

POLICIES AND PROCEDURES MANUAL

Chapter:	General Management		
Title:	Conflict of Interest Policy		
Policy: <input checked="" type="checkbox"/> Procedure: <input type="checkbox"/> Version: 4.0 Page: 1 of 6	Review Cycle: Annually Author: Chief Executive Officer, Legal Counsel	Adopted Date: 07.29.2013 Review Date: 05.08.2018 Revision Eff. Date:	Related Policies: General Management Board Member Conduct

Purpose

The objective of this policy (the “Policy”) is to provide an effective oversight process to protect the interests of Mid-State Health Network (“MSHN”) when contemplating a transaction, arrangement, proceeding or other matter that might benefit the private interest of an individual or another entity. The policy accomplishes this objective by defining Conflict of Interest, identifying individuals subject to this Policy, facilitating the disclosure of actual and potential Conflicts of Interest and Financial Interests and setting forth procedures to manage Conflicts of Interest. This policy is intended to supplement, but not replace, any applicable state or federal laws governing conflicts of interests in governmental entities or charitable, tax exempt, nonprofit organizations.

Policy

It shall be the policy of MSHN to provide a means for any Covered Person to identify and report to the MSHN’s Board any direct or indirect Financial Interest and any actual or potential Conflict of Interest and, based on that information, to permit the Board to review such Financial Interests and Conflicts of Interest and provide a process for the Board to follow when managing Conflicts of Interest, all in accordance with applicable law.

A “Covered Person” subject to this Policy includes: Members of the MSHN Board including their participation in committees of the Board which are delegated authority by the Board, the Substance Use Disorder Regional Oversight Policy Board (SUD-OPB), and MSHN Officers, employees or agents.

Duties of Covered Persons

Duty of Care: Every Covered Person shall act in a reasonable and informed manner and perform his or her duties for MSHN in good faith and with the degree of care that an ordinarily prudent person would exercise under similar circumstances.

Duty of Loyalty: Every Covered Person owes a duty of loyalty to act at all times in the best interest of MSHN and not in the interest of the Covered Person or any other entity or person. No Covered Person may personally take advantage of a business opportunity that is offered to MSHN unless the Board of Directors determines not to pursue that opportunity, after full disclosure and a disinterested and informed evaluation.

Conflicts of Interest: No Covered Person may engage in any transaction, arrangement, proceeding or other matter or undertake positions with other organizations that involve a Conflict of Interest, except in compliance with this policy. Covered Persons should avoid not only actual but the appearance of conflicts of interest as well. Every Covered Person shall:

- A. Disclose all Financial Interests as set out below;
- B. Unless a Conflict of Interest Waiver has been granted, recuse himself/herself from voting on any transaction, arrangement, proceeding or other matter in which he/she has a Financial Interest, and not be present when any such vote is taken; and

- C. Comply with any restrictions or conditions stated in any Conflict of Interest Waiver granted for the Covered Person's activities.

Duty to Disclose: Each Covered Person has a duty to disclose to the Board the existence of a Financial Interest and all related material facts.

Disclosure of Financial Interests: Each Covered Person shall submit in writing to the Entity's Chief Executive Officer an Annual Disclosure of Ownership, Controlling Interest, and Criminal Conviction Statement (Attachment A) listing all Financial Interests and affirming compliance with the Conflict of Interest Policy. Each Covered Person shall update his/her Annual Disclosure of Ownership, Controlling Interest, and Criminal Conviction Statement each year on the date designated by the Board for updating, and promptly when any new Financial Interests or potential Conflicts of Interest arise. The Chairperson of the Board shall review and become familiar with all submitted Disclosure of Ownership, Controlling Interest, and Criminal Conviction Statements and updates in order to guide his/her conduct regarding the disclosed information. The Vice Chairperson of the Board shall review and become familiar with the Disclosure of Ownership, Controlling Interest, and Criminal Conviction Statement submitted by the Chairperson of the Board.

The Board of Directors may request that a Covered Person(s) appear before the Board or submit written information to supplement or to answer questions regarding information disclosed on the Annual Disclosure of Ownership, Controlling Interest, and Criminal Conviction Statement.

Addressing Financial Interests and Conflicts of Interest:

- A. Board Deliberation. After disclosing the Financial Interest, together with any additional oral or written presentation of material or discussion requested by the Board, the interested person shall leave the Board meeting while the Board discusses the information and votes regarding how to manage the Conflict of Interest and whether or not to grant a waiver. The interested person shall not take part in the Board's due diligence deliberations.
- B. Appointment of Disinterested person. If the Board determines it is advisable, the Board may appoint a disinterested person to conduct further investigation regarding the reported Financial Interest and Conflict of Interest and make a report back to the Board.
- C. Board Vote. The Board, after exercising due diligence regarding the reported Financial Interest and Conflict of Interest, shall, by vote, make a determination as to whether or not the Entity can obtain a more advantageous transaction, arrangement, proceeding or other matter with reasonable efforts from another person or entity that would not involve the interested person, and the Financial Interest is so substantial as to be likely to affect the integrity of the services which the Entity may expect from the interested person. The interested person shall not take part in the Board's due diligence deliberations or any vote on how to manage the Conflict of Interest and whether or not to grant a waiver.
- D. Notice to Interested Person. If the Board determines, by majority vote of disinterested members, that it may, with reasonable efforts, obtain a more advantageous transaction, arrangement, proceeding or other matter from another person or entity not involving the Interested person, it shall notify the interested person and may pursue such other transactions, arrangements, proceedings or other matters or restrict the interested person's participation in the matter, as the Board determines appropriate.
- E. Granting a Conflict of Interest Waiver. If the Board determines that it is not able, with reasonable efforts, to obtain a more advantageous transaction, arrangement, proceeding or other matter from another person or entity not involving the Interested person, and that the Financial Interest is not so substantial as to be likely to affect the integrity of the services which the Entity may expect from the Interested person, the Board may vote to waive the potential Conflict of Interest and proceed with the proposed transaction, arrangement, proceeding or other matter and the Interested person's participation in the matter. A Conflict of Interest Waiver shall be made in writing and signed by the Chairperson of the Board on the Entity's Conflict of Interest Waiver form (Attachment B). The Conflict of Interest

Waiver may restrict the interested person's participation in the matter to the extent deemed necessary by the Board. Further, the Conflict of Interest waiver may cover all matters the interested person may undertake as part of his/her official duties with the Entity, without specifically enumerating such duties. All Conflict of Interest Waivers shall be issued prior to the Interested person's participation in any transaction, arrangement, proceeding or other matter on behalf of the Entity.

- F. Factors for Consideration When Granting a Waiver. In making a determination as to whether a Financial Interest is substantial enough to be likely to affect the integrity of the interested person's services to the Entity, the Board shall consider, as applicable:
- i. The type of interest that is creating the disqualification (e.g. stock, bonds, real estate, cash payment, job offer or enhancement of a spouse's employment);
 - ii. The identity of the person whose Financial Interest is involved, and if the interest does not belong directly to the Interested person, the Interested person's relationship to that person;
 - iii. The dollar value of the disqualifying Financial Interest, if known and quantifiable (e.g., amount of cash payment, salary of job to be gained or lost, change in value of securities);
 - iv. The value of the financial instrument or holding from which the disqualifying Financial Interest arises and its value in relationship to the individual's assets;
 - v. The nature and importance of the interested person's role in the matter, including the level of discretion which the interested person may exercise in the matter;
 - vi. The sensitivity of the matter;
 - vii. The need for the Interested person's services; and
 - viii. Adjustments which may be made in the interested person's duties that would eliminate the likelihood that the integrity of the interested person's services would be questioned by a reasonable person.
- G. Waivers Supported by Michigan Law. Michigan law specifically provides support for granting a waiver of a Conflict of Interest arising under the following Conflict of Interest exception scenarios:
- i. A community mental health services program ("CMHSP") Board member may be a party to a contract with a CMHSP or administer or financially benefit from that contract, if the contract is between the CMHSP and the Entity;
 - ii. A CMHSP Board member may also be a member of the Entity Board, even if the Entity has a contract with the CMHSP;
 - iii. A CMHSP Board may approve a contract with the Entity, if a CMHSP Board member is also an employee or independent contractor of the Entity; and
 - iv. CMHSP public officers (e.g., Board members, officers, executives and employees) may also be Board members, officers, executives and employees of the Entity, even if the Entity contracts with the CMHSP, subject to any prohibition imposed by the Michigan Department of Health and Human Services (MDHHS) in that regard.
- H. Reporting to the State. MSHN will promptly notify the Division of Program Development, Consultation and Contracts, Behavioral Health and Developmental Disabilities Administration (BHDDA) in MDHHS if:
- i. Any disclosures are made by providers with regard to the ownership or control by a person that has been convicted of a criminal offense described under sections 1128(a) and Medicaid Managed Specialty Supports and Services Concurrent 1915(b)/(c) Waiver Program 29 1128(b)(1), (2), or (3) of the Act, or that have had civil money penalties or assessments imposed under section 1128A of the Act. (See 42 CFR 1001.1001 (a)(1): or
 - ii. Any staff member, director, or manager of the PIHP, individual with beneficial ownership of five percent or more, or an individual with an employment, consulting, or other arrangement
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with the PIHP has been convicted of a criminal offense described under sections 1128(a) and 1128(b)(1), (2), or (3) of the Act, or that have had civil money penalties or assessments imposed under section 1128A of the Act. (See 42 CFR 1001.1001(a)(1))

Policy Enforcement

- A. If the Board has reasonable cause to believe that a Covered Person has failed to disclose actual or potential Financial Interests or Conflicts of Interest, the Board shall inform the involved Covered Person of the basis for such belief and afford the Covered Person an opportunity to explain the alleged failure to disclose.
- B. If, after hearing the Covered Person's response and after making such further investigation as may be required, the Board determines that the Covered Person has in fact failed to disclose an actual or potential Financial Interest or Conflict of Interest, the Board shall take appropriate corrective action.

Records of Proceedings

The minutes of the Board and all committees with Board-delegated powers shall contain:

- A. The names of Covered Persons who disclosed or otherwise were found to have a Financial Interest, the nature of the Financial Interest, any due diligence investigation of the Financial Interest and potential Conflict of Interest, and the Board's decision with regard to the matter. If a written waiver of a Conflict of Interest is granted, a copy of the written waiver shall be attached to the minutes of the meeting at which it was granted.
- B. The names of all persons who were present for discussion and votes related to the transaction or arrangement involved in the Financial Interest, a summary of the content of the discussion, including any alternatives proposed to the transaction or arrangement, and a record of any vote taken in connection with the matter.
- C. If the Board grants a waiver of a Conflict of Interest, the waiver shall be in writing and shall be signed by the Chairperson of the Board, and shall describe the Financial Interest, the proceeding, transaction or matter to which the Financial Interest applies, the Interested person's role in the proceeding, transaction or matter, and any restriction on the Interested person's participation in the proceeding, transaction or matter.

Compensation Committees

- A. A voting member of the Board or any Board committee whose scope of authority includes compensation matters and who receives compensation, directly or indirectly, from MSHN, is precluded from voting on matters pertaining to his/her own compensation from MSHN.
- B. No voting member of the Board or any Board committee whose scope of authority includes compensation matters and who receives compensation, directly or indirectly, from MSHN, is prohibited, individually or as part of a group, from providing information to the Board or any committee regarding compensation.

Annual MSHN Board of Directors Disclosure of Ownership, Controlling Interest, and Criminal Convictions

Annually, on a date to be determined by the Board, each Covered Person shall complete, sign and date a MSHN Board of Directors Disclosure of Ownership, Controlling Interest, and Criminal Convictions (see Attachment A). The Disclosure Statement affirms that the signor:

- 1. Has received a copy of this Policy;
 - 2. Has read, understands, and agrees to comply with this Policy and the requirements of 42 CFR 455 Subpart B;
 - 3. Has disclosed necessary information identified in 42 CFR 455 Subpart B;
 - 4. Will update the information on the Disclosure of Ownership, Controlling Interest, and Criminal Convictions, should information change, by completing a new disclosure statement;
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5. Understands that MSHN is required to notify the MDHHS BHDDA Division of Program Development, Consultation and Contracts when any disclosures are made with regard to criminal offense described under sections 1128(a) and 1128(b)(1)(2), or (3) of the Social Security Act.

Covered persons may submit a current copy of an equivalent disclosure statement previously completed for a CMHSP, provided the disclosure statement complies with the requirements of 42 CFR 455 Subpart B and the information disclosed remains accurate at the time of receipt by MSHN.

Applies to:

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

Definitions:

BHDDA: Behavioral Health and Developmental Disabilities Administration

CMHSP: Community Mental Health Service Program.

Compensation: Compensation includes direct and indirect remuneration, in cash or in kind.

Conflict of Interest: A Conflict of Interest arises when a Covered Person participates or proposes to participate in a transaction, arrangement, proceeding or other matter for the Entity in which the covered person has a financial interest.

Covered Person: A person subject to the terms of this policy including MSHN Board members, Board Committee members, SUD-OPB members, Officers, Executives and staff.

Family Member: Spouse, parent, children (natural or adopted), sibling (whole or half-blood), father-in-law, mother-in-law, grandchildren, great grandchildren and spouses of siblings, children, grandchildren, great grandchildren, and all step family members, and any person(s) sharing the same living quarters in an intimate, personal relationship that could affect decisions of the Covered Person in a manner that conflicts with this Policy.

Financial Interest: A Covered Person has a Financial Interest if he or she has, directly or indirectly, actually or potentially, through a business, investment or through a Family Member:

- (a) an actual or potential ownership, control or investment interest in, or serves in a governance or management capacity for, an entity with which the Entity has a transaction, arrangement, proceeding or other matter;
- (b) an actual or potential compensation arrangement with any entity or individual with which the Entity has a transaction, arrangement, proceeding or other matter;
- (c) or an actual or potential ownership or investment interest in, compensation arrangement with, or serves in a governance or management capacity for, any entity or individual with which the Entity is contemplating or negotiating a transaction, arrangement, proceeding or other matter.

Interested Person: is a Covered Person who has a Financial Interest.

MDHHS: Michigan Department of Health and Human Services

MSHN: Mid-State Health Network

SUD: Substance Use Disorder

SUD-OPB: Substance Use Disorder Regional Oversight Policy Board responsible for planning, approval and monitoring of the region's use of Public Act 2 (PA2) (Liquor Tax) money, which is restricted to use in the County of fund origin and to be used expressly for SUD treatment and Prevention.

Reference/Legal Authority:

The Policy is based on the following legal authorities:

- Mental Health Code, 1974 PA 258, MCL 300.1001 to 300.2106
- 1978 PA 566, MCL 15.181 to 15.185 (incompatible public offices)
- 1968 PA 317, MCL 15.321 to 15.330 (contracts of public servants with public entities)
- 45 CFR Part 74 (Federal Procurement Regulations)
- 45 CFR Part 92 (Federal Procurement Regulations)
- 42 USC 1396a (Federal Medicaid Statute)
- Michigan Medicaid State Plan
- 18 USC 208 (Federal Conflict of Interest Statute)
- IRS Conflict of Interest Guidelines, Policies and Pronouncements for Charitable Tax Exempt Nonprofit Entities
- 42 CFR 455 Subpart B
- Section 1902 (a)(4)(C) and (D) of the Social Security Act: 41 U.S.C. Chapter 21 (formerly Section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. §423): 18 U.S.C. §207: 18 U.S.C. §208: 42 CFR §438.58: 45 CFR Part 92: 45 CFR Part 74: 1978 PA 566: and MCL 330.1222.

Change Log:

Date of Change	Description of Change	Responsible Party
07.23.2013	New Policy	Legal Counsel
10.02.2014	Annual review, Format Update	Chief Executive Officer, Legal Counsel
07.2015	Add legal reference from the SSA as indicated in the MDHHS-PIHP Contract; expanded scope to SUD-OPB, added related definitions; Updated to MDHHS	Chief Executive Officer
03.16.2016	Annual Review	Chief Executive Officer
01.30.2017	Annual Review	Chief Executive Officer
01.29.2018	Annual Review	Chief Executive Officer