

## Legal Issues and Concerns Ch 15

1. Moccasin Bend Mental Health Institute has specific codes or statutes and legal rules and regulation that are used to determine who is and is not eligible through “Title 33 Tennessee Department of Mental Health and Developmental Disabilities Laws. For example; Emergency Admissions, Judicial Commitments, Forensic Services and Treatment Reviewer Committees.
2. There are certain individuals that are legally required to involve themselves and obtain services at Moccasin Bend. Individuals that are admitted with 2 credentials of need for emergency admission; court ordered 48 hour evaluations and forensic pre-trial and post trial evaluations.
3. Individuals at who are pressured to make use of MB do not have the right to refuse participation. Moccasin Bend only has clients that are involuntary and court ordered.
4. Moccasin Bend is licensed by the state of Tennessee. They are licensed by; TD MHDD, State Licensure and Federal Medicare and Medicaid Certification has consistently maintained. MB is accredited by the Joint Commission of Accreditation of Healthcare Organization since 1973.
5. The outside agencies or organizations that are authorized to interview staff about their practices and review the records kept by Moccasin Bend are the State, Federal Medicare and Medicaid and Joint Commission.
6. There are three possible legal consequences for a social worker who takes action that conflicts with or violates the agency’s written policy. First, they will receive a verbal or written warning. Second violation, there are specific human resource steps to correct behavior. Third violation, the social worker can be terminated from the agency depending on severity of offense.
7. There are 231 licensed clinical social workers and 171 certified master social workers at Moccasin Bend.
8. Moccasin Bend has liability insurance for employees.

9. The liability insurance has some limitations and restrictions for social work practicum students as well as volunteers.
10. Social workers have the option/choice to pay for individual malpractice insurance, if they chose to.
11. Moccasin Bend and staff members have been sued for wrongful death, negligent of care and abuse. These matters were settled out of court.
12. The facility receives mentally ill and substance abuse patients. Suicidal individuals or those with medication complications are considered a high legal risk.
13. The law firms that represent Moccasin Bend are Central Office of Legal Counsel for the State and in house attorneys are employed by the State.
14. Agency policies or procedures apply when you and others encounter the following situations that raise legal questions.
  - a. **The client who appears to be a real threat to self:** Suicide screening, suicide precautions and one to one staff supervision.
  - b. **The client who appears to a real threat to others:** Violence precautions, one to one staff supervision and seclusion and restraints.
  - c. **The client who may not be mentally competent to care for him or herself:** They will be recommended conservator-ship and the treatment review committee will make a decisions.
  - d. **The client who is a minor:** You have to be 18 and up to be admitted to Moccasin Bend.
  - e. **The client who is injured while in your agency:** An incident report will be completed and they will receive medical attention by a nurse at the facility or will be sent to the emergency treatment (ER).
  - f. **The client who insists on withdrawing from a treatment program or another agency:** The client is unable to leave the facility until a judge allows the client to be discharged.
  - g. **The client who threatens harm to a social worker or other agency staff member:** The client will be put on violence precautions and one to one staff supervision.
  - h. **The client who is suspected of or known to have committed a serious crime:** The staff will check the felony database on the computer and take precautions while around the client.

- i. **The client who appears to need legal counsel or representation:** The client will receive a list of possible attorneys or one will be appointed by the judge.
  - j. **The client who has been ordered by a court to receive certain services from your agency:** Forensic services are requirements by law to be conducted by forensic staff.
  - k. **The client who has clearly lied, withheld information, or falsified an application in order to become eligible for the benefits or services provided by your agency:** This does not apply to MB.
  - l. **The client who states he or she intends to bring a lawsuit against a social worker or the agency:** A staff member will refer them to the patient rights adviser and central office complaint department.
15. Agency policies or procedures that apply when you or others encounter the following legal situations and legal questions.
- a. **How to proceed when a client requests the opportunity to read or copy his or her records:** They will need to complete a request form to read a copy of their records.
  - b. **How to obtain a client's permission to release his or her records to another agency or professional:** You have to complete a release of information form and the client will have to sign it.
  - c. **How to report suspected child or elder abuse and neglect:** You discuss the situation with your supervisor or Moccasin Bend attorney and call child and adult protective services.
  - d. **How to obtain a client's informed consent to participate in certain programs and services:** The client has to participate in certain programs and services. The clients are involuntary or court ordered to be there.
  - e. **How to handle and record the receipt of gifts from a client or donation to Agency:** There can be no gifts or donations received by the clients since it is a state facility.
  - f. **How to respond when one receives a subpoena for client records or other confidential information:** Subpoena is a request for a person's records presence. This can not be obtained if there is not an actual order for material to be released.

- g. **How to respond when one receives a subpoena to be a witness in a trial or court action:** Typically the person attends the trial or court action, unless they do not feel that they are not able to attend. If they do not want to go to trial, then they might be ordered from the judge to attend.