A person receiving the information may not directly or indirectly identify any client in any report of the research or audit or otherwise disclose client identity in any way. (1965, c. 800, s. 4; 1973, c. 476, s. 133; 1985, c. 589, s. 2; 1989, c. 625, s. 9.)

#### § 122C-57. Right to treatment and consent to treatment.

(a) Each client who is admitted to and is receiving services from a facility has the right to receive age-appropriate treatment for mental health, mental retardation, and substance abuse illness or disability. Each client within 30 days of admission to a facility shall have an individual written treatment or habilitation plan implemented by the facility. The client and the client's legally responsible person shall be informed in advance of the potential risks and alleged benefits of the treatment choices.

(b) Each client has the right to be free from unnecessary or excessive medication. Medication shall not be used for punishment, discipline, or staff convenience.

(c) Medication shall be administered in accordance with accepted medical standards and only upon the order of a physician as documented in the client's record.

(d) Each voluntarily admitted client or the client's legally responsible person (including a health care agent named pursuant to a valid health care power of attorney) has the right to consent to or refuse any treatment offered by the facility. Consent may be withdrawn at any time by the person who gave the consent. If treatment is refused, the qualified professional shall determine whether treatment in some other modality is possible. If all appropriate treatment modalities are refused, the voluntarily admitted client may be discharged. In an emergency, a voluntarily admitted client may be administered treatment or medication, other than those specified in subsection (f) of this section, despite the refusal of the client or the client's legally responsible person, even if the client's refusal is expressed in a valid advance instruction for

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mental health treatment. The Commission may adopt rules to provide a procedure to be followed when a voluntarily admitted client refuses treatment.

(d1) Except as provided in G.S. 90-21.4, discharge of a voluntarily admitted minor from treatment shall include notice to and consultation with the minor's legally responsible person and in no event shall a minor be discharged from treatment upon the minor's request alone.

(e) In the case of an involuntarily committed client, treatment measures other than those requiring express written consent as specified in subsection (f) of this section may be given despite the refusal of the client, the client's legally responsible person, a health care agent named pursuant to a valid health care power of attorney, or the client's refusal expressed in a valid advance instruction for mental health treatment in the event of an emergency or when consideration of side effects related to the specific treatment measure is given and in the professional judgment, as documented in the client's record, of the treating physician and a second physician, who is either the director of clinical services of the facility, or the director's designee, either:

- (1) The client, without the benefit of the specific treatment measure, is incapable of participating in any available treatment plan which will give the client a realistic opportunity of improving the client's condition;
- (2) There is, without the benefit of the specific treatment measure, a significant possibility that the client will harm self or others before improvement of the client's condition is realized.

(f) Treatment involving electroshock therapy, the use of experimental drugs or procedures, or surgery other than emergency surgery may not be given without the express and informed written consent of the client, the client's legally responsible person, a health care agent named pursuant to a valid health care power of attorney, or the client's consent expressed in a valid advance instruction for mental health treatment. This consent may be withdrawn at any time by the person who gave the consent. The Commission may adopt rules specifying other therapeutic and diagnostic procedures that require the express and informed written consent of the client, the client's legally responsible person, or a health care agent named pursuant to a valid health care power of attorney. (1973, c. 475, s. 1; c. 1436, ss. 6, 7; 1981, c. 328, ss. 1, 2; 1985, c. 589, s. 2; 1995, c. 336, s. 1; 1997-442, s. 3; 1998-198, s. 5; 1998-217, s. 53(a)(4); 1999-456, s. 4; 2007-502, s. 15(b).)

**§ 122C-58. Civil rights and civil remedies.**

Except as otherwise provided in this Chapter, each adult client of a facility keeps the same right as any other citizen of North Carolina to exercise all civil rights, including the right to dispose of property, execute instruments, make purchases, enter into contractual relationships, register and vote, bring civil actions, and marry and get a divorce, unless the exercise of a civil right has been precluded by an unrevoked adjudication of incompetency. This section shall not be construed as validating the act of any client who was in fact incompetent at the time he performed the act. (1973, c. 475, s. 1; c. 1436, ss. 2-5; 1985, c. 589, s. 2.)

**§ 122C-59. Use of corporal punishment.**

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Corporal punishment may not be inflicted upon any client. (1973, c. 475, s. 1; 1985, c. 589, s. 2.)

**§ 122C-60. Use of physical restraints or seclusion.**

(a) Physical restraint or seclusion of a client shall be employed only when there is imminent danger of abuse or injury to the client or others, when substantial property damage is occurring, or when the restraint or seclusion is necessary as a measure of therapeutic treatment. For purposes of this section, a technique to reenact the birthing process as defined by G.S. 14-401.21 is not a measure of therapeutic treatment. All instances of restraint or seclusion and the detailed reasons for such action shall be documented in the client's record. Each client who is restrained or secluded shall be observed frequently, and a written notation of the observation shall be made in the client's record.

(a1) A facility that employs physical restraint or seclusion of a client shall collect data on the use of the restraints and seclusion. The data shall reflect for each incidence, the type of procedure used, the length of time employed, alternatives considered or employed, and the effectiveness of the procedure or alternative employed. The facility shall analyze the data on at least a quarterly basis to monitor effectiveness, determine trends, and take corrective action where necessary. The facility shall make the data available to the Secretary upon request. Nothing in this subsection abrogates State or federal law or requirements pertaining to the confidentiality, privilege, or other prohibition against disclosure of information provided to the Secretary under this subsection. In reviewing data requested under this subsection, the Secretary shall adhere to State and federal requirements of confidentiality, privilege, and other prohibitions against disclosure and release applicable to the information received under this subsection.

(a2) Facilities shall implement policies and practices that emphasize the use of alternatives to physical restraint and seclusion. Physical restraint and seclusion may be employed only by staff who have been trained and have demonstrated competence in the proper use of and alternatives to these procedures. Facilities shall ensure that staff authorized to employ and terminate these procedures are retrained and have demonstrated competence at least annually.

(b) The Commission shall adopt rules to implement this section. In adopting rules, the Commission shall take into consideration federal regulations and national accreditation standards. Rules adopted by the Commission shall include:

- (1) Staff training and competence in:
  - a. The use of positive behavioral supports.
  - b. Communication strategies for defusing and deescalating potentially dangerous behavior.
  - c. Monitoring vital indicators.
  - d. Administration of CPR.
  - e. Debriefing with client and staff.
  - f. Methods for determining staff competence, including qualifications of trainers and training curricula.
  - g. Other areas to ensure the safe and appropriate use of restraints and seclusion.

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- (2) Other matters relating to the use of physical restraint or seclusion of clients necessary to ensure the safety of clients and others.

The Department may investigate complaints and inspect a facility at any time to ensure compliance with this section. (1973, c. 475, s. 1; 1985, c. 589, s. 2; 2000-129, s. 1; 2003-205, s. 2.)

**§ 122C-61. Treatment rights in 24-hour facilities.**

In addition to the rights set forth in G.S. 122C-57, each client who is receiving services at a 24-hour facility has the following rights:

- (1) The right to receive necessary treatment for and prevention of physical ailments based upon the client's condition and projected length of stay. The facility may seek to collect appropriate reimbursement for its costs in providing the treatment and prevention; and
- (2) The right to have, as soon as practical during treatment or habilitation but not later than the time of discharge, an individualized written discharge plan containing recommendations for further services designed to enable the client to live as normally as possible. A discharge plan may not be required when it is not feasible because of an unanticipated discontinuation of a client's treatment. With the consent of the client or his legally responsible person, the professionals responsible for the plans shall contact appropriate agencies at the client's destination or in his home community before formulating the recommendations. A copy of the plan shall be furnished to the client or to his legally responsible person and, with the consent of the client, to the client's next of kin. (1973, c. 475, s. 1; c. 1436, ss. 6, 7; 1981, c. 328, ss. 1, 2; 1985, c. 589, s. 2.)

**§ 122C-62. Additional rights in 24-hour facilities.**

(a) In addition to the rights enumerated in G.S. 122C-51 through G.S. 122C-61, each adult client who is receiving treatment or habilitation in a 24-hour facility keeps the right to:

- (1) Send and receive sealed mail and have access to writing material, postage, and staff assistance when necessary;
- (2) Contact and consult with, at his own expense and at no cost to the facility, legal counsel, private physicians, and private mental health, developmental disabilities, or substance abuse professionals of his choice; and
- (3) Contact and consult with a client advocate if there is a client advocate.

The rights specified in this subsection may not be restricted by the facility and each adult client may exercise these rights at all reasonable times.

(b) Except as provided in subsections (e) and (h) of this section, each adult client who is receiving treatment or habilitation in a 24-hour facility at all times keeps the right to:

- (1) Make and receive confidential telephone calls. All long distance calls shall be paid for by the client at the time of making the call or made collect to the receiving party;

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- (2) Receive visitors between the hours of 8:00 a.m. and 9:00 p.m. for a period of at least six hours daily, two hours of which shall be after 6:00 p.m.; however visiting shall not take precedence over therapies;
- (3) Communicate and meet under appropriate supervision with individuals of his own choice upon the consent of the individuals;
- (4) Make visits outside the custody of the facility unless:
  - a. Commitment proceedings were initiated as the result of the client's being charged with a violent crime, including a crime involving an assault with a deadly weapon, and the respondent was found not guilty by reason of insanity or incapable of proceeding;
  - b. The client was voluntarily admitted or committed to the facility while under order of commitment to a correctional facility of the Division of Adult Correction of the Department of Public Safety; or
  - c. The client is being held to determine capacity to proceed pursuant to G.S. 15A-1002;
- A court order may expressly authorize visits otherwise prohibited by the existence of the conditions prescribed by this subdivision;
- (5) Be out of doors daily and have access to facilities and equipment for physical exercise several times a week;
- (6) Except as prohibited by law, keep and use personal clothing and possessions, unless the client is being held to determine capacity to proceed pursuant to G.S. 15A-1002;
- (7) Participate in religious worship;
- (8) Keep and spend a reasonable sum of his own money;
- (9) Retain a driver's license, unless otherwise prohibited by Chapter 20 of the General Statutes; and
- (10) Have access to individual storage space for his private use.

(c) In addition to the rights enumerated in G.S. 122C-51 through G.S. 122C-57 and G.S. 122C-59 through G.S. 122C-61, each minor client who is receiving treatment or habilitation in a 24-hour facility has the right to have access to proper adult supervision and guidance. In recognition of the minor's status as a developing individual, the minor shall be provided opportunities to enable him to mature physically, emotionally, intellectually, socially, and vocationally. In view of the physical, emotional, and intellectual immaturity of the minor, the 24-hour facility shall provide appropriate structure, supervision and control consistent with the rights given to the minor pursuant to this Part. The facility shall also, where practical, make reasonable efforts to ensure that each minor client receives treatment apart and separate from adult clients unless the treatment needs of the minor client dictate otherwise.

Each minor client who is receiving treatment or habilitation from a 24-hour facility has the right to:

- (1) Communicate and consult with his parents or guardian or the agency or individual having legal custody of him;
- (2) Contact and consult with, at his own expense or that of his legally responsible person and at no cost to the facility, legal counsel, private physicians, private

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mental health, developmental disabilities, or substance abuse professionals, of his or his legally responsible person's choice; and

- (3) Contact and consult with a client advocate, if there is a client advocate.

The rights specified in this subsection may not be restricted by the facility and each minor client may exercise these rights at all reasonable times.

(d) Except as provided in subsections (e) and (h) of this section, each minor client who is receiving treatment or habilitation in a 24-hour facility has the right to:

- (1) Make and receive telephone calls. All long distance calls shall be paid for by the client at the time of making the call or made collect to the receiving party;
- (2) Send and receive mail and have access to writing materials, postage, and staff assistance when necessary;
- (3) Under appropriate supervision, receive visitors between the hours of 8:00 a.m. and 9:00 p.m. for a period of at least six hours daily, two hours of which shall be after 6:00 p.m.; however visiting shall not take precedence over school or therapies;
- (4) Receive special education and vocational training in accordance with federal and State law;
- (5) Be out of doors daily and participate in play, recreation, and physical exercise on a regular basis in accordance with his needs;
- (6) Except as prohibited by law, keep and use personal clothing and possessions under appropriate supervision, unless the client is being held to determine capacity to proceed pursuant to G.S. 15A-1002;
- (7) Participate in religious worship;
- (8) Have access to individual storage space for the safekeeping of personal belongings;
- (9) Have access to and spend a reasonable sum of his own money; and
- (10) Retain a driver's license, unless otherwise prohibited by Chapter 20 of the General Statutes.

- (e) No right enumerated in subsections (b) or (d) of this section may be limited or restricted except by the qualified professional responsible for the formulation of the client's treatment or habilitation plan. A written statement shall be placed in the client's record that indicates the detailed reason for the restriction. The restriction shall be reasonable and related to the client's treatment or habilitation needs. A restriction is effective for a period not to exceed 30 days. An evaluation of each restriction shall be conducted by the qualified professional at least every seven days, at which time the restriction may be removed. Each evaluation of a restriction shall be documented in the client's record. Restrictions on rights may be renewed only by a written statement entered by the qualified professional in the client's record that states the reason for the renewal of the restriction. In the case of an adult client who has not been adjudicated incompetent, in each instance of an initial restriction or renewal of a restriction of rights, an individual designated by the client shall, upon the consent of the client, be notified of the restriction and of the reason for it. In the case of a minor client or an incompetent adult client, the legally responsible person shall be notified of each instance of an initial restriction or renewal of

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a restriction of rights and of the reason for it. Notification of the designated individual or legally responsible person shall be documented in writing in the client's record.

- (f) The Commission may adopt rules to implement subsection (e) of this section.
- (g) With regard to clients being held to determine capacity to proceed pursuant to G.S. 15A-1002 or clients in a facility for substance abuse, and notwithstanding the prior provisions of this section, the Commission may adopt rules restricting the rights set forth under (b)(2), (b)(3), and (d)(3) of this section if restrictions are necessary and reasonable in order to protect the health, safety, and welfare of the client involved or other clients.
- (h) The rights stated in subdivisions (b)(2), (b)(4), (b)(5), (b)(10), (d)(3), (d)(5) and (d)(8) may be modified in a general hospital by that hospital to be the same as for other patients in that hospital; provided that any restriction of a specific client's rights shall be done in accordance with the provisions of subsection (e) of this section. (1973, c. 475, s. 1; c. 1436, ss. 2-5, 8; 1985, c. 589, s. 2; 1989, c. 625, s. 10; 1995, c. 299, s. 2; 1997-456, s. 27; 2011-145, s. 19.1(h).)

**§ 122C-63. Assurance for continuity of care for individuals with mental retardation.**

(a) Any individual with mental retardation admitted for residential care or treatment for other than respite or emergency care to any residential facility operated under the authority of this Chapter and supported all or in part by state-appropriated funds has the right to residential placement in an alternative facility if the client is in need of placement and if the original facility can no longer provide the necessary care or treatment.

(b) The operator of a residential facility providing residential care or treatment, for other than respite or emergency care, for individuals with mental retardation shall notify the area authority serving the client's county of residence of his intent to close a facility or to discharge a client who may be in need of continuing care at least 60 days prior to the closing or discharge.

The operator's notification to the area authority of intent to close a facility or to discharge a client who may be in need of continuing care constitutes the operator's acknowledgement of the obligation to continue to serve the client until:

- (1) The area authority determines that the client is not in need of continuing care;
- (2) The client is moved to an alternative residential placement; or
- (3) Sixty days have elapsed;

whichever occurs first.

In cases in which the safety of the client who may be in need of continuing care, of other clients, of the staff of the residential facility, or of the general public, is concerned, this 60-day notification period may be waived by securing an emergency placement in a more secure and safe facility. The operator of the residential facility shall notify the area authority that an emergency placement has been arranged within 24 hours of the placement. The area authority and the Secretary shall retain their respective responsibilities upon receipt of this notice.

(c) An individual who may be in need of continuing care may be discharged from a residential facility without further claim for continuing care against the area authority or the State if:

- (1) After the parent or guardian, if the client is a minor or an adjudicated incompetent adult, or the client, if an adult not adjudicated incompetent, has

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entered into a contract with the operator upon the client's admission to the original residential facility the parent, guardian, or client who entered into the contract refuses to carry out the contract, or

- (2) After an alternative placement for a client in need of continuing care is located, the parent or guardian who admitted the client to the residential facility, if the client is a minor or an adjudicated incompetent adult, or the client if an adult not adjudicated incompetent, refuses the alternative placement.

(d) Decisions made by the area authority regarding the need for continued placement or regarding the availability of an alternative placement of a client may be appealed pursuant to the appeals process of the area authority and subsequently to the Secretary or the Commission under their rules. If the appeal process extends beyond the operator's 60-day obligation to continue to serve the client, the Secretary shall arrange a temporary placement in a State facility for the mentally retarded pending the outcome of the appeal.

(e) The area authority that serves the county of residence of the client is responsible for assessing the need for continuity of care and for the coordination of the placement among available public and private facilities whenever the authority is notified that a client may be in need of continuing care. If an alternative placement is not available beyond the operator's 60-day obligation to continue to serve the client, the Secretary shall arrange for a temporary placement in a State facility for the mentally retarded. The area authority shall retain responsibility for coordination of placement during a temporary placement in a State facility.

(f) The Secretary is responsible for coordinative and financial assistance to the area authority in the performing of its duties to coordinate placement so as to assure continuity of care and for assuring a continuity of care placement beyond the operator's 60-day obligation period.

(g) The area authority's financial responsibility, through local and allocated State resources, is limited to:

- (1) Costs relating to the identification and coordination of alternative placements;
- (2) If the original facility is an area facility, maintenance of the client in the original facility for up to 60 days; and
- (3) Release of allocated categorical State funds used to support the care or treatment of the specific client at the time of alternative placement if the Secretary requires the release.

(h) In accordance with G.S. 143B-147(a)(1) the Commission shall develop programmatic rules to implement this section, and, in accordance with G.S. 122C-112(a)(6), the Secretary shall adopt budgetary rules to implement this section. (1981, c. 1012; 1985, c. 589, s. 2.)

**§ 122C-64. Client rights and human rights committees.**

Client rights and human rights committees responsible for protecting the rights of clients shall be established at each State facility, for each local management entity, and provider agency. The Commission shall adopt rules for the establishment, composition, and duties of the committees and procedures for appointment and coordination with the State and Local Consumer Advocacy programs. The membership of the client rights and human rights committee for a

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multicounty program or local management entity shall include a representative from each of the participating counties. (1985-589, s. 2; 2001-437, s. 1.3; 2009-190, s. 1.)

**§ 122C-65. Offenses relating to clients.**

(a) For the protection of clients receiving treatment or habilitation in a 24-hour facility, it is unlawful for any individual who is not a developmentally disabled client in a facility:

- (1) To assist, advise, or solicit, or to offer to assist, advise, or solicit a client of a facility to leave without authority;
- (2) To transport or to offer to transport a client of a facility to or from any place without the facility's authority;
- (3) To receive or to offer to receive a minor client of a facility into any place, structure, building, or conveyance for the purpose of engaging in any act that would constitute a sex offense, or to solicit a minor client of a facility to engage in any act that would constitute a sex offense;
- (4) To hide an individual who has left a facility without authority; or
- (5) To engage in, or offer to engage in an act with a client of a facility that would constitute a sex offense.

(b) Violation of this section is a Class 1 misdemeanor. (1899, c. 1, s. 53; Rev., s. 3694; C.S., s. 6171; 1963, c. 1184, ss. 1, 6; 1985, c. 589, s. 2; 1989, c. 625, s. 11; 1993, c. 539, s. 921; 1994, Ex. Sess., c. 24, s. 14(c).)

**§ 122C-66. Protection from abuse and exploitation; reporting.**

(a) An employee of or a volunteer at a facility who, other than as a part of generally accepted medical or therapeutic procedure, knowingly causes pain or injury to a client or borrows or takes personal property from a client is guilty of a Class 1 misdemeanor. Any employee or volunteer who uses reasonable force to carry out the provisions of G.S. 122C-60 or to protect himself or others from a violent client does not violate this subsection.

(b) An employee of a facility who witnesses or has knowledge of a violation of subsection (a) or of an accidental injury to a client shall report the violation or accidental injury to authorized personnel designated by the facility. No employee making a report may be threatened or harassed by any other employee or volunteer on account of the report. Violation of this subsection is a Class 3 misdemeanor punishable only by a fine, not to exceed five hundred dollars (\$500.00).

(c) The identity of an individual who makes a report under this section or who cooperates in an ensuing investigation may not be disclosed without his consent, except to persons authorized by the facility or by State or federal law to investigate or prosecute these incidents, or in a grievance or personnel hearing or civil or criminal action in which a reporting individual is testifying, or when disclosure is legally compelled or authorized by judicial discovery. This subsection shall not be interpreted to require the disclosure of the identity of an individual where it is otherwise prohibited by law.

(d) An employee who makes a report in good faith under this section is immune from any civil liability that might otherwise occur for the report. In any case involving liability, making of a report under this section is prima facie evidence that the maker acted in good faith.

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(e) The duty imposed by this section is in addition to any duty imposed by G.S. 7B-301 or G.S. 108A-102.

(f) The facility shall investigate or provide for the investigation of all reports made under the provisions of this section. (1985, c. 589, s. 2; 1993, c. 539, ss. 922, 923; 1994, Ex. Sess., c. 24, s. 14(c); 1998-202, s. 13(ee).)

**§ 122C-67. Other rules regarding abuse, exploitation, neglect not prohibited.**

G.S. 122C-66 does not prohibit the Commission from adopting rules for State and area facilities and does not prohibit other facilities from issuing policies regarding other forms of prohibited abuse, exploitation, or neglect. (1985, c. 589, s. 2.)

**§ 122C-68. Reserved for future codification purposes.**

**§ 122C-69. Reserved for future codification purposes.**

**§ 122C-70. Reserved for future codification purposes.**

Part 2. Advance Instruction for Mental Health Treatment.

**§ 122C-71. Purpose.**

(a) The General Assembly recognizes as a matter of public policy the fundamental right of an individual to control the decisions relating to the individual's mental health care.

(b) The purpose of this Part is to establish an additional, nonexclusive method for an individual to exercise the right to consent to or refuse mental health treatment when the individual lacks sufficient understanding or capacity to make or communicate mental health treatment decisions.

(c) This Part is intended and shall be construed to be consistent with the provisions of Article 3 of Chapter 32A of the General Statutes, provided that in the event of a conflict between the provisions of this Part and Article 3 of Chapter 32A, the provisions of this Part control. (1997-442, s. 2; 1998-198, s. 2.)

**§ 122C-72. Definitions.**

As used in this Part, unless the context clearly requires otherwise, the following terms have the meanings specified:

- (1) "Advance instruction for mental health treatment" or "advance instruction" means a written instrument, signed in the presence of two qualified witnesses who believe the principal to be of sound mind at the time of the signing, and acknowledged before a notary public, pursuant to which the principal makes a declaration of instructions, information, and preferences regarding the principal's mental health treatment and states that the principal is aware that the advance instruction authorizes a mental health treatment provider to act according to the instruction. It may also state the principal's instructions regarding, but not limited to, consent to or refusal of mental health treatment when the principal is incapable.

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- (2) "Attending physician" means the physician who has primary responsibility for the care and treatment of the principal.
- (3) Repealed by Session Laws 1998-198, s. 2.
- (4) "Incapable" means that, in the opinion of a physician or eligible psychologist, the person currently lacks sufficient understanding or capacity to make and communicate mental health treatment decisions. As used in this Part, the term "eligible psychologist" has the meaning given in G.S. 122C-3(13d).
- (5) "Mental health treatment" means the process of providing for the physical, emotional, psychological, and social needs of the principal for the principal's mental illness. "Mental health treatment" includes, but is not limited to, electroconvulsive treatment (ECT), commonly referred to as "shock treatment", treatment of mental illness with psychotropic medication, and admission to and retention in a facility for care or treatment of mental illness.
- (6) "Principal" means the person making the advance instruction.
- (7) "Qualified witness" means a witness who affirms that the principal is personally known to the witness, that the principal signed or acknowledged the principal's signature on the advance instruction in the presence of the witness, that the witness believes the principal to be of sound mind and not to be under duress, fraud, or undue influence, and that the witness is not:
  - a. The attending physician or mental health service provider or an employee of the physician or mental health treatment provider;
  - b. An owner, operator, or employee of an owner or operator of a health care facility in which the principal is a patient or resident; or
  - c. Related within the third degree to the principal or to the principal's spouse. (1997-442, s. 2; 1998-198, s. 2.)

**§ 122C-73. Scope, use, and authority of advance instruction for mental health treatment.**

(a) Any adult of sound mind may make an advance instruction regarding mental health treatment. The advance instruction may include consent to or refusal of mental health treatment.

(b) An advance instruction may include, but is not limited to, the names and telephone numbers of individuals to be contacted in case of a mental health crisis, situations that may cause the principal to experience a mental health crisis, responses that may assist the principal to remain in the principal's home during a mental health crisis, the types of assistance that may help stabilize the principal if it becomes necessary to enter a facility, and medications that the principal is taking or has taken in the past and the effects of those medications.

(c) An individual shall not be required to execute or to refrain from executing an advance instruction as a condition for insurance coverage, as a condition for receiving mental or physical health services, as a condition for receiving privileges while in a facility, or as a condition of discharge from a facility.

(c1) A principal, through an advance instruction, may grant or withhold authority for mental health treatment, including, but not limited to, the use of psychotropic medication, electroconvulsive treatment, and admission to and retention in a facility for the care or treatment of mental illness.

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(d) A principal may nominate, by advance instruction for mental health treatment, the guardian of the person of the principal if a guardianship proceeding is thereafter commenced. The court shall make its appointment in accordance with the principal's most recent nomination in an unrevoked advance instruction for mental health treatment, except for good cause shown.

(e) If, following the execution of an advance instruction for mental health treatment, a court of competent jurisdiction appoints a guardian of the person of the principal, or a general guardian with powers over the person of the principal, the guardian shall follow the advance instruction consistent with G.S. 35A-1201(a)(5).

(f) An advance instruction for mental health treatment may be combined with a health care power of attorney or general power of attorney that is executed in accordance with the requirements of Chapter 32A of the General Statutes so long as each form shall be executed in accordance with its own statute. (1997-442, s. 2; 1998-198, s. 2.)

**§ 122C-74. Effectiveness and duration; revocation.**

(a) A validly executed advance instruction becomes effective upon its proper execution and remains valid unless revoked.

(b) The attending physician or other mental health treatment provider may consider valid and rely upon an advance instruction, or a copy of that advance instruction that is obtained from the Advance Health Care Directive Registry maintained by the Secretary of State pursuant to Article 21 of Chapter 130A of the General Statutes, in the absence of actual knowledge of its revocation or invalidity.

(c) An attending physician or other mental health treatment provider may presume that a person who executed an advance instruction in accordance with this Part was of sound mind and acted voluntarily when he or she executed the advance instruction.

(d) An attending physician or other mental health treatment provider shall act in accordance with an advance instruction when the principal has been determined to be incapable. If a patient is incapable, an advance instruction executed in accordance with this Article is presumed to be valid.

(e) The attending physician or mental health treatment provider shall continue to obtain the principal's informed consent to all mental health treatment decisions when the principal is capable of providing informed consent or refusal, as required by G.S. 122C-57. Unless the principal is deemed incapable by the attending physician or eligible psychologist, the instructions of the principal at the time of treatment shall supersede the declarations expressed in the principal's advance instruction.

(f) The fact of a principal's having executed an advance instruction shall not be considered an indication of a principal's capacity to make or communicate mental health treatment decisions at such times as those decisions are required.

(g) Upon being presented with an advance instruction, an attending physician or other mental health treatment provider shall make the advance instruction a part of the principal's medical record. When acting under authority of an advance instruction, an attending physician or other mental health treatment provider shall comply with the advance instruction unless:

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- (1) Compliance, in the opinion of the attending physician or other mental health treatment provider, is not consistent with generally accepted community practice standards of treatment to benefit the principal;
- (2) Compliance is not consistent with the availability of treatments requested;
- (3) Compliance is not consistent with applicable law;
- (4) The principal is committed to a 24-hour facility pursuant to Article 5 of Chapter 122C of the General Statutes, and treatment is authorized in compliance with G.S. 122C-57 and rules adopted pursuant to it; or
- (5) Compliance, in the opinion of the attending physician or other mental health treatment provider, is not consistent with appropriate treatment in case of an emergency endangering life or health.

In the event that one part of the advance instruction is unable to be followed because of one or more of the above, all other parts of the advance instruction shall nonetheless be followed.

(h) If the attending physician or other mental health treatment provider is unwilling at any time to comply with any part or parts of an advance instruction for one or more of the reasons set out in subdivisions (1) through (5) of subsection (g), the attending physician or other mental health care treatment provider shall promptly notify the principal and, if applicable, the health care agent and shall document the reason for not complying with the advance instruction and shall document the notification in the principal's medical record.

(i) An advance instruction does not limit any authority provided in Article 5 of G.S. 122C either to take a person into custody, or to admit, retain, or treat a person in a facility.

(j) An advance instruction may be revoked at any time by the principal so long as the principal is not incapable. The principal may exercise this right of revocation in any manner by which the principal is able to communicate an intent to revoke and by notifying the revocation to the treating physician or other mental health treatment provider. The attending physician or other mental health treatment provider shall note the revocation as part of the principal's medical record. (1997-442, s. 2; 1998-198, s. 2; 2001-455, s. 5; 2001-513, s. 30(b).)

**§ 122C-75. Reliance on advance instruction for mental health treatment.**

(a) An attending physician or eligible psychologist who in good faith determines that the principal is or is not incapable for the purpose of deciding whether to proceed or not to proceed according to an advance instruction, is not subject to criminal prosecution, civil liability, or professional disciplinary action for making and acting upon that determination.

(b) In the absence of actual knowledge of the revocation of an advance instruction, no attending physician or other mental health treatment provider shall be subject to criminal prosecution or civil liability or be deemed to have engaged in unprofessional conduct as a result of the provision of treatment to a principal in accordance with this Part unless the absence of actual knowledge resulted from the negligence of the attending physician or mental health treatment provider.

(c) An attending physician or mental health treatment provider who administers or does not administer mental health treatment according to and in good faith reliance upon the validity of an advance instruction is not subject to criminal prosecution, civil liability, or professional disciplinary action resulting from a subsequent finding of an advance instruction's invalidity.

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(d) No attending physician or mental health treatment provider who administers or does not administer treatment under authorization obtained pursuant to this Part shall incur liability arising out of a claim to the extent that the claim is based on lack of informed consent or authorization for this action.

(e) This section shall not be construed as affecting or limiting any liability that arises out of a negligent act or omission in connection with the medical diagnosis, care, or treatment of a principal under an advance instruction or that arises out of any deviation from reasonable medical standards. (1997-442, s. 2; 1998-198, s. 2.)

**§ 122C-76. Penalty.**

It is a Class 2 misdemeanor for a person, without authorization of the principal, willfully to alter, forge, conceal, or destroy an instrument, the reinstatement or revocation of an instrument, or any other evidence or document reflecting the principal's desires and interests, with the intent or effect of affecting a mental health treatment decision. (1997-442, s. 2.)

**§ 122C-77. Statutory form for advance instruction for mental health treatment.**

(a) This Part shall not be construed to invalidate an advance instruction for mental health treatment that was executed prior to January 1, 1999, and was otherwise valid.

(b) The use of the following or similar form after the effective date of this Part in the creation of an advance instruction for mental health treatment is lawful, and, when used, it shall specifically meet the requirements and be construed in accordance with the provisions of this Part.

**"ADVANCE INSTRUCTION FOR MENTAL HEALTH TREATMENT**

I, \_\_\_\_\_, being an adult of sound mind, willfully and voluntarily make this advance instruction for mental health treatment to be followed if it is determined by a physician or eligible psychologist that my ability to receive and evaluate information effectively or communicate decisions is impaired to such an extent that I lack the capacity to refuse or consent to mental health treatment. "Mental health treatment" means the process of providing for the physical, emotional, psychological, and social needs of the principal. "Mental health treatment" includes electroconvulsive treatment (ECT), commonly referred to as "shock treatment", treatment of mental illness with psychotropic medication, and admission to and retention in a facility for care or treatment of mental illness.

I understand that under G.S. 122C-57, other than for specific exceptions stated there, mental health treatment may not be administered without my express and informed written consent or, if I am incapable of giving my informed consent, the express and informed consent of my legally responsible person, my health care agent named pursuant to a valid health care power of attorney, or my consent expressed in this advance instruction for mental health treatment. I understand that I may become incapable of giving or withholding informed consent for mental health treatment due to the symptoms of a diagnosed mental disorder. These symptoms may include:

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**PSYCHOACTIVE MEDICATIONS**

If I become incapable of giving or withholding informed consent for mental health treatment, my instructions regarding psychoactive medications are as follows: (Place initials beside choice.)

\_\_\_\_\_ I consent to the administration of the following medications:

\_\_\_\_\_ I do not consent to the administration of the following medications:

Conditions or limitations: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**ADMISSION TO AND RETENTION IN FACILITY**

If I become incapable of giving or withholding informed consent for mental health treatment, my instructions regarding admission to and retention in a health care facility for mental health treatment are as follows: (Place initials beside choice.)

\_\_\_\_\_ I consent to being admitted to a health care facility for mental health treatment.  
My facility preference is \_\_\_\_\_

\_\_\_\_\_ I do not consent to being admitted to a health care facility for mental health treatment.

This advance instruction cannot, by law, provide consent to retain me in a facility for more than 10 days.

Conditions \_\_\_\_\_ or  
limitations \_\_\_\_\_  
\_\_\_\_\_

**ADDITIONAL INSTRUCTIONS**

These instructions shall apply during the entire length of my incapacity.

In case of mental health crisis, please contact:

1. Name: \_\_\_\_\_

Home Address: \_\_\_\_\_

Home Telephone Number: \_\_\_\_\_

Work

Telephone

Number: \_\_\_\_\_

Relationship to Me: \_\_\_\_\_

2. Name: \_\_\_\_\_

Home Address: \_\_\_\_\_

Home Telephone Number: \_\_\_\_\_

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Number: \_\_\_\_\_ Work \_\_\_\_\_ Telephone \_\_\_\_\_

Relationship to Me: \_\_\_\_\_  
3. My Physician:  
Name: \_\_\_\_\_

Number: \_\_\_\_\_ Telephone \_\_\_\_\_  
4. My Therapist:  
Name: \_\_\_\_\_

Number: \_\_\_\_\_ Telephone \_\_\_\_\_  
The following may cause me to experience a mental health crisis:

The following may help me avoid a hospitalization: \_\_\_\_\_

I generally react to being hospitalized as follows:

Staff of the hospital or crisis unit can help me by doing the following:

I give permission for the following person or people to visit me:

Instructions concerning any other medical interventions, such as electroconvulsive (ECT) treatment (commonly referred to as "shock treatment"):

Other instructions:

I have attached an additional sheet of instructions to be followed and considered part of this advance instruction.

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**SHARING OF INFORMATION BY PROVIDERS**

I understand that the information in this document may be shared by my mental health treatment provider with any other mental health treatment provider who may serve me when necessary to provide treatment in accordance with this advance instruction.

Other instructions about sharing of information:

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**SIGNATURE OF PRINCIPAL**

By signing here, I indicate that I am mentally alert and competent, fully informed as to the contents of this document, and understand the full impact of having made this advance instruction for mental health treatment.

Signature of Principal

Date

**NATURE OF WITNESSES**

I hereby state that the principal is personally known to me, that the principal signed or acknowledged the principal's signature on this advance instruction for mental health treatment in my presence, that the principal appears to be of sound mind and not under duress, fraud, or undue influence, and that I am not:

- a. The attending physician or mental health service provider or an employee of the physician or mental health treatment provider;
- b. An owner, operator, or employee of an owner or operator of a health care facility in which the principal is a patient or resident; or
- c. Related within the third degree to the principal or to the principal's spouse.

**AFFIRMATION OF WITNESSES**

We affirm that the principal is personally known to us, that the principal signed or acknowledged the principal's signature on this advance instruction for mental health treatment in our presence, that the principal appears to be of sound mind and not under duress, fraud, or undue influence, and that neither of us is:

A person appointed as an attorney-in-fact by this document;

The principal's attending physician or mental health service provider or a relative of the physician or provider;

The owner, operator, or relative of an owner or operator of a facility in which the principal is a patient or resident; or

A person related to the principal by blood, marriage, or adoption.

Witnessed by:

Witness: \_\_\_\_\_

Date: \_\_\_\_\_

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Witness: \_\_\_\_\_ Date: \_\_\_\_\_  
STATE OF NORTH CAROLINA  
COUNTY OF \_\_\_\_\_

**CERTIFICATION OF NOTARY PUBLIC**

STATE OF NORTH CAROLINA  
COUNTY OF

I, \_\_\_\_\_, a Notary Public for the County cited above in the State of North Carolina, hereby certify that \_\_\_\_\_ appeared before me and swore or affirmed to me and to the witnesses in my presence that this instrument is an advance instruction for mental health treatment, and that he/she willingly and voluntarily made and executed it as his/her free act and deed for the purposes expressed in it.

I further certify that \_\_\_\_\_ and \_\_\_\_\_, witnesses, appeared before me and swore or affirmed that they witnessed \_\_\_\_\_ sign the attached advance instruction for mental health treatment, believing him/her to be of sound mind; and also swore that at the time they witnessed the signing they were not (i) the attending physician or mental health treatment provider or an employee of the physician or mental health treatment provider and (ii) they were not an owner, operator, or employee of an owner or operator of a health care facility in which the principal is a patient or resident, and (iii) they were not related within the third degree to the principal or to the principal's spouse. I further certify that I am satisfied as to the genuineness and due execution of the instrument.

This is the \_\_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

My Commission expires:

**NOTICE TO PERSON MAKING AN INSTRUCTION FOR MENTAL HEALTH TREATMENT**

This is an important legal document. It creates an instruction for mental health treatment. Before signing this document you should know these important facts:

This document allows you to make decisions in advance about certain types of mental health treatment. The instructions you include in this declaration will be followed if a physician or eligible psychologist determines that you are incapable of making and communicating treatment decisions. Otherwise you will be considered capable to give or withhold consent for the treatments. Your instructions may be overridden if you are being held in accordance with civil commitment law. Under the Health Care Power of Attorney you may also appoint a person as your health care agent to make treatment decisions for you if you become incapable. You have the right to revoke this document at any time you have not been determined to be incapable. **YOU MAY NOT REVOKE THIS ADVANCE INSTRUCTION WHEN YOU ARE FOUND INCAPABLE BY A PHYSICIAN OR OTHER AUTHORIZED MENTAL HEALTH TREATMENT PROVIDER.** A revocation is effective when it is communicated to your attending physician or other provider. The physician or other provider shall note the revocation in your medical record. To be valid, this advance instruction must be signed by two qualified

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witnesses, personally known to you, who are present when you sign or acknowledge your signature. It must also be acknowledged before a notary public.

**NOTICE TO PHYSICIAN OR OTHER MENTAL HEALTH TREATMENT PROVIDER**

Under North Carolina law, a person may use this advance instruction to provide consent for future mental health treatment if the person later becomes incapable of making those decisions. Under the Health Care Power of Attorney the person may also appoint a health care agent to make mental health treatment decisions for the person when incapable. A person is "incapable" when in the opinion of a physician or eligible psychologist the person currently lacks sufficient understanding or capacity to make and communicate mental health treatment decisions. This document becomes effective upon its proper execution and remains valid unless revoked. Upon being presented with this advance instruction, the physician or other provider must make it a part of the person's medical record. The attending physician or other mental health treatment provider must act in accordance with the statements expressed in the advance instruction when the person is determined to be incapable, unless compliance is not consistent with G.S. 122C-74(g). The physician or other mental health treatment provider shall promptly notify the principal and, if applicable, the health care agent, and document noncompliance with any part of an advance instruction in the principal's medical record. The physician or other mental health treatment provider may rely upon the authority of a signed, witnessed, dated, and notarized advance instruction, as provided in G.S. 122C-75. (1997-442, s. 2; 1998-198, s. 2; 1998-217, s. 53(a)(5).)

**§ 122C-78.** Reserved for future codification purposes.

**§ 122C-79.** Reserved for future codification purposes.

### What is guardianship?

- Guardianship is a *legal relationship* that is appointed by the clerk of superior court.
- The Guardian becomes the decision maker for an incompetent adult (the ward).

### How is incompetence determined for a person?

- Incompetence is determined in a court proceeding.
- Incompetence means an adult is unable to manage his own affairs, and/or is unable to make important decisions.

### What are the 4 different kinds of guardians?

A **guardian of the person** has authority to make decisions in most areas of a ward's personal life, including:

- Deciding where the individual will live should be based on the ward's preferences, needs and resources.
- Decisions on where the ward will live must be given to community based living situations over institutional settings.
- Ensuring that the ward receives good care and arranging for appropriate training, education, employment, habilitation or rehabilitation that the ward may need.
- Giving approval for the ward to receive any needed services (medical, dental, legal, psychological, etc.).
- The guardian may petition the clerk of superior court for the clerk's agreement with the guardian's decision about such consent.
- The guardian may not consent to the sterilization of a ward with a mental illness or mental retardation.
- Taking reasonable care of the ward's personal belongings.
- Taking any legal action needed to protect the ward.

A **limited guardian** has authority to make decisions in certain areas of a ward's life. It is a less restrictive option than full guardianship.

A **guardian of the estate** has authority to manage the ward's income and property.

- He or she must keep good records and make regular reports (annual accounts) to the clerk of superior court about the ward's assets and all expenditures made on behalf of the ward from the ward's estate.
- The guardian of the estate is required to post a bond for the protection of the ward's estate and must obtain the Clerk's prior approval for the sale of the ward's property.

A **general guardian** has the powers and duties of both a guardian of the person and a guardian of the estate.

NC Division of Aging and Adult Services

[http://www.ncdhhs.gov/aging/adultsvcs/afs\\_guard.htm](http://www.ncdhhs.gov/aging/adultsvcs/afs_guard.htm)

NC Guardianship Association <http://www.nc-guardian.org>



# PRIMARY HEALTH CHOICE, INC.

Consumer Name: \_\_\_\_\_ MID#: \_\_\_\_\_

DOB: \_\_\_\_\_ MR#: \_\_\_\_\_

## Receipt of Consumer Handbook

I have acknowledged that I have reviewed and received a copy of the "Consumer Handbook" that is a guide for understanding the mental health, developmental disabilities and substance abuse services system in North Carolina. I understand that this handbook is designed to provide me with valuable information about my care and services.

The following information listed below has been discussed with me:

- How to access services
- Person-Centered Planning
- Crisis Services
- Consumer's Rights
- Consumer's Responsibilities
- Other Helpful Resources

---

(Print) Consumer's Last Name

First Name

Middle Initial

---

Consumer's Signature

---

Guardian's Signature (*if applicable*)

---

PHC Representative's Signature

Date: \_\_\_\_\_

# **CLIENT RIGHTS RULES IN COMMUNITY MENTAL HEALTH, DEVELOPMENTAL DISABILITIES AND SUBSTANCE ABUSE SERVICES**

**10A NORTH CAROLINA ADMINISTRATIVE CODE 27C, 27D, 27E, 27F**



**Available free on the internet at:**

**<http://www.dhhs.state.nc.us/mhddsas/manuals>**

**Printed version available for a fee of \$ 3.00**

**Make check out to Division of Mental Health and send to:**

**DMH Communications & Training Section**

**3022 Mail Service Center**

**Raleigh, NC 27699-3022**

**EFFECTIVE: July 1, 2003**

**SUPERSEDES: APSM 95-2 (10/1/2001)**

The NC Department of Health and Human Services does not discriminate on the basis of race, color, national origin, sex, religion, age or disability in employment or provision of services.

**SUBCHAPTER 27C – PROCEDURES AND GENERAL INFORMATION  
SECTION .0100 – GENERAL POLICIES AND PROCEDURES**

**10A NCAC 27C .0101 SCOPE**

- (a) These Rules, 10A NCAC 27C, 27D, 27E and 27F, set forth procedures governing the protection of client rights in each public or private facility that provides mental health, developmental disabilities and substance abuse services, with the exception of a state-operated facility. In addition to these Rules, the governing body shall comply with the provisions of G.S. 122C, Article 3, regarding client rights.
- (b) A facility that is certified by the Centers for Medicare and Medicaid Services (CMS) as an Intermediate Care Facility for the Mentally Retarded (ICF/MR), or a Medicare/Medicaid Hospital or a Psychiatric Residential Treatment Facility (PRTF) is deemed to be in compliance with the rules in Subchapters 27C, 27D, 27E and 27F, with the exception of Rules 27C .0102; 27D .0101; .0303; 27E .0104; .0105; .0108 and .0109.
- (c) A facility that is certified as specified in Paragraph (b) of this Rule shall comply with the following:
- (1) use of the definition of physical restraint as specified in Rule .0102 Subparagraph (b)(19) of this Section;
  - (2) documentation requirements as specified in 10A NCAC 27D .0303 and 10A NCAC 27E .0104; .0105; .0108 and .0109;
  - (3) debriefing requirements as specified in 10A NCAC 27D .0101 and 10A NCAC 27E .0104; and
  - (4) training requirements as specified in 10A NCAC 27E .0108 and .0109.

*History Note: Authority G.S. 122C-51; 131E-67; 143B-17; 143B-147;  
Eff. February 1, 1991;*

*Amended Eff. January 1, 1992;*

*Temporary Amendment Eff. January 1, 2001;*

*Temporary Amendment Expired October 13, 2001;*

*Amended Eff. April 1, 2003.*

**10A NCAC 27C .0102 DEFINITIONS**

(a) The definitions contained in this Rule, and the terms defined in G.S. 122C-3, G.S. 122C-4 and G.S. 122C-53(f) also apply to all rules in Subchapters 27C, 27D, 27E and 27F.

(b) As used in these Rules, the following terms have the meanings specified:

- (1) "Abuse" means the infliction of mental or physical pain or injury by other than accidental means, or unreasonable confinement, or the deprivation by an employee of services which are necessary to the mental or physical health of the client. Temporary discomfort that is part of an approved and documented treatment plan or use of a documented emergency procedure shall not be considered abuse.
- (2) "Anti-psychotic medication" means the category of psychotropic drugs which is used to treat schizophrenia and related disorders. Examples of neuroleptic medications are Chlorpromazine, Thioridazine and Haloperidol.
- (3) "Basic necessity" means an essential item or substance needed to support life and health which includes, but is not limited to, a nutritionally sound balanced diet consisting of three meals per day, access to water and bathroom facilities at frequent intervals, seasonable clothing, medications prescribed by a physician, time for sleeping and frequent access to social contacts.
- (4) "Client advocate" means the term as defined in G.S. 122C-3. For the purpose of these Rules, a client advocate may be a facility employee who is not directly involved in the treatment/habilitation of a specific client, but who is assigned, in addition to other duties, to act as an advocate for that client.
- (5) "Consent" means acceptance or agreement by a client or legally responsible person following receipt of information from the qualified professional who will administer the proposed treatment or procedure. Consent implies that the client or legally responsible person was provided with sufficient information, in a manner that the client or legally responsible person can understand, concerning proposed treatment, including both benefits and risks, in order to make a decision with regard to such treatment.
- (6) "Day/night facility" means a facility wherein a service is provided on a regular basis, in a structured environment, and is offered to the same individual for a period of three or more hours within a 24-hour period.

- (7) "Director of Clinical Services" means Medical Director, Director of Medical Services, or other
- (8) "Emergency" means a situation in which a client is in imminent danger of causing abuse or injury to self or others or when substantial property damage is occurring as a result of unexpected and severe forms of inappropriate behavior and rapid intervention by the staff is needed.
- (9) "Exploitation" means the use of a client's person or property for another's profit or advantage or breach of a fiduciary relationship through improper use of a client's person or property including situations where an individual obtains money, property or services from a client from undue influence, harrassment, deception or fraud.
- (10) "Facility" means the term as defined in G.S. 122C-3. For the purpose of these Rules, when more than one type of service is provided by the facility, each service shall be specifically addressed by required policy and procedures when applicable.
- (11) "Governing body" means, in the case of a corporation, the board of directors; in the case of an area authority, the area board; and in all other cases, the owner of the facility.
- (12) "Governor's Advocacy Council for Persons with Disabilities (GACPD)" means the council legislatively mandated to provide protection and advocacy systems and promote employment for all persons with disabilities in North Carolina.
- (13) "Intervention Advisory Committee" means a group established by the governing body in a facility that utilizes restrictive interventions as specified in Rule .0104 of Subchapter 27E.
- (14) "Involuntary client" means an individual who is admitted to a facility in accordance with G.S. 122C, Article 5, Parts 6 through 12.
- (15) "Isolation time-out" means the removal of a client for a period of 30 minutes or more to a separate room from which exit is barred by staff, but not locked, and where there is continuous supervision by staff, for the purpose of modifying behavior.
- (16) "Minor client" means a person under 18 years of age who has neither been married nor been emancipated by a decree issued by a court of competent jurisdiction.
- (17) "Neglect" means the failure to provide care or services necessary to maintain the mental or physical health and well-being of the client.
- (18) "Normalization" means the utilization of culturally valued resources to establish or maintain personal behaviors, experiences and characteristics that are culturally normative or valued.
- (19) "Physical Restraint" means the application or use of any manual method of restraint that restricts freedom of movement; or the application or use of any physical or mechanical device that restricts freedom of movement or normal access to one's body, including material or equipment attached or adjacent to the client's body that he or she cannot easily remove. Holding a client in a therapeutic hold or other manner that restricts his or her movement constitutes manual restraint for that client. Mechanical devices may restrain a client to a bed or chair, or may be used as ambulatory restraints. Examples of mechanical devices include cuffs, ankle straps, sheets or restraining shirts, arm splints, posey mittens, and helmets. Excluded from this definition of physical restraint are physical guidance, gentle physical prompting techniques, escorting a client who is walking; soft ties used solely to prevent a medically ill client from removing intravenous tubes, indwelling catheters, cardiac monitor electrodes, or similar medical devices; and prosthetic devices or assistive technology which are designed and used to increase client adaptive skills. Escorting means the temporary touching or holding of the hand, wrist, arm, shoulder or back for the purpose of inducing a client to walk to a safe location.
- (20) "Protective device" means an intervention that provides support for a medically fragile client or enhances the safety of a self-injurious client. Such devices may include geri-chairs or table top chairs to provide support and safety for a client with a physical handicap; devices such as seizure helmets or helmets and mittens for self-injurious behaviors; prosthetic devices or assistive technology which are designed to increase client adaptive skills; or soft ties used to prevent a medically ill client from removing intravenous tubes, indwelling catheters, cardiac monitor electrodes, or similar medical devices. As provided in Rule .0105(b) of Subchapter 27E, the use of a protective device for behavioral control shall comply with the requirements specified in Rule .0104 in Subchapter 14R.
- (21) "Privileged" means authorization through governing body procedures for a facility employee to provide specific treatment or habilitation services to clients, based on the employee's education, training, experience, competence and judgment.
- (22) "Responsible professional" means the term as defined in G.S. 122C-3 except the "responsible professional" shall also be a qualified professional as defined in Rule .0104 of Subchapter 27G.

- (23) "Restrictive intervention" means an intervention procedure which presents a risk of mental or physical harm to the client and, therefore, requires additional safeguards. Such interventions include the emergency or planned use of seclusion, physical restraint (including the use of protective devices for the purpose or with the intent of controlling unacceptable behavior), isolation time-out, and any combination thereof. T10A 27D .0100
- (24) "Seclusion" means isolating a client in a separate locked room for the purpose of controlling a client's behavior.
- (25) "Treatment" means the process of providing for the physical, emotional, psychological and social needs of a client through services.
- (26) "Treatment/habilitation plan" means the term as defined in 10A NCAC 27G .0103.
- (27) "Treatment or habilitation team" means an interdisciplinary group of qualified professionals sufficient in number and variety by discipline to assess and address the identified needs of a client and which is responsible for the formulation, implementation and periodic review of the client's treatment/habilitation plan.
- (28) "24-Hour Facility" means a facility wherein service is provided to the same client on a 24-hour continuous basis, and includes residential and hospital facilities.
- (29) "Voluntary client" means an individual who is admitted to a facility upon his own application or that of the legally responsible person, in accordance with G.S. 122C, Article 5, Parts 2 through 5.

*History Note: Authority G.S. 122C-3; 122C-4; 122C-5I; 122C-53(f); 122C-60; 143B-147;  
Eff. February 1, 1991;*

*Amended Eff. January 1, 1992;*

*Temporary Amendment Eff. January 1, 2001;*

*Amended Eff. August 1, 2002.*

## **SUBCHAPTER 27D – GENERAL RIGHTS SECTION .0100 – GENERAL POLICIES AND PROCEDURES**

### **10A NCAC 27D .0101 POLICY ON RIGHTS RESTRICTIONS AND INTERVENTIONS**

- (a) The governing body shall develop policy that assures the implementation of G.S. 122C-59, G.S. 122C-65, and G.S.122C-66.
- (b) The governing body shall develop and implement policy to assure that:
- (1) all instances of alleged or suspected abuse, neglect or exploitation of clients are reported to the County Department of Social Services as specified in G.S. 108A, Article 6 or G.S. 7A, Article 44; and
  - (2) procedures and safeguards are instituted in accordance with sound medical practice when a medication that is known to present serious risk to the client is prescribed. Particular attention shall be given to the use of neuroleptic medications.
- (c) In addition to those procedures prohibited in 10A NCAC 27E .0102(1), the governing body of each facility shall develop and implement policy that identifies:
- (1) any restrictive intervention that is prohibited from use within the facility; and
  - (2) in a 24-hour facility, the circumstances under which staff are prohibited from restricting the rights of a client.
- (d) If the governing body allows the use of restrictive interventions or if, in a 24-hour facility, the restrictions of client rights specified in G.S. 122C-62(b) and (d) are allowed, the policy shall identify:
- (1) the permitted restrictive interventions or allowed restrictions;
  - (2) the individual responsible for informing the client; and
  - (3) the due process procedures for an involuntary client who refuses the use of restrictive interventions.
- (e) If restrictive interventions are allowed for use within the facility, the governing body shall develop and implement policy that assures compliance with Subchapter 27E, Section .0100, which includes:
- (1) the designation of an individual, who has been trained and who has demonstrated competence to use restrictive interventions, to provide written authorization for the use of restrictive interventions when the original order is renewed for up to a total of 24 hours in accordance with the time limits specified in 10A NCAC 27E .0104(e)(10)(E);
  - (2) the designation of an individual to be responsible for reviews of the use of restrictive interventions; and

- (3) the establishment of a process for appeal for the resolution of any disagreement over the planned use of a restrictive intervention.
- (f) If restrictive interventions are allowed for use within the facility, the governing body shall develop and implement policies which require that:
- (1) positive alternatives and less restrictive interventions are considered and are used whenever possible prior to the use of more restrictive interventions; and T10A 27D .0100
  - (2) consideration is given to the client's physical and psychological well-being before, during and after utilization of a restrictive intervention, including:
    - (A) review of the client's health history or the comprehensive health assessment conducted upon admission to a facility. The health history or comprehensive health assessment shall include the identification of pre-existing medical conditions or any disabilities and limitations that would place the client at greater risk during the use of restrictive interventions;
    - (B) continuous assessment and monitoring of the physical and psychological well-being of the client and the safe use of physical restraint throughout the duration of the restrictive intervention by staff who are physically present and trained in the use of emergency safety interventions;
    - (C) continuous monitoring by an individual trained in the use of cardiopulmonary resuscitation of the client's physical and psychological well-being during the use of manual restraint; and
    - (D) continued monitoring by an individual trained in the use of cardiopulmonary resuscitation of the client's physical and psychological well-being for a minimum of 30 minutes subsequent to the termination of a restrictive intervention; and
  - (3) following the utilization of a restrictive intervention, staff shall conduct debriefing and planning with the client and the legally responsible person, if applicable, as specified in 10A NCAC 27E .0104, to eliminate or reduce the probability of the future use of restrictive interventions. Debriefing and planning shall be conducted, as appropriate, to the level of cognitive functioning of the client.

*History Note: Authority G.S. 122C-51; 143B-147;*

*Eff. February 1, 1991;*

*Amended Eff. January 1, 1992;*

*Temporary Amendment Eff. January 1, 2001;*

*Temporary Amendment Expired October 13, 2001;*

*Amended Eff. April 1, 2003.*

#### **10A NCAC 27D .0102 SUSPENSION AND EXPULSION POLICY**

- (a) Each client shall be free from threat or fear of unwarranted suspension or expulsion from the facility.
- (b) The governing body shall develop and implement policy for suspension or expelling a client from a service. The policy shall address the criteria to be used for an suspension, expulsion or other discharge not mutually agreed upon and shall establish documentation requirements that include:
  - (1) the specific time and conditions for resuming services following suspension;
  - (2) efforts by staff of the facility to identify an alternative service to meet the client's needs and designation of such service; and
  - (3) the discharge plan, if any.

*History Note: Authority G.S. 122C 51; 143B-147;*

*Eff. February 1, 1991;*

*Amended Eff. January 1, 1992.*

#### **10A NCAC 27D .0103 SEARCH AND SEIZURE POLICY**

- (a) Each client shall be free from unwarranted invasion of privacy.
- (b) The governing body shall develop and implement policy that specifies the conditions under which searches of the client or his living area may occur, and if permitted, the procedures for seizure of the client's belongings, or property in the possession of the client.
- (c) Every search or seizure shall be documented. Documentation shall include:
  - (1) scope of search;

- (2) reason for search;
- (3) procedures followed in the search;
- (4) a description of any property seized; and
- (5) an account of the disposition of seized property.

*History Note: Authority G.S. 122C-51; 143B-147;*

*Eff February 1, 1991;*

*Amended Eff. January 1, 1992.*

#### **10A NCAC 27D .0104 PERIODIC INTERNAL REVIEW**

(a) The governing body shall assure the conduct, no less than every three years, of a compliance review in each of its facilities regarding the implementation of Client Rights Rules as specified in 10A NCAC 27C, 27D, 27E and 27F.

(b) The review shall assure that:

- (1) there is compliance with applicable provisions of the federal law governing advocacy services to the mentally ill, as specified in the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (Public Law 99-319) and amended by Public Law 100-509 (1988); and
- (2) there is compliance with applicable provisions of the federal laws governing advocacy services to the developmentally disabled, the Developmental Disabilities Assistance and Bill of Rights Act, 42 U.S.C. 6000 et seq.

(c) The governing body shall maintain the three most recent written reports of the findings of such reviews.

*History Note: Authority G.S. 122C-51; 143B-147;*

*Eff. February 1, 1991;*

*Amended Eff. January 1, 1992.*

#### **SECTION .0200 -INFORMING CLIENTS AND STAFF OF RIGHTS**

##### **10A NCAC 27D .0201 INFORMING CLIENTS**

(a) A written summary of client rights as specified in G.S. 122C, Article 3 shall be made available to each client and legally responsible person.

(b) Each client shall be informed of his right to contact the Governor's Advocacy Council for Persons with Disabilities (GACPD), the statewide agency designated under federal and State law to protect and advocate the rights of persons with disabilities.

(c) Each client shall be informed regarding the issues specified in Paragraph (d) and, if applicable in Paragraph (e), of this Rule, upon admission or entry into a service, or

- (1) in a facility where a day/night or periodic service is provided, within three visits; or
- (2) in a 24-hour facility, within 72 hours. Explanation shall be in a manner consistent with the client's or legally responsible person's level of comprehension.

(d) In each facility, the information provided to the client or legally responsible person shall include;

- (1) the rules that the client is expected to follow and possible penalties for violations of the rules;
- (2) the client's protections regarding disclosure of confidential information, as delineated in G.S. 122C-52 through G.S. 122C-56;
- (3) the procedure for obtaining a copy of the client's treatment/habilitation plan; and
- (4) governing body policy regarding:

- (A) fee assessment and collection practices for treatment/habilitation services;
- (B) grievance procedures including the individual to contact and a description of the assistance the client will be provided;
- (C) suspension and expulsion from service; and
- (D) search and seizure.

(e) In addition, for the client whose treatment/habilitation is likely to include the use of restrictive interventions, or for the client in a 24-hour facility whose rights as specified in G.S. 122C-62 (b) or (d) may be restricted, the client or legally responsible person shall also be informed:

- (1) of the purposes, goals and reinforcement structure of any behavior management system that is allowed;
- (2) of potential restrictions or the potential use of restrictive interventions;

- (3) of notification provisions regarding emergency use of restrictive intervention procedures;
  - (4) that the legally responsible person of a minor or incompetent adult client may request notification after any occurrence of the use of restrictive intervention;
  - (5) that the competent adult client may designate an individual to receive notification, in accordance with G.S. 122C-53(a), after any occurrence of the use of restrictive intervention; and
  - (6) of notification provisions regarding the restriction of client rights as specified in G.S. 122C-62(e).
- (f) There shall be documentation in the client record that client rights have been explained.

*History Note: Authority G.S. 122C-51; 143B-147;  
Eff February 1, 1991;  
Amended Eff. January 1, 1992.*

#### **10A NCAC 27D .0202 INFORMING STAFF**

The governing body shall develop and implement policy to assure that all staff are kept informed of the rights of clients as specified in 122C, Article 3, all applicable rules, and policies of the governing body. Documentation of receipt of information shall be signed by each staff member and maintained by the facility.

*History Note: Authority G.S. 122C-51; 143B-147;  
Eff. February 1, 1991;  
Amended Eff. January 1, 1992.*

#### **SECTION .0300 - GENERAL CIVIL, LEGAL AND HUMAN RIGHTS**

##### **10A NCAC 27D .0301 SOCIAL INTEGRATION**

Each client in a day/night or 24-hour facility shall be encouraged to participate in appropriate and generally acceptable social interactions and activities with other clients and non-client members of the community. A client shall not be prohibited from such social interactions unless restricted in writing in the client record in accordance with G.S.122C-62(e).

*History Note: Authority G.S. 122C-51; 122C-62; 143B-147;  
Eff. February 1, 1991;  
Amended Eff. January 1, 1992.*

##### **10A NCAC 27D .0302 CLIENT SELF-GOVERNANCE**

In a day/night or 24-hour facility, the governing body shall develop and implement policy which allows client input into facility governance and the development of client self-governance groups.

*History Note: Authority G.S. 122C-51; 122C-58; 143B-147;  
Eff. February 1, 1991;  
Amended Eff. January 1, 1992.*

##### **10A NCAC 27D .0303 INFORMED CONSENT**

(a) Each client, or legally responsible person, shall be informed, in a manner that the client or legally responsible person can understand, about:

- (1) the alleged benefits, potential risks, and possible alternative methods of treatment/habilitation; and
- (2) the length of time for which the consent is valid and the procedures that are to be followed if he chooses to withdraw consent. The length of time for a consent for the planned use of a restrictive intervention shall not exceed six months.

(b) A consent required in accordance with G.S. 122C-57(f) or for planned interventions specified by the rules in Subchapter 27E, Section .0100, shall be obtained in writing. Other procedures requiring written consent shall include, but are not limited to, the prescription or administration of the following drugs:

- (1) Antabuse; and

- (2) Depo-Provera when used for non-FDA approved uses
- (c) Each voluntary client or legally responsible person has the right to consent or refuse treatment/habilitation in accordance with G.S. 122C-57
- (d) A voluntary client's refusal of consent shall not be used as the sole grounds for termination or threat of termination of service unless the procedure is the only viable treatment/habilitation option available at the facility.
- (e) Documentation of informed consent shall be placed in the client's record.

*History Note: Authority G.S. 122C-51; 122C-57; 143B-147;  
Eff. February 1, 1991;*

*Amended Eff. January 4, 1993; January 1, 1992;  
Temporary Amendment Eff. January 1, 2001;  
Amended Eff. August 1, 2002.*

#### **10A NCAC 27D .0304 PROTECTION FROM HARM, ABUSE, NEGLECT OR EXPLOITATION**

- (a) Employees shall protect clients from harm, abuse, neglect and exploitation in accordance with G.S. 122C-66.
- (b) Employees shall not subject a client to any sort of abuse or neglect, as defined in 10A NCAC 27C .0102 of this Chapter.
- (c) Goods or services shall not be sold to or purchased from a client except through established governing body policy.
- (d) Employees shall use only that degree of force necessary to repel or secure a violent and aggressive client and which is permitted by governing body policy. The degree of force that is necessary depends upon the individual characteristics of the client (such as age, size and physical and mental health) and the degree of aggressiveness displayed by the client. Use of intervention procedures shall be compliance with Subchapter 10A NCAC 27E of this Chapter.
- (e) Any violation by an employee of Paragraphs (a) through (d) of this Rule shall be grounds for dismissal of the employee.

*History Note: Authority G.S. 122C-59; 122C-65; 122C-66; 143B-147;  
Eff. February 1, 1991;  
Amended Eff. April 1, 1994; January 1, 1992.*

#### **SUBCHAPTER 27E – TREATMENT OR HABILITATION RIGHTS SECTION .0100 – PROTECTIONS REGARDING INTERVENTIONS PROCEDURES**

##### **10A NCAC 27E .0101 LEAST RESTRICTIVE ALTERNATIVE**

- (a) Each facility shall provide services/supports that promote a safe and respectful environment. These include:
  - (1) using the least restrictive and most appropriate settings and methods;
  - (2) promoting coping and engagement skills that are alternatives to injurious behavior to self or others;
  - (3) providing choices of activities meaningful to the clients served/supported; and
  - (4) sharing of control over decisions with the client/legally responsible person and staff.
- (b) The use of a restrictive intervention procedure designed to reduce a behavior shall always be accompanied by actions designed to insure dignity and respect during and after the intervention. These include:
  - (1) using the intervention as a last resort; and
  - (2) employing the intervention by people trained in its use.

*History Note: Authority G.S. 122C-51; 122C-53; 143B-147;  
Eff. February 1, 1991;  
Amended Eff. January 1, 1992;  
Temporary Amendment Eff. January 1, 2001;  
Amended Eff. August 1, 2002.*

## **10A NCAC 27E .0102 PROHIBITED PROCEDURES**

In each facility the following types of procedures shall be prohibited:

(1) those interventions which have been prohibited by statute or rule which shall include:

- (a) any intervention which would be considered corporal punishment under G.S. 122C-59;
- (b) the contingent use of painful body contact;
- (c) substances administered to induce painful bodily reactions, exclusive of Antabuse;
- (d) electric shock (excluding medically administered electroconvulsive therapy);
- (e) insulin shock;
- (f) unpleasant tasting foodstuffs;
- (g) contingent application of any noxious substances which include but are not limited to noise, bad smells or splashing with water; and
- (h) any potentially physically painful procedure, excluding prescribed injections, or stimulus which is administered to the client for the purpose of reducing the frequency or intensity of a behavior.

(2) those interventions determined by the governing body to be unacceptable for or prohibited from use in the facility.

*History Note: Authority G.S. 122C-51; 122C-57; 122C-59; 131E-67; 143B-147;*

*Eff. February 1, 1991;*

*Amended Eff. January 1, 1992.*

## **10A NCAC 27E .0103 GENERAL POLICIES REGARDING INTERVENTION PROCEDURES**

(a) The following procedures shall only be employed when clinically or medically indicated as a method of therapeutic treatment:

- (1) planned non-attention to specific undesirable behaviors when those behaviors are health threatening;
- (2) contingent deprivation of any basic necessity; or
- (3) other professionally acceptable behavior modification procedures that are not prohibited by Rule .0102 of this Section or covered by Rule .0104 of this Section

(b) The determination that a procedure is clinically or medically indicated, and the authorization for the use of such treatment for a specific client, shall only be made by either a physician or a licensed practicing psychologist who has been formally trained and privileged in the use of the procedure.

*History Note: Authority G.S. 122C-51; 122C-53; 122C-60; 122C-62; 131E-67; 143B-147;*

*Eff. February 1, 1991;*

*Amended Eff. January 1, 1992.*

## **10A NCAC 27E .0104 SECLUSION, PHYSICAL RESTRAINT AND ISOLATION TIME-OUT AND PROTECTIVE DEVICES USED FOR BEHAVIORAL CONTROL**

(a) This Rule governs the use of restrictive interventions which shall include:

- (1) seclusion;
- (2) physical restraint;
- (3) isolation time-out
- (4) any combination thereof; and
- (5) protective devices used for behavioral control.

(b) The use of restrictive interventions shall be limited to:

- (1) emergency situations, in order to terminate a behavior or action in which a client is in imminent danger of abuse or injury to self or other persons or when property damage is occurring that poses imminent risk of danger of injury or harm to self or others; or
- (2) as a planned measure of therapeutic treatment as specified in Paragraph (f) of this Rule.

(c) Restrictive interventions shall not be employed as a means of coercion, punishment or retaliation by staff or for the convenience of staff or due to inadequacy of staffing. Restrictive interventions shall not be used in a manner that causes harm or abuse.

(d) In accordance with Rule .0101 of Subchapter 27D, the governing body shall have policy that delineates the permissible use of restrictive interventions within a facility.

(e) Within a facility where restrictive interventions may be used, the policy and procedures shall be in accordance with the following provisions:

(1) the requirement that positive and less restrictive alternatives are considered and attempted whenever possible prior to the use of more restrictive interventions;

(2) consideration is given to the client's physical and psychological well-being before, during and after utilization of a restrictive intervention, including:

(A) review of the client's health history or the client's comprehensive health assessment conducted upon admission to a facility. The health history or comprehensive health assessment shall include the identification of pre-existing medical conditions or any disabilities and limitations that would place the client at greater risk during the use of restrictive interventions;

(B) continuous assessment and monitoring of the physical and psychological well-being of the client and the safe use of restraint throughout the duration of the restrictive intervention by staff who are physically present and trained in the use of emergency safety interventions;

(C) continuous monitoring by an individual trained in the use of cardiopulmonary resuscitation of the client's physical and psychological well-being during the use of manual restraint; and

(D) continued monitoring by an individual trained in the use of cardiopulmonary resuscitation of the client's physical and psychological well-being for a minimum of 30 minutes subsequent to the termination of a restrictive intervention;

(3) the process for identifying, training, assessing competence of facility employees who may authorize and implement restrictive interventions;

(4) the duties and responsibilities of responsible professionals regarding the use of restrictive interventions;

(5) the person responsible for documentation when restrictive interventions are used;

(6) the person responsible for the notification of others when restrictive interventions are used; and

(7) the person responsible for checking the client's physical and psychological well-being and assessing the possible consequences of the use of a restrictive intervention and, in such cases there shall be procedures regarding:

(A) documentation if a client has a physical disability or has had surgery that would make affected nerves and bones sensitive to injury; and

(B) the identification and documentation of alternative emergency procedures, if needed;

(8) any room used for seclusion or isolation time-out shall meet the following criteria:

(A) the room shall be designed and constructed to ensure the health, safety and well-being of the client;

(B) the floor space shall not be less than 50 square feet, with a ceiling height of not less than eight feet;

(C) the floor and wall coverings, as well as any contents of the room, shall have a one-hour fire rating and shall not produce toxic fumes if burned;

(D) the walls shall be kept completely free of objects;

(E) a lighting fixture, equipped with a minimum of a 75 watt bulb, shall be mounted in the ceiling and be screened to prevent tampering by the client;

(F) one door of the room shall be equipped with a window mounted in a manner which allows inspection of the entire room;

(G) glass in any windows shall be impact resistant and shatterproof;

(H) the room temperature and ventilation shall be comparable and compatible with the rest of the facility; and

(I) in a lockable room the lock shall be interlocked with the fire alarm system so that the door automatically unlocks when the fire alarm is activated if the room is to be used for seclusion.

(9) Whenever a restrictive intervention is utilized, documentation shall be made in the client record to include, at a minimum:

(A) notation of the client's physical and psychological well-being;

(B) notation of the frequency, intensity and duration of the behavior which led to the intervention, and any precipitating circumstance contributing to the onset of the behavior;

(C) the rationale for the use of the intervention, the positive or less restrictive interventions

considered and used and the inadequacy of less restrictive intervention techniques that were used;

- (D) a description of the intervention and the date, time and duration of its use;
- (E) a description of accompanying positive methods of intervention;
- (F) a description of the debriefing and planning with the client and the legally responsible person, if applicable, for the emergency use of seclusion, physical restraint or isolation time-out to eliminate or reduce the probability of the future use of restrictive interventions;
- (G) a description of the debriefing and planning with the client and the legally responsible person, if applicable, for the planned use of seclusion, physical restraint or isolation time-out, if determined to be clinically necessary; and
- (H) signature and title of the facility employee who initiated, and of the employee who further authorized, the use of the intervention.

- (10) The emergency use of restrictive interventions shall be limited, as follows:
  - (A) a facility employee approved to administer emergency interventions may employ such procedures for up to 15 minutes without further authorization;
  - (B) the continued use of such interventions shall be authorized only by the responsible professional or another qualified professional who is approved to use and to authorize the use of the restrictive intervention based on experience and training;
  - (C) the responsible professional shall meet with and conduct an assessment that includes the physical and psychological well-being of the client and write a continuation authorization as soon as possible after the time of initial employment of the intervention. If the responsible professional or a qualified professional is not immediately available to conduct an assessment of the client, but concurs that the intervention is justified after discussion with the facility employee, continuation of the intervention may be verbally authorized until an on-site assessment of the client can be made;
  - (D) a verbal authorization shall not exceed three hours after the time of initial employment of the intervention; and
  - (E) each written order for seclusion, physical restraint or isolation time-out is limited to four hours for adult clients; two hours for children and adolescent clients ages nine to 17; or one hour for clients under the age of nine. The original order shall only be renewed in accordance with these limits or up to a total of 24 hours.
- (11) The following precautions and actions shall be employed whenever a client is in:
  - (A) seclusion or physical restraint, including a protective device when used for the purpose or with the intent of controlling unacceptable behavior: periodic observation of the client shall occur at least every 15 minutes, or more often as necessary, to assure the safety of the client, attention shall be paid to the provision of regular meals, bathing and the use of the toilet; and such observation and attention shall be documented in the client record;
  - (B) isolation time-out: there shall be a facility employee in attendance with no other immediate responsibility than to monitor the client who is placed in isolation time-out; there shall be continuous observation and verbal interaction with the client when appropriate; and such observation shall be documented in the client record; and
  - (C) physical restraint and may be subject to injury: a facility employee shall remain present with the client continuously.
- (12) The use of a restrictive intervention shall be discontinued immediately at any indication of risk to the client's health or safety or immediately after the client gains behavioral control. If the client is unable to gain behavioral control within the time frame specified in the authorization of the intervention, a new authorization must be obtained.
- (13) The written approval of the designee of the governing body shall be required when the original order for a restrictive intervention is renewed for up to a total of 24 hours in accordance with the limits specified in Item (E) of Subparagraph (e)(10) of this Rule.
- (14) Standing orders or PRN orders shall not be used to authorize the use of seclusion, physical restraint or isolation timeout.
- (15) The use of a restrictive intervention shall be considered a restriction of the client's rights as specified in G.S. 122C-62(b) or (d). The documentation requirements in this Rule shall satisfy the requirements specified in G.S. 122C-62(e) for rights restrictions.
- (16) When any restrictive intervention is utilized for a client, notification of others shall occur as follows:

(A) those to be notified as soon as possible but within 24 hours of the next working day, to include:

- (i) the treatment or habilitation team, or its designee, after each use of the intervention; and
- (ii) a designee of the governing body; and

(B) the legally responsible person of a minor client or an incompetent adult client shall be notified immediately unless she/he has requested not to be notified.

(17) The facility shall conduct reviews and reports on any and all use of restrictive interventions, including:

(A) a regular review by a designee of the governing body, and review by the Client Rights Committee, in compliance with confidentiality rules as specified in 10A NCAC 28A;

(B) an investigation of any unusual or possibly unwarranted patterns of utilization; and

(C) documentation of the following shall be maintained on a log:

- (i) name of the client;
- (ii) name of the responsible professional;
- (iii) date of each intervention;
- (iv) time of each intervention;
- (v) type of intervention;
- (vi) duration of each intervention;
- (vii) reason for use of the intervention;
- (viii) positive and less restrictive alternatives that were used or that were considered but not used and why those alternatives were not used;
- (ix) debriefing and planning conducted with the client, legally responsible person, if applicable, and staff, as specified in Parts (e)(9)(F) and (G) of this Rule, to eliminate or reduce the probability of the future use of restrictive interventions; and
- (x) negative effects of the restrictive intervention, if any, on the physical and psychological well-being of the client.

(18) The facility shall collect and analyze data on the use of seclusion and physical restraint. The data collected and analyzed shall reflect for each incident:

- (A) the type of procedure used and the length of time employed;
- (B) alternatives considered or employed; and
- (C) the effectiveness of the procedure or alternative employed.

The facility shall analyze the data on at least a quarterly basis to monitor effectiveness, determine trends and take corrective action where necessary. The facility shall make the data available to the Secretary upon request.

(19) Nothing in this Rule shall be interpreted to prohibit the use of voluntary restrictive interventions at the client's request; however, the procedures in this Rule shall apply with the exception of Subparagraph (f)(3) of this Rule.

(f) The restrictive intervention shall be considered a planned intervention and shall be included in the client's treatment/habilitation plan whenever it is used:

- (1) more than four times, or for more than 40 hours, in a calendar month;
- (2) in a single episode in which the original order is renewed for up to a total of 24 hours in accordance with the limit specified in Item (E) of Subparagraph (e)(10) of this Rule; or
- (3) as a measure of therapeutic treatment designed to reduce dangerous, aggressive, self-injurious or undesirable behaviors to a level which will allow the use of less restrictive treatment or habilitation procedures.

(g) When a restrictive intervention is used as a planned intervention, facility policy shall specify:

- (1) the requirement that a consent or approval shall be considered valid for no more than six months and that the decision to continue the specific intervention shall be based on clear and recent behavioral evidence that the intervention is having a positive impact and continues to be needed;
- (2) prior to the initiation or continued use of any planned intervention, the following written notifications, consents and approvals shall be obtained and documented in the client record:

(A) approval of the plan by the responsible professional and the treatment and habilitation team, if applicable, shall be based on an assessment of the client and a review of the documentation required by Subparagraph (e)(9) and (e)(14) of this Rule if applicable;

(B) consent of the client or legally responsible person, after participation in treatment planning and after the specific intervention and the reason for it have been explained in accordance

- with 10A NCAC 27D .0201;
- (C) notification of an advocate/client rights representative that the specific intervention has been planned for the client and the rationale for utilization of the intervention; and
- (D) physician approval, after an initial medical examination, when the plan includes a specific intervention with reasonably foreseeable physical consequences. In such cases, periodic planned monitoring by a physician shall be incorporated into the plan.
- (3) within 30 days of initiation of the use of a planned intervention, the Intervention Advisory Committee established in accordance with Rule .0106 of this Section, by majority vote, may recommend approval or disapproval of the plan or may abstain from making a recommendation;
- (4) within any time during the use of a planned intervention, if requested, the Intervention Advisory Committee shall be given the opportunity to review the treatment/habilitation plan;
- (5) if any of the persons or committees specified in Subparagraphs (h)(2) or (h)(3) of this Rule do not approve the initial use or continued use of a planned intervention, the intervention shall not be initiated or continued. Appeals regarding the resolution of any disagreement over the use of the planned intervention shall be handled in accordance with governing body policy; andhy those alternatives were not used;
- (6) documentation in the client record regarding the use of a planned intervention shall indicate:
- (A) description and frequency of debriefing with the client, legally responsible person, if applicable, and staff if determined to be clinically necessary. Debriefing shall be conducted as to the level of cognitive functioning of the client;
- (B) bi-monthly evaluation of the planned by the responsible professional who approved the planned intervention; and
- (C) review, at least monthly, by the treatment/habilitation team that approved the planned intervention.

*History Note: Authority G.S. 122C-51; 122C-53; 122C-60; 122C-62; 131E-67; 143B-147;  
Eff. February 1, 1991;*

*Amended Eff. January 4, 1993; January 1, 1992;*

*Temporary Amendment Eff. January 1, 2001;*

*Temporary Amendment Expired October 13, 2001;*

*Amended Eff. April 1, 2003.*

## **10A NCAC 27E .0105 PROTECTIVE DEVICES**

(a) Whenever a protective device is utilized for a client, the governing body shall develop and implement policy to ensure that:

- (1) the necessity for the protective device has been assessed and the device is applied by a facility employee who has been trained and has demonstrated competence in the utilization of protective devices;
- (2) the use of positive and less restrictive alternatives have been reviewed and documented and the protective device selected is the appropriate measure;
- (3) the client is frequently observed and provided opportunities for toileting, exercise, etc. as needed. When a protective device limits the client's freedom of movement, the client shall be observed at least every hour. Whenever the client is restrained and subject to injury by another client, a facility employee shall remain present with the client continuously. Observations and interventions shall be documented in the client record;
- (4) protective devices are cleaned at regular intervals; and
- (5) for facilities operated by or under contract with an area program, the utilization of protective devices in the treatment/habilitation plan shall be subject to review by the Client Rights Committee, as required in 10A NCAC 27G .0504. Copies of this Rule and other pertinent rules are published as Division publication RULES FOR MENTAL HEALTH, DEVELOPMENTAL DISABILITIES AND SUBSTANCE ABUSE SERVICES, APSM 30-1, and may be purchased at a cost of five dollars and seventy-five cents (\$5.75) per copy.

(b) The use of any protective device for the purpose or with the intent of controlling unacceptable behavior shall comply with the requirements of Rule .0104 of this Section.

*History Note: Authority G.S. 122C-5I; 122C-53; 122C-60; 143B-147;  
Eff. February 1, 1991;  
Amended Eff. January 4, 1993; January 1, 1992;  
Temporary Amendment Eff. January 1, 2001;  
Amended Eff. August 1, 2002.*

## **10A NCAC 27E .0106 INTERVENTION ADVISORY COMMITTEES**

- (a) An Intervention Advisory Committee shall be established to provide additional safeguards in a facility that utilizes restrictive interventions as planned interventions as specified in Rule .0104(g) of this Section.
- (b) The membership of the Intervention Advisory Committee shall include at least one person who is or has been a consumer of direct services provided by the governing body or who is a close relative of a consumer and:
  - (1) for a facility operated by an area program, the Intervention Advisory Committee shall be the Client Rights Committee or a subcommittee of it, which may include other members;
  - (2) for a facility that is not operated by an area program, but for which a voluntary client rights or human rights committee has been appointed by the governing body, the Intervention Advisory Committee shall be that committee or a subcommittee of it, which may include other members; or
  - (3) for a facility that does not meet the conditions of Subparagraph (b)(1) or (2), the committee shall include at least three citizens who are not employees of, or members of the governing body.
- (c) The Intervention Advisory Committee specified in Subparagraphs (b)(2) or (3) shall have a member or a regular independent consultant who is a professional with training and expertise in the use of the type of interventions being utilized, and who is not directly involved in the treatment or habilitation of the client.
- (d) The Intervention Advisory Committee shall:
  - (1) have policy that governs its operation and requirements that:
    - (A) access to client information shall be given only when necessary for committee members to perform their duties;
    - (B) committee members shall have access to client records on a need to know basis only upon the written consent of the client or his legally responsible person as specified in G.S. 122C-53(a); and
    - (C) information in the client record shall be treated as confidential information in accordance with G.S. 122C-52 through 122C-56;
  - (2) receive specific training and orientation as to the charge of the committee;
  - (3) be provided with copies of appropriate statutes and rules governing client rights and related issues;
  - (4) be provided, when available, with copies of literature about the use of a proposed intervention and any alternatives;
  - (5) maintain minutes of each meeting; and
  - (6) make an annual written report to the governing body on the activities of the committee.

*History Note: Authority G.S. 122C-5I through 122C-56; 143B-147;  
Eff. February 1, 1991;  
Amended Eff. January 1, 1992.*

## **10A NCAC 27E .0107 TRAINING ON ALTERNATIVES TO RESTRICTIVE INTERVENTIONS**

- (a) Facilities shall implement policies and practices that emphasize the use of alternatives to restrictive interventions.
- (b) Prior to providing services to people with disabilities, staff including service providers, employees, students or volunteers, shall demonstrate competence by successfully completing training in communication skills and other strategies for creating an environment in which the likelihood of imminent danger of abuse or injury to a person with disabilities or others or property damage is prevented.
- (c) Provider agencies shall establish training based on state competencies, monitor for internal compliance and demonstrate they acted on data gathered.
- (d) The training shall be competency-based, include measurable learning objectives, measurable testing (written and by observation of behavior) on those objectives and measurable methods to determine passing or failing the course.
- (e) Formal refresher training must be completed by each service provider periodically (minimum annually).
- (f) Content of the training that the service provider wishes to employ must be approved by the Division of MH/DD/SAS pursuant to Paragraph (g) of this Rule.

- (g) Staff shall demonstrate competence in the following core areas:
- (1) knowledge and understanding of the people being served;
  - (2) recognizing and interpreting human behavior;
  - (3) recognizing the effect of internal and external stressors that may affect people with disabilities;
  - (4) strategies for building positive relationships with persons with disabilities;
  - (5) recognizing cultural, environmental and organizational factors that may affect people with disabilities;
  - (6) recognizing the importance of and assisting in the person's involvement in making decisions about their life;
  - (7) skills in assessing individual risk for escalating behavior;
  - (8) communication strategies for defusing and de-escalating potentially dangerous behavior; and
  - (9) positive behavioral supports (providing means for people with disabilities to choose activities which directly oppose or replace behaviors which are unsafe).

(h) Service providers shall maintain documentation of initial and refresher training for at least three years.

- (1) Documentation shall include:
  - (A) who participated in the training and the outcomes (pass/fail);
  - (B) when and where they attended; and
  - (C) instructor's name;

(2) The Division of MH/DD/SAS may review/request this documentation at any time.

(i) Instructor Qualifications and Training Requirements:

- (1) Trainers shall demonstrate competence by scoring 100% on testing in a training program aimed at preventing, reducing and eliminating the need for restrictive interventions.
- (2) Trainers shall demonstrate competence by scoring a passing grade on testing in an instructor training program.
- (3) The training shall be competency-based, include measurable learning objectives, measurable testing (written and by observation of behavior) on those objectives and measurable methods to determine passing or failing the course.
- (4) The content of the instructor training the service provider plans to employ shall be approved by the Division of MH/DD/SAS pursuant to Subparagraph (j)(5) of this Rule.
- (5) Acceptable instructor training programs shall include but are not limited to presentation of:
  - (A) understanding the adult learner;
  - (B) methods for teaching content of the course;
  - (C) methods for evaluating trainee performance; and
  - (D) documentation procedures.

(6) Trainers shall have coached experience teaching a training program aimed at preventing, reducing and eliminating the need for restrictive interventions at least one time, with positive review by the coach.

(7) Trainers shall teach a training program aimed at preventing, reducing and eliminating the need for restrictive interventions at least once annually.

(8) Trainers shall complete a refresher instructor training at least every two years.

(j) Service providers shall maintain documentation of initial and refresher instructor training for at least three years.

- (1) Documentation shall include:
  - (A) who participated in the training and the outcomes (pass/fail);
  - (B) when and where attended; and
  - (C) instructor's name.

(2) The Division of MH/DD/SAS may request and review this documentation any time.

(k) Qualifications of Coaches:

- (1) Coaches shall meet all preparation requirements as a trainer.
- (2) Coaches shall teach at least three times the course which is being coached.
- (3) Coaches shall demonstrate competence by completion of coaching or train-the-trainer instruction.

(l) Documentation shall be the same preparation as for trainers.

*History Note: Authority G.S. 143B-147;*

*Temporary Adoption Eff. February 1, 2001;*

*Temporary Adoption Expired October 13, 2001;*

*Eff. April 1, 2003.*

**10A NCAC 27E .0108 TRAINING IN SECLUSION, PHYSICAL RESTRAINT AND ISOLATION TIMEOUT**

- (a) Seclusion, physical restraint and isolation time-out may be employed only by staff who have been trained and have demonstrated competence in the proper use of and alternatives to these procedures. Facilities shall ensure that staff authorized to employ and terminate these procedures are retrained and have demonstrated competence at least annually.
- (b) Prior to providing direct care to people with disabilities whose treatment/habilitation plan includes restrictive interventions, staff including service providers, employees, students or volunteers shall complete training in the use of seclusion, physical restraint and isolation time-out and shall not use these interventions until the training is completed and competence is demonstrated.
- (c) A pre-requisite for taking this training is demonstrating competence by completion of training in preventing, reducing and eliminating the need for restrictive interventions.
- (d) The training shall be competency-based, include measurable learning objectives, measurable testing (written and by observation of behavior) on those objectives and measurable methods to determine passing or failing the course.
- (e) Formal refresher training must be completed by each service provider periodically (minimum annually).
- (f) Content of the training that the service provider plans to employ must be approved by the Division of MH/DD/SAS pursuant to Paragraph (g) of this Rule.
- (g) Acceptable training programs shall include, but are not limited to, presentation of:
- (1) refresher information on alternatives to the use of restrictive interventions;
  - (2) guidelines on when to intervene (understanding imminent danger to self and others);
  - (3) emphasis on safety and respect for the rights and dignity of all persons involved (using concepts of least restrictive interventions and incremental steps in an intervention);
  - (4) strategies for the safe implementation of restrictive interventions;
  - (5) the use of emergency safety interventions which include continuous assessment and monitoring of the physical and psychological well-being of the client and the safe use of restraint throughout the duration of the restrictive intervention;
  - (6) prohibited procedures;
  - (7) debriefing strategies, including their importance and purpose; and
  - (8) documentation methods/procedures.
- (h) Service providers shall maintain documentation of initial and refresher training for at least three years. Documentation shall include:
- (A) who participated in the training and the outcomes (pass/fail);
  - (B) when and where they attended; and
  - (C) instructor's name.
- (2) The Division of MH/DD/SAS may review/request this documentation at any time.
- (i) Instructor Qualification and Training Requirements:
- (1) Trainers shall demonstrate competence by scoring 100% on testing in a training program aimed at preventing, reducing and eliminating the need for restrictive interventions.
  - (2) Trainers shall demonstrate competence by scoring 100% on testing in a training program teaching the use of seclusion, physical restraint and isolation time-out.
  - (3) Trainers shall demonstrate competence by scoring a passing grade on testing in an instructor training program.
  - (4) The training shall be competency-based, include measurable learning objectives, measurable testing (written and by observation of behavior) on those objectives and measurable methods to determine passing or failing the course.
  - (5) The content of the instructor training the service provider plans to employ shall be approved by the Division of MH/DD/SAS pursuant to Subparagraph (j)(6) of this Rule.
  - (6) Acceptable instructor training programs shall include, but not be limited to, presentation of:
    - (A) understanding the adult learner;
    - (B) methods for teaching content of the course;
    - (C) evaluation of trainee performance; and
    - (D) documentation procedures.
  - (7) Trainers shall be retrained at least annually and demonstrate competence in the use of seclusion, physical restraint and isolation time-out, as specified in Paragraph (a) of this Rule.
  - (8) Trainers shall be currently trained in CPR.

- (9) Trainers shall have coached experience in teaching the use of restrictive interventions at least two times with a positive review by the coach.
  - (10) Trainers shall teach a program on the use of restrictive interventions at least once annually.
  - (11) Trainers shall complete a refresher instructor training at least every two years.
- (k) Service providers shall maintain documentation of initial and refresher instructor training for at least three years.
- (1) Documentation shall include:
    - (A) who participated in the training and the outcome (pass/fail);
    - (B) when and where they attended; and
    - (C) instructor's name.
  - (2) The Division of MH/DD/SAS may review/request this documentation at any time.
- (l) Qualifications of Coaches:
- (1) Coaches shall meet all preparation requirements as a trainer.
  - (2) Coaches shall teach at least three times, the course which is being coached.
  - (3) Coaches shall demonstrate competence by completion of coaching or train-the-trainer instruction.
- (m) Documentation shall be the same preparation as for trainers.

*History Note: Authority G.S. 143B-147;  
Temporary Adoption Eff. February 1, 2001;  
Temporary Adoption Expired October 13, 2001;  
Eff. April 1, 2003.*

## **SECTION .0200 - PROTECTIONS REGARDING MEDICATIONS**

### **10A NCAC 27E .0201 SAFEGUARDS REGARDING MEDICATIONS**

- (a) The use of experimental drugs or medication shall be considered research and shall be governed by G.S. 122C-57(f), applicable federal law, licensure requirements codified in 10A NCAC 27G .0209, or any other applicable licensure requirements not inconsistent with state or federal law.
- (b) The use of other drugs or medications as a treatment measure shall be governed by G.S. 122C-57, and G.S. 90, Articles 1, 4A and 9A.

*History Note: Authority G.S. 122C-51; 122C-57; 131E-67; 143B-147;  
Eff. February 1, 1991;  
Amended Eff. January 1, 1992.*

## **SUBCHAPTER 27F - 24-HOUR FACILITIES**

### **SECTION .0100 - SPECIFIC RULES FOR 24-HOUR FACILITIES**

#### **10A NCAC 27F .0101 SCOPE**

Article 3, Chapter 122C of the General Statutes provides specific rights for each client who receives a mental health, developmental disability, or substance abuse service. This Subchapter delineates the rules regarding those rights that apply in a 24-hour facility.

*History Note: Authority G.S. 122C 51; 122C-62; 143B-147;  
Eff. February 1, 1991;  
Amended Eff. January 1, 1992.*

### **10A NCAC 27F .0102 LIVING ENVIRONMENT**

- (a) Each client shall be provided:
  - (1) an atmosphere conducive to uninterrupted sleep during scheduled sleeping hours, consistent with the types of services being provided and the type of clients being served; and
  - (2) accessible areas for personal privacy, for at least limited periods of time, unless determined inappropriate by the treatment or habilitation team.

(b) Each client shall be free to suitably decorate his room, or his portion of a multi-resident room, with respect to choice, normalization principles, and with respect for the physical structure. Any restrictions on this freedom shall be carried out in accordance with governing body policy.

*History Note: Authority G.S. 122C-51; 122C-62; 143B-147;  
Eff. February 1, 1991;  
Amended Eff. January 1, 1992.*

#### **10A NCAC 27F .0103 HEALTH, HYGIENE AND GROOMING**

(a) Each client shall be assured the right to dignity, privacy and humane care in the provision of personal health, hygiene and grooming care. Such rights shall include, but need not be limited to the:

- (1) opportunity for a shower or tub bath daily, or more often as needed;
- (2) opportunity to shave at least daily;
- (3) opportunity to obtain the services of a barber or a beautician; and
- (4) provision of linens and towels, toilet paper and soap for each client and other individual personal hygiene articles for each indigent client. Such other articles include but are not limited to toothpaste, toothbrush, sanitary napkins, tampons, shaving cream and shaving utensil.

(b) Bathtubs or showers and toilets which ensure individual privacy shall be available.

(c) Adequate toilets, lavatory and bath facilities equipped for use by a client with a mobility impairment shall be available.

*History Note: Authority G.S. 122C-51; 122C-62; 143B-147;  
Eff. February 1, 1991;  
Amended Eff. January 1, 1992.*

#### **10A NCAC 27F .0104 STORAGE AND PROTECTION OF CLOTHING AND POSSESSIONS**

Facility employees shall make every effort to protect each client's personal clothing and possessions from theft, damage, destruction, loss, and misplacement. This includes, but is not limited to, assisting the client in developing and maintaining an inventory of clothing and personal possessions if the client or legally responsible person desires.

*History Note: Authority G.S. 122C-62; 143B-147;  
Eff. February 1, 1991;  
Amended Eff. January 1, 1992.*

#### **10A NCAC 27F .0105 CLIENT'S PERSONAL FUNDS**

(a) This Rule applies to any 24-hour facility which typically provides residential services to individual clients for more than 30 days.

(b) Each competent adult client and each minor above the age of 16 shall be assisted and encouraged to maintain or invest his money in a personal fund account other than at the facility. This shall include, but need not be limited to, investment of funds in interest-bearing accounts.

(c) If funds are managed for a client by a facility employee, management of the funds shall occur in accordance with policy and procedures that:

- (1) assure to the client the right to deposit and withdraw money;
- (2) regulate the receipt and distribution of funds in a personal fund account;
- (3) provide for the receipt of deposits made by friends, relatives or others;
- (4) provide for the keeping of adequate financial records on all transactions affecting funds on deposit in personal fund account;
- (5) assure that a client's personal funds will be kept separate from any operating funds of the facility;
- (6) provide for the deduction from a personal fund account payment for treatment or habilitation services when authorized by the client or legally responsible person upon or subsequent to admission of the client;
- (7) provide for the issuance of receipts to persons depositing or withdrawing funds; and
- (8) provide the client with a quarterly accounting of his personal fund account.

(d) Authorization by the client or legally responsible person is required before a deduction can be made from a personal fund account for any amount owed or alleged to be owed for damages done or alleged to have been done by the client:

- (1) to the facility;
- (2) an employee of the facility;
- (3) to a visitor of the facility; or
- (4) to another client of the facility.

*History Note: Authority G.S. 122C-51; 122C-58; 122C-62; 143B-147;*

*Eff. February 1, 1991;*

*Amended Eff. January 1, 1992.*

**Primary Health Choice, Inc.**

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Consumer Name: \_\_\_\_\_  
Medicaid/Insurance #: \_\_\_\_\_  
Medical Record: \_\_\_\_\_

Date of Birth: \_\_\_\_\_  
SS# (optional): \_\_\_\_\_  
MCO: \_\_\_\_\_

**RECEIPT OF CLIENT RIGHTS IN G.S. 122-C AND APSM 95-2**  
(To be completed at initial intake only)

I have reviewed and received a written summary of my Client's Rights as specified in NC G.S. 122-C and APSM 95-2. I am aware of my rights as a consumer of services provided by Primary Health Choice, Inc. I understand that if I have any problems or concerns, I may contact the Agency's Corporate Compliance Office, Alice Hunt, at 910-865-3500 or the Disability Rights of North Carolina at 1-877-235-4210.

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Consumer/Legally Responsible Party	Date
Primary Health Choice, Inc. Staff	Date

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**RECEIPT OF CONSUMER HANDBOOK**  
(To be completed at initial intake only)

I acknowledge that I have reviewed and received a copy of the "Consumer Handbook" that is a guide for understanding the mental health, developmental disabilities and substance abuse services system in North Carolina, as provided by Primary Health Choice, Inc. I understand that this handbook is designed to provide me with valuable information about my care and services. I was also afforded the opportunity to ask questions and have them answered.

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Consumer/Legally Responsible Party	Date
Primary Health Choice, Inc. Staff	Date

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