Client Rights and Consent for Treatment: What Providers and Consumers Should Know
Rights Notification

• By law, the client must be informed of their rights

• A written summary of client rights shall be made available to each client and legally responsible person (LRP)
Rights Notification

• Acknowledgement of receipt of information is an important step in the process of notifying consumers and LRPs of their rights, privacy practices, how to access services during a crisis, and other important information.
Rights Notification

• Accomplished in a variety of ways:
  o Develop a handbook with all relevant information and provide to consumer/LRP at the first meeting
  o Review the information with the consumer/LRP and obtain a signed and dated acknowledgment that they have received it
  o Develop different documents for each informational
Rights Notification

• Accomplished in a variety of ways:
  o Develop different documents for each informational area, obtain signatures from consumers and/or LRP, provide a copy to the consumer and maintain originals in record
  • Signatures and dates of consumer and/or LRP could be obtained on a single acknowledgement page
# Rights Notification

![Image of a Rights Notification form]

**Practice Letterhead**

<table>
<thead>
<tr>
<th>Consumer Name:</th>
<th>Date of Birth:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Medicaid Number:</td>
<td>Medical Record #:</td>
</tr>
</tbody>
</table>

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By initialing below, I certify that I have reviewed and/or received a copy of the following documents:

- [ ] Consumer Rights
- [ ] Notice of Privacy Practices
- [ ] Financial Agreement
- [ ] Service Plan

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**Consumer or Legally Responsible Person Signature**  
**Relationship to Consumer**  
**Date**

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**Witness Signature**  
**Date**
More About Signatures

• Consumers receiving service who are over 18 and do not have a guardian must sign and date all documentation.

• If someone over the age of 18 has a guardian, if appropriate they should sign paperwork, but the guardian must sign the paperwork and guardianship papers must be obtained.

• For children, parents must sign the paperwork, and in the case of substance abuse treatment an adolescent must also sign the paperwork.
More About Signatures

• It is best practice when appropriate to have the service recipient sign the paperwork in addition to a guardian.

• If a child is in DSS custody or has a guardian that is not a parent, the guardian must sign paperwork and guardianship papers must be obtained:
  - Sometimes guardianship paperwork is difficult to obtain, you must document your attempts to obtain guardianship papers.
More About Signatures

• There is a requirement that signatures are dated by the person signing to validate that forms, plans, etc. were signed by the person on a particular date.
Acknowledgement Form

• Sample acknowledgement available in the LIP resource packet found on the Alliance website
  o Providers not required to use this form but it is available for reference

• Whichever form you choose to use, make sure you are keeping up with any updates or changes to regulations.
Consumer Rights Summary

• The following slides contain lists of summarized rights of which consumers are to be informed

• For more information review the LIP resource packet which includes a template that can be used in your practice

• Consumer rights are guaranteed by law

• Consumers have the right to a treatment plan
  • A written treatment plan, based on individual needs, must be implemented within 15 calendar days of admission
Consumer Rights Summary

• Consumers have the right to be informed about medications
  o You have the right to have medication administered in accordance with accepted medical standards and upon the order of a physician
Consumer Rights Summary

• Consumers have a special right if they have intellectual disabilities
  o If a consumer’s primary need is related to the fact that the consumer has intellectual disabilities and is placed in a residential facility, the consumer is entitled to assistance in finding another place to live if the consumer’s original placement can no longer serve the consumer

• Consumers have the right to refuse treatment
Consumer Rights Summary

• Consumers have the right to treatment, including access to medical care and habilitation, regardless of age or degree of MH/IDD/SA disability
Consumer Rights Summary

• Consumers have the right to confidentiality
  o The confidentiality of care and treatment is protected by law
  o Except as allowed by law and agency regulations, consumers records and other information will not be released without the consumer’s written permission
Consumer Rights Summary

• We may be required to share information with another person about a consumer’s services under certain circumstances that include:
  o If the consumer gives permission, we may share information with any person that the consumer names
  o The consumer’s next of kin may be informed that he/she is a consumer, if it is in the consumer’s best interest
Consumer Rights Summary

- With the consumer’s permission, next of kin, a family member with a legitimate role in the consumer’s service, or another person whom named by the consumer may be given other information about the consumer’s care
- A consumer advocate may review a consumer’s record when assigned to work on his/her behalf
- The court may order us to release consumer records
- Our attorney may need to see a consumer’s file because of legal proceedings
Consumer Rights Summary

- Request from the funding source, or an audit
- Another facility or HIPAA Covered Entity may need to receive a consumer’s files when his/her care is transferred
- If a consumer becomes imprisoned information may be shared with prison officials
- In an emergency another professional who is treating a consumer may receive his/her records
- A physician or other professional who referred a consumer to a facility may receive his/her files
Consumer Rights Summary

- If we believe a consumer is a danger to him/herself or to others, or if we believe that the consumer is likely to commit a crime, we may share information with law enforcement.

- Special rules may apply if a consumer has a legal guardian appointed, is a minor, or is receiving treatment for substance abuse.

- Consumers have the right to see their own records except under certain circumstances, specified by law and have the right to have those circumstances explained to them.

- More information: Alliance Notice of Privacy Practices
Consumer Rights Summary

- Consumers have the right to be informed of the rules
  - Consumers have the right to be informed of the rules they are expected to follow in a particular facility or practice and possible penalties for violation of the rules
Consumer Rights Summary

• Consumers have the right to know their treatment costs
  o Fees for services should be discussed with the consumer at the first visit
  o Although it is the consumer’s responsibility to make arrangements to pay his/her bill, services will never be denied because of inability to pay

• Consumers have the right to privacy

• Consumers have the right not to be abused
Consumer Rights Summary

• Consumers have the right to make instructions for their treatment in advance
  - If a consumer becomes incapacitated and unable to make decisions about his/her treatment, the consumer may prepare a document which outlines his/her intentions, and a person to make decisions based upon the consumer’s instructions

• Consumers have the right to make a complaint
  - The process for making a complaint should be explained to the consumer
Consumer Rights Summary

• Consumers have the right to make a complaint
  - The process for making a complaint should be explained to the consumer

• Consumers have a right to contact Disability Rights NC
  - The contact information for Disability Rights NC must be included on the consumer’s form
Consumer Rights Summary

• More detailed information is available in the LIP resource packet found under the “For Providers” tab on the Alliance website
Consumer Rights Summary

• More detailed information is available in the LIP resource packet found under the “For Providers” tab on the Alliance website
Notice of Privacy Practices for PHI

• HIPAA Privacy Rule gives consumers a fundamental new right to be informed of the privacy practices of their health plans and of most of their health care providers, as well as to be informed of their privacy rights with respect to their personal health information.

• Health plans and covered health care providers required to develop and distribute a notice that provides a clear explanation of these rights and practices.
Notice of Privacy Practices for PHI

• The notice intended to focus consumers on privacy issues and concerns, and to prompt them to have discussions with their health plans and health care providers and exercise their rights

• Health care providers required to provide the Notice of Privacy Practice no later than the date of first visit and make a good faith effort to obtain the individual’s written acknowledgment of receipt of the notice
Notice of Privacy Practices for PHI

• If an acknowledgment cannot be obtained, provider must document efforts to obtain the acknowledgment and the reason it was not obtained

• Sample Notice(s) of Privacy Practices available at www.healthit.gov/providers-professionals/model-notices-privacy-practices
Consent for Treatment

- Clinical Coverage Policy 7.2.1 Consent
  - At the time of the initial service, the provider shall obtain the written consent from the legally responsible person for treatment for beneficiaries of all ages
Consent for Treatment

• In Loco Parentis and Consent for Minors (APSM 45-2 Chapter 8-9)
  o When the signature of a legally responsible person required for a minor, and the parent is not involved in a child’s life, but there has been no legal action to appoint a legally responsible person or guardian, an individual who has been acting in a parental role may still be able to make decisions for the minor child
Consent for Treatment

• In Loco Parentis and Consent for Minors (APSM 45-2 Chapter 8-9)
  o “In loco parentis” is a legal doctrine describing a relationship similar to that of a parent to a child
  o Refers to an individual who assumes long-term parental status and responsibilities for a minor child without formally obtaining legal recognition of that relationship (e.g., guardianship or adoption)
Consent for Treatment

• In Loco Parentis and Consent for Minors (APSM 45-2 Chapter 8-9)
  o Chapter 122C-3(20) of the General Statutes defines a legally responsible person to include a person standing “in loco parentis,” meaning someone who is acting on behalf of, or in the role of, a parent
  o Service providers should carefully explain in the child’s service record the details of how and why the person has assumed responsibility for the child
Consent for Treatment

• In Loco Parentis and Consent for Minors (APSM 45-2 Chapter 8-9)
  - Providers should encourage caregiver to seek a more official designation as a legally responsible person through for example a guardianship order, adoption, or power of attorney
  - Individuals acting in loco parentis may sign required documents as the legally responsible person on behalf of the child, indicating their identity and their relationship to the child near their signature
Required Consent Elements

• Clients have the right to refuse treatment as described in the statute without threat or termination of services except as outlined in the statute

• Consent for treatment may be withdrawn at any time

• A consent for treatment shall be signed by the individual and/or legally responsible person
Required Consent Elements

• A written consent that grants permission to seek emergency medical care from a hospital or physician shall be obtained from the individual or legally responsible person.

• A minor may seek and receive periodic services from a physician without parental consent in accordance with G.S. § 90-21.5. [See App. G].4.
  o Per 27D .0303(b), there must be informed written consent for planned use of restrictive intervention.
Example Consent Form

Practice Letterhead

Consumer Name: __________________________
Medical Record Number: ______________________
Medicaid Number: ____________________________

I, ___________________________, (consumer/parent/legally responsible
person), give my consent for [Name of Practice] to provide assessment,
treatment and/or other
services for the above named consumer. I reserve the right to withdraw
consent at any time. I also
reserve the right to refuse, at any time, any services offered to me.

If treatment is refused, the qualified professional shall determine whether
treatment in some other
modality is possible. If all modalities are refused, the voluntarily admitted
consumer may be discharged.

A minor may seek and receive periodic services from a physician without
parental consent for the
prevention, diagnosis and treatment of (1) venereal disease and other
diseases reportable under G.S.
130A-135, (2) pregnancy, (3) abuse of controlled substances or alcohol, and
(4) emotional disturbance.

In a medical or health emergency, I authorize the agency to administer first
aid as needed and to contact:

<table>
<thead>
<tr>
<th>Name</th>
<th>Relationship</th>
<th>Telephone Number</th>
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Additionally, in an emergency, a voluntarily admitted consumer may be
administered treatment or
medication, despite the consumer or the legally responsible person’s refusal,
even if the consumer’s
refusal is expressed in a valid advanced written instruction.

I choose the following hospital, medical doctor, and dentist to provide
services to me:

<table>
<thead>
<tr>
<th>Hospital Preference</th>
<th>Address</th>
<th>Phone Number</th>
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<table>
<thead>
<tr>
<th>Medical Doctor</th>
<th>Address</th>
<th>Phone Number</th>
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</table>

<table>
<thead>
<tr>
<th>Dentist</th>
<th>Address</th>
<th>Phone Number</th>
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If the above medical doctor or dentist cannot be reached, I give my permission
to be seen and treated by a
licensed physician or dentist or I may be taken to the nearest emergency
room by ambulance if necessary.
I will not hold this provider/agency accountable for these expenses.

Consumer or Legally Responsible Person Signature: ____________________________
Relationship to Consumer: ____________________________
Date: ____________________________
Witness Signature: ____________________________
Date: ____________________________

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from LIP resource packet

AllianceBHC.org
## More Information and Resources

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<td>10/26/2011</td>
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