



## Pines Recipient Rights Advisory Committee Minutes

9/12/2023

- I. Call to order: 12:03pm
- II. Members Present: Bing Johnson, Wendy Salyer, Thomas Schmelzer
  - a. Others: Sue Germann (CEO), Lillian Koerner (RRO)
- III. Public Comment: No Comments
- IV. RRO Report:
  - a. RRO sent 9/6/23 an email to all Pines staff and emails to 87 community leaders in Coldwater, MI (CPBU, Attorneys, Police, Coldwater Community schools, elected officials, President of Spring Arbor University) asking them to join Pine's Advisory and Appeals committee. Also, posted flyers in waiting areas at Pines. MH Code 330.1757, Sec. 757 states "(1) The **board of CMH** shall appoint a RRAC committee consisting of at least 6 members The membership of the committee shall be broadly based so as to best represent the varied perspectives of the community mental health services program's geographic area. At least 1/3 of the membership shall be primary consumers or family members, and of that 1/3, at least 1/2 shall be primary consumers"
  - b. Training: MH Code 330.1755, Sec. 755 states, "(2) **Each community mental health services program** and each licensed hospital shall ensure all of the following:
    - i. (a) Education and training in recipient rights policies and procedures are provided to its recipient rights advisory committee and its recipient rights appeals committee.
    - ii. (b)The process for funding the office of recipient rights includes a review of the funding by the recipient rights advisory committee.
    - iii. (J) Semiannually provide summary complaint data consistent with the annual report required in subsection (6), together with a summary of remedial action taken on substantiated complaints by category, to the department and to the recipient rights advisory committee of the community mental health services program or licensed hospital.
    - iv. (6) **The executive director** or hospital director **shall submit to the board of the community mental health services program** or the governing board of the



licensed hospital and the department **an annual report prepared by the office of recipient rights** on the current status of recipient rights in the community mental health services program system or licensed hospital system and a review of the operations of the office of recipient rights. **The report shall be submitted not later than December 30** of each year for the preceding fiscal year or period specified in contract.

- c. Training: Discussed MH Code 330.1757, Sec. 757 states, **“(2) The recipient rights advisory committee shall do all of the following:**
- i. Meet at least semiannually or as necessary to carry out its responsibilities.
  - ii. Maintain a current list of members' names to be made available to individuals upon request.
  - iii. Maintain a current list of categories represented to be made available to individuals upon request.
  - iv. Protect the office of recipient rights from pressures that could interfere with the impartial, even-handed, and thorough performance of its functions.
  - v. Recommend candidates for director of the office of recipient rights to the executive director, and consult with the executive director regarding any proposed dismissal of the director of the office of recipient rights.
  - vi. Serve in an advisory capacity to the executive director and the director of the office of recipient rights.
  - vii. Review and provide comments on the report submitted by the executive director to the community mental health services program board under section 755.
  - viii. If designated by the board of the community mental health services program, serve as the appeals committee for a recipient's appeal under section 784.
    1. Meetings of the recipient rights advisory committee are subject to the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Minutes shall be maintained and made available to individuals upon request. History: Add. 1995, Act 290, Eff. Mar. 28, 1996
- d. Training: MH Code 330.1774 Appeals committee. Sec. 774.
- i. **The board of a community mental health services program shall do 1** of the following:



1. Appoint an appeals committee consisting of 7 individuals, none of whom shall be employed by the department or a community mental health services program, to hear appeals of recipients' rights matters. The appeals committee shall include at least 3 members of the recipient rights advisory committee, 2 board members, and 2 primary consumers. A member of the appeals committee may represent more than 1 of these categories.
  2. Designate the recipient rights advisory committee as the appeals committee.
- ii. An appeals committee appointed under this section may request consultation and technical assistance from the department.
  - iii. A member of an appeals committee who has a personal or professional relationship with an individual involved in an appeal shall abstain from participating in that appeal as a member of the committee. History: Add. 1995, Act 290, Eff. Mar. 28, 1999
- e. Training: MH Code 330.1784 Summary report; appeal. Sec. 784
- i. (1) Not later than 45 days after receipt of the summary report under section 782, the complainant may file a written appeal with the appeals committee with jurisdiction over the office of recipient rights that issued the summary report.
    1. An appeal under subsection (1) shall be based on 1 of the following grounds:
      - a. The investigative findings of the office are not consistent with the facts or with law, rules, policies, or guidelines.
      - b. The action taken or plan of action proposed by the respondent does not provide an adequate remedy.
      - c. An investigation was not initiated or completed on a timely basis.
  - ii. The office shall advise the complainant that there are advocacy organizations available to assist the complainant in preparing the written appeal and shall offer to refer the complainant to those organizations. In the absence of assistance from an advocacy organization, the office shall assist the complainant in meeting the procedural requirements of a written appeal. The office shall also inform the complainant of the option of mediation under section 786.



- iii. **Within 5 business days** after receipt of the written appeal, members of the appeals committee shall review the appeal to determine whether it meets the criteria set forth in subsection (2). If the appeal is denied because the criteria in subsection (2) were not met, the complainant shall be notified in writing. If the appeal is accepted, written notice shall be provided to the complainant and a copy of the appeal shall be provided to the respondent and the responsible mental health agency.
- iv. (5) Within 30 days after receipt of a written appeal, the appeals committee shall meet and review the facts as stated in all complaint investigation documents and **shall do 1 of the following:**
  1. (a) Uphold the investigative findings of the office and the action taken or plan of action proposed by the respondent.
  2. (b) Return the investigation to the office and request that it be reopened or reinvestigated.
  3. (c) Uphold the investigative findings of the office but recommend that the respondent take additional or different action to remedy the violation.
  4. (d) If the responsible mental health agency is a community mental health services program or a licensed hospital, recommend that the board of the community mental health services program or the governing board of the licensed hospital request an external investigation by the state office of recipient rights.
- v. (6) The appeals committee shall document its decision in writing. **Within 10 working days** after reaching its decision, it shall provide copies of the decision to the respondent, appellant, recipient if different than the appellant, the recipient's guardian if a guardian has been appointed, the responsible mental health agency, and the office. History: Add. 1995, Act 290, Eff. Mar. 28, 1996
- f. MH Code 330.1786 Notice of decision; appeal. Sec. 786.
  - i. (1) **Within 45 days after receiving written notice of the decision of an appeals committee under section 784(5)**, the appellant may file a written appeal with the department. The appeal shall be based on the record established in the previous appeal, and on the allegation that the investigative findings of the local office of recipient rights are not consistent with the facts or with law, rules, policies, or guidelines.



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*"Life should be enjoyed...not endured"*

- ii. (2) Upon receipt of an appeal under subsection (1), the department shall give written notice of receipt of the appeal to the appellant, respondent, local office of recipient rights holding the record of the complaint, and the responsible mental health agency. The respondent, local office of recipient rights holding the record of the complaint, and the responsible mental health agency shall ensure that the department has access to all necessary documentation and other evidence cited in the complaint.
- iii. (3) The department shall review the record based on the allegation described in subsection (1). The department shall not consider additional evidence or information that was not available during the appeal under section 784, although the department may return the matter to the board or the governing body of the licensed hospital requesting an additional investigation.
- iv. (4) Within 30 days after receiving the appeal, the department shall review the appeal and do 1 of the following:
  1. (a) Affirm the decision of the appeals committee.
  2. (b) Return the matter to the board or the governing body of the licensed hospital with instruction for additional investigation and consideration.
- v. (5) The department shall provide copies of its action to the respondent, appellant, recipient if different than the appellant, the recipient's guardian if a guardian has been appointed, the board of the community mental health services program or the governing body of the licensed hospital, and the local office of recipient rights holding the record. History: Add. 1995, Act 290, Eff. Mar. 28, 1996

### Committee Topic:

- g. Recipient Rights Budget will be discussed at the next meeting, in the past we have discussed it at this meeting but the budget is not approved yet. But there is adequate funding to cover the budget for the ORR department.
- h. The CMH Board needs to decide unless they have already if they want **to either Appoint an appeals committee consisting of 7 individuals**, none of whom shall be employed by the department or a community mental health services program, to hear appeals of recipients' rights matters. The appeals committee shall include at least 3 members of the recipient rights advisory committee, 2 board members, and



2 primary consumers. A member of the appeals committee may represent more than 1 of these categories **or designate the recipient rights advisory committee as the appeals committee.** If you designate the Recipient Rights Advisory Committee, then none of the members can be staff from MDHHS or a CMH. The committee members agreed they did not recommend the Advisory Committee be separate from the Appeals Committee so this will not be presented to the CMH Board since they do not want to make a change to Pine's Policy which states the Appeals and Advisory Committee are one.

- i. Proposed Recipient Rights Advisory Committee meet:
    - i. 2023 Meeting
      1. Tuesday, December 12<sup>th</sup>, 2023 at 12pm-1pm
    - ii. 2024 Meetings from 12pm-1pm on 2<sup>nd</sup> Tuesday's of the month, dates below:
      1. March 12<sup>th</sup>
      2. June 11<sup>th</sup>
      3. September 10<sup>th</sup>
      4. December 10<sup>th</sup>
    - iii. To meet the MH Code requirements, we need to at least meet on June 12<sup>th</sup> and December 11<sup>th</sup>
- V. **Next Meeting:** Tuesday, December 12<sup>th</sup>, 2023 from 12pm-1pm.
- VI. **Adjourned:** 12:55pm