

**POLICIES AND PROCEDURE MANUAL**

<b>Chapter:</b>	<b>Compliance</b>		
<b>Title:</b>	<b>Consent to Share Information</b>		
<b>Policy:</b> ☒	<b>Review Cycle:</b> Annually	<b>Adopted Date:</b> 01.09.2018	<b>Related Policies:</b>
<b>Procedure:</b>	<b>Author:</b> Director of Quality, Compliance and Customer Service	<b>Review Date:</b> 11.05.2019	
<b>Page:</b> 1 of 5		<b>Revision Eff. Date:</b>	

**Purpose**

To ensure that Mid-State Health Network (MSHN) Pre-Paid Inpatient Health Plan (PIHP) is in compliance with the Michigan Department of Health and Human Services (MDHHS), Medicaid Managed Specialty Supports and Services Contract regarding the use and acceptance of the current MDHHS Standard Release Form.

Michigan Public Act 129 of 2014 mandated that the Michigan Department of Health and Human Services (MDHHS) develop a standard release form for exchanging and sharing confidential mental health and substance use disorder information for use by public and private agencies, departments, corporations, or individuals that are involved with treatment of an individual experiencing serious mental illness, serious emotional disturbance, developmental disability, or substance use disorder.

**Policy**

MSHN delegates the responsibility to the Community Mental Health Services Program (CMHSP) Participants and the Substance Use Disorder (SUD) Providers for obtaining consents to share information such as mental health records or information on treatment or referrals for alcohol and substance use services. The consent form is to be utilized for all electronic and non-electronic Health Information Exchange environments: (This would include hard copies of records that are passed from one provider to another.) CMHSP Participants and SUD Providers will utilize, accept and honor the MDHHS standard release form that was created by MDHHS under Public Act 129 of 2014 (DCH-3927 Consent to Share Behavioral Health Information for Care Coordination Purposes).

MSHN will not use or disclose protected health information without written authorization except where permitted or required by state and/or federal law(s).

**Sharing Protected Health Information NOT Requiring a Signed Consent:**

- Health Insurance Portability and Accountability Act (HIPAA) and the Michigan Mental Health Code (under Public Act 559 of 2016) allows for the sharing of mental health records for the purposes of treatment, payment, and coordination of care
- Sharing information for Substance Use Service under the following conditions (42 CFR- Part 2; Subpart D and E):
  - Medical Emergencies
  - Research
  - Audit and Evaluation
  - Court Ordered
- Refer to Attachment A for examples of when a signed consent is not required

**Sharing Protected Health Information that DOES Require a Signed Consent:**

- Behavioral health and mental health services for purposes other than payment, treatment and coordination of care
- Referrals and/or treatment for substance use disorder services
- Refer to Attachment A for examples of when a signed consent is required

MDHHS Standard Consent Form CANNOT be used for the following:

- To share psychotherapy notes (as defined by federal law - 45 CFR 164.501)
- Release of information pertaining to HIV infection or acquired immunodeficiency syndrome (unless by court order or subpoena as defined in the Public Health Code – Section 333.5131)
- For a release from any person or agency that has provided services for domestic violence, sexual assault, stalking, or other crimes

**Applies to**

- All Mid-State Health Network Staff
- Selected MSHN Staff, as follows:
  - MSHN's Affiliates:  Policy Only     Policy and Procedure
  - Other: Sub-contract Providers

**Definitions**

**Care Coordination:** A set of activities designed to ensure needed, appropriate and cost-effective care for beneficiaries. As a component of overall care management, care coordination activities focus on ensuring timely information, communication, and collaboration across a care team and between Responsible Plans. Major priorities for care coordination in the context of a care management plan include:

- Outreach and contacts/communication to support patient engagement,
- Conducting screening, record review and documentation as part of Evaluation and Assessment,
- Tracking and facilitating follow up on lab tests and referrals,
- Care Planning,
- Managing transitions of care activities to support continuity of care,
- Address social supports and making linkages to services addressing housing, food, etc., and
- Monitoring, Reporting and Documentation.

**CMHSP:** Community Mental Health Service Programs

**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, or a verbal agreement of a recipient that is witnessed and documented by an individual other than the individual providing treatment.

**Contractor:** Medicaid Health Plans and Prepaid Inpatient Health Plans

**DHHS:** Department of Health and Human Services

**MDHHS:** Michigan Department of Health and Human Services

**MSHN:** Mid-State Health Network

**Payment:** Activities undertaken by (1) A health plan to obtain premiums or to determine or fulfill its responsibility for coverage and provision of benefits under the health plan; or (2) A health care provider or health plan to provide reimbursement for the provision of health care.

**PIHP:** Prepaid Inpatient Health Plan

**Responsible Plan:** Contractors with responsibility for Medicaid beneficiaries within the shared service area

**SUD:** Substance Use Disorder

**Treatment:** The provision, coordination, or management of health care and related services by one or more health care providers, including the coordination or management of health care by a health care provider with a third party; consultation between health care providers relating to a patient; or referral of a patient for health care from one health care provider to another.

**Other Related Materials**

1. DCH-3927 Consent to Share Behavioral Health Information for Care Coordination Purposes ([http://www.michigan.gov/mdhhs/0,5885,7-339-71550\\_2941\\_58005\\_70642---,00.html](http://www.michigan.gov/mdhhs/0,5885,7-339-71550_2941_58005_70642---,00.html))
2. Behavioral Health Consent Form Background Information ([http://www.michigan.gov/documents/mdhhs/Behavioral\\_Health\\_Consent\\_Form\\_Background\\_Information\\_514583\\_7.pdf](http://www.michigan.gov/documents/mdhhs/Behavioral_Health_Consent_Form_Background_Information_514583_7.pdf))
3. Behavioral Health Consent Form Handout ([http://www.michigan.gov/documents/mdhhs/Behavioral\\_Health\\_Consent\\_Form\\_Handout\\_514584\\_7.pdf](http://www.michigan.gov/documents/mdhhs/Behavioral_Health_Consent_Form_Handout_514584_7.pdf))
4. Frequently Asked Questions for Michigan Residents About the DCH-3927 ([http://www.michigan.gov/documents/mdhhs/MDHHS-Pub-1101\\_514350\\_7.pdf](http://www.michigan.gov/documents/mdhhs/MDHHS-Pub-1101_514350_7.pdf))
5. Public Act 129 of 2014
6. Public Health Code – Section 333.5131
7. Mental Health Code - Section 330.1141a
8. Public Act 559 of 2016
9. Code of Federal Regulation – Title 45 - Section 164.501

**References/Legal Authority**

1. Medicaid Managed Specialty Supports and Service Concurrent 1915 (b)/(c) Waiver Program FY20: Section 7.9.3: MDHHS Standard Consent Form
2. Michigan Mental Health Code, Sections 330-1261, 330-1262 and 330-1263

**Change Log:**

<b>Date of Change</b>	<b>Description of Change</b>	<b>Responsible Party</b>
09.2017	New Policy	Director of Quality, Compliance, and Customer Svc.
03.2018	Annual Review	Director of Quality, Compliance, and Customer Svc.
09.2018	Revisions Requested by Ops Council	Director of Quality, Compliance, and Customer Svc.
03.2019	Annual Review	Quality Manager
09.2019	Update Attachment A – Move policy under Compliance	Director of Compliance, Customer Service, & Quality

**Attachment A: (This is not an exhaustive list of all agencies or circumstances)**

<b>DOES NOT REQUIRE CONSUMER CONSENT TO DISCLOSE INFORMATION</b>			<b>REQUIRES CONSUMER CONSENT TO DISCLOSE INFORMATION</b>
<b>Treatment</b>	<b>Payment</b>	<b>Coordination of Care</b>	
The provision, coordination, or management of health care and related services by one or more health care providers, including the coordination or management of health care by a health care provider with a third party; consultation between health care providers relating to a patient; or referral of a patient for health care from one health care provider to another	Activities undertaken by (1) A health plan to obtain premiums or to determine or fulfill its responsibility for coverage and provision of benefits under the health plan; or (2) A health care provider or health plan to provide reimbursement for the provision of health care.	A set of activities designed to ensure needed, appropriate and cost-effective care for beneficiaries. As a component of overall care management, care coordination activities focus on ensuring timely information, communication, and collaboration across a care team and between Responsible Plans.	
Contracted Treatment Providers	DHHS-for Medicaid/ Financial Assistance Reasons	CMHP, PIHP, Health Plans and Health Plan Providers involved in a care team around a specific consumer	Referrals and/or treatment for substance use disorder
Primary Care Physicians	Payment to Providers	Contracted Treatment Providers	Natural Supports: Family, Spouse, Friends, Partners, etc.
Physical Health Care Specialists	Contracted Providers	Primary Care Physicians	Employers
Hospitals/Urgent Care/Labs -Medical and Psychiatric	BCBS/other 3rd party payor reviews	Physical Health Care Specialist	Schools (including ISD)
Persons/Providers as required under Alternative Treatment Order (ATO)	Any insurance companies related to payment for services	Hospitals/Urgent Care/Labs -Medical and Psychiatric	Law Enforcement (i.e. Probation Officer) outside of court ordered treatment or a court order
Jail for medications & aftercare coordination	Social Security	DHHS Housing/Food/Other Benefits Assistance	Landlord/Housing
Pharmacies	Non-Contracted Treatment Providers	Veteran's Administration	Non-Contracted Treatment Providers
DHHS as guardian (consumer is ward of the court/ward of the State)	Veteran's Administration		Attorneys
Office of Inspector General (OIG) for active investigations			Step Parent
DHHS-CPS/APS for active investigations (does not include SUD)			Fair Hearing Representatives

consumers other than initial mandated reporting)			
LARA (Licensing)-for active investigation			DHHS Foster Care Workers (UNLESS child is a ward of the state & worker has legal rights, or there is open CPS/APS case, or DHHS has legal custody)
Michigan Protection & Advocacy (MPAS)			Mental Health Court/Drug Court/Veterans Court
			Coroner/Medical Examiner
			Guardian Ad Litem
			Court Appointed Special Advocate (CASA)
			Ombudsman
			Clergy
			DHHS- CPS/APS for active investigation (SUD consumers only)
			Pharmaceutical Advocates
			Foster Care Parent(s) (No release needed if MDHHS Form #3762 is presented - Consent to Routine, Non-Surgical, Medical Care and Emergency Medical/Surgical Treatment)

**MINIMUM NECESSARY:** A key protection of the HIPAA Privacy Rule, is derived from confidentiality codes and practices in common use today. It is based on sound current practice that protected health information should not be used or disclosed when it is not necessary to satisfy a particular purpose or carry out a function. The minimum necessary standard requires covered entities to evaluate their practices and enhance safeguards as needed to limit unnecessary or inappropriate access to and disclosure of protected health information. The Privacy Rule's requirements for minimum necessary are designed to be sufficiently flexible to accommodate the various circumstances of any covered entity.

**NEED TO KNOW:** Protected Health Information is only to be released to individuals who need to have access to the information to perform their job function.