

**BAY-ARENAC BEHAVIORAL HEALTH AUTHORITY
POLICIES AND PROCEDURES MANUAL**

| | | | |
|---|--|---|---|
| Chapter: 3 | Member Rights and Responsibilities | | |
| Section: 3 | Rights of Consumers | | |
| Topic: 6 | Photographing, Video Recording, Audio Taping, Fingerprinting Recipients | | |
| Page: 1 of 6 | Supersedes Date: Pol: 6-3-02, 7-15-99 Proc: 5-8-12, 6-3-02, 7-28-98 | Approval Date: Pol: 6-21-12 Proc: 12-12-24 | <hr/> <i>Board Chairperson Signature</i> <hr/> <i>Chief Executive Officer Signature</i> |
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Policy

It is the policy of Bay-Arenac Behavioral Health Authority that:

1. Fingerprints, photographs, video recordings or audiotapes may be taken and used, and one-way glass may be used: in order to provide services, including research, to a recipient; for educational or training purposes; or to determine the name of a recipient, when informed consent has been obtained from the recipient or applicable parent or guardian. Video surveillance is prohibited.
2. Photographs may be taken for purely personal or social purposes unless the recipient or applicable parent or guardian has indicated an objection, either verbally or in writing. However, these photographs, videos, audio-recordings taken for personal or social purposes may not be put on social media of any kind without specific written consent of the legally responsible party.

Purpose

This policy and procedure are established to ensure that recipients are protected in the areas of photographing, video recording, audio taping and fingerprinting.

Education Applies to

- All BABHA Staff
- Selected BABHA Staff, as follows:
- All Contracted Providers: Policy Only Policy and Procedure
- Selected Contracted Providers, as follows:
 - Policy Only Policy and Procedure
- BABHA's (Affiliates): Policy Only Policy and Procedure

Definitions

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Audio Taping: Any reproduction of a recipient’s voice by mechanical means.

Educational or Training Purposes:

- A. To assist staff in performing their job responsibilities.
- B. To provide general information to the community.

Consent: A written agreement executed by a recipient, a minor recipient’s parent, or a recipient’s legal representative with authority to execute a consent, that is in compliance with the Agency’s procedure for consent.

Photography: Includes still pictures, motion pictures, and videotapes.

Primary Clinician: The staff member in charge of implementing the recipient’s plan of service.

Social Media: Included, but is not limited to: Facebook, Parler, Twitter, Instagram, Snap Chat, and/or Linked-In.

Video Recording: A recording of both visual and audible components.

Procedure

A. Using Fingerprints, Photographs, Video Recordings or Audiotapes, and One-Way Glass to Provide Services, Including Research

1. The primary clinician shall:
 - a. Obtain prior and annual informed consent from one of the following and file it in the recipient’s record (this consent must be specific to photographs, video recordings, audiotaping and not part of a general consent to treatment):
 - i. The recipient if 18 years of age or over and competent to consent.
 - ii. The guardian of the recipient if the guardian is legally empowered to execute such a consent.
 - iii. The parent with legal and physical custody of the recipient, if the recipient is less than 18 years of age.

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- b. Inform the individual signing the consent that he or she is free to withdraw consent at any time without prejudice, and document on the form if consent is withdrawn.
- c. Ensure that the fingerprints, photographs, video recordings or audiotapes, and any copies of them, shall be kept as part of the recipient's record and be subject to standards governing confidentiality.
- d. Annually review whether the fingerprints, photographs, video recordings or audiotapes in the record, and any copies of them, are still essential for the original purpose. Either give them to the recipient or destroy them when they are no longer essential or when the recipient is discharged, whichever occurs first.

- 2. The staff taking the fingerprints, photographs, video recordings or audiotapes shall afford the recipient/legally responsible party an opportunity to object, verbally or in writing, immediately prior to the time the fingerprinting, photographing, video recording or taping occurs. If video recording is in common areas then a plan is developed to ensure the recipient who has refused to consent or revoked consent is not recorded.

B. Using Photographs, Video Recording, Audiotapes, or One-Way Glass for Educational or Training Purposes

- 1. The primary clinician shall:
 - a. Obtain prior informed consent from one of the following and file it in the recipient's record:
 - i. The recipient if 18 years of age or over and competent to consent
 - ii. The guardian of the recipient, if the guardian is legally empowered to execute such a consent
 - iii. The parent with legal and physical custody of the recipient, if the recipient is less than 18 years of age.
 - b. Inform the individual signing the consent that he or she is free to withdraw consent at any time without prejudice, and document on the form if consent is withdrawn. If video recording is in common areas

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then a plan is developed to ensure the recipient who has refused to consent or revoked consent is not recorded.

- c. Inform the individual signing the consent whether or not the photographs, fingerprints, video recordings or audiotapes, and any copies of them, shall be kept as part of the recipient's record and be subject to standards governing confidentiality.
- d. If the photographs, fingerprints, video recordings or audiotapes will be kept confidential, annually review whether they are still essential for the original purpose. Either give them to the recipient or destroy them when they are no longer essential or when the recipient is discharged, whichever occurs first.

- 2. The staff taking the photographs, fingerprints, video recordings or audiotapes, or using the one-way glass shall afford the recipient an opportunity to object, verbally or in writing, immediately prior to the time the fingerprinting, photographing, video recording, or audiotaping, or use of one-way glass occurs.

C. Taking Photographs or Producing Video Recordings for Personal Or Social Purposes, including social media.

- 1. The primary clinician shall:
 - a. Obtain prior informed consent from one of the following and file it in the recipient's record:
 - i. The recipient if 18 years or over and competent to consent
 - ii. The guardian of the recipient if the guardian is legally empowered to execute such a consent
 - iii. The parent with legal and physical custody of the recipient if the recipient is less than 18 years of age.
 - b. Inform the individual signing the consent that he or she is free to withdraw consent at any time without prejudice, and document on the form if consent is withdrawn.
- 2. The staff taking the photographs or producing the video recordings shall afford the recipient an opportunity to object, verbally or in writing, immediately prior to the time the photograph or video recording is taken.

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Attachments

N/A

Related Forms

Consent Form for Use of Photographs and/or Video Recordings (Master Clinical Files)

Related Materials

N/A

References/Legal Authority

Act 258 of the Public Acts of 1974, as amended (Mental Health Code) section 100a, 724 and 752; Department of Community Health Administrative Rules 7003.

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| SUBMISSION FORM | | | | |
|-----------------------------|---|--------------------------------------|--|--|
| AUTHOR/ REVIEWER | APPROVING BODY/COMMITTEE/ SUPERVISOR | APPROVAL /REVIEW DATE | ACTION (Deletion, New, No Changes, Replacement or Revision) | REASON FOR ACTION - If replacement list policy to be replaced |
| Marlene Wolber | Linda Maze | 11/10/09 | Revision | Triennial Review-format and language updated |
| Pepa Carlson Tina Dilley | Linda Maze | 5/8/12 | Revision | Revised to include video recordings and added related form: consent for Use of Photographs and/or Video Recordings |
| Melissa Prusi | Christopher Pinter | 6/27/16 | No changes | Triennial Review-no changes |
| Melissa Prusi | Christopher Pinter | 06/20/2019 | Revision | Triennial and annual review – minor changes |
| Melissa Prusi | Christopher Pinter | 01/06/2021 | Revision | Annual review |
| Melissa Prusi | Christopher Pinter | 01/25/2021 | Revision | Revised to reflect updated MDHHS ORR standards re: video surveillance. |
| Melissa Prusi | Christopher Pinter | 06/23/2021 | No changes | Triennial Review |
| Melissa Prusi | Christopher Pinter | 12/12/2024 | Revision | Updates to videotaping language |