

POLICIES AND PROCEDURE MANUAL

| | | | |
|--|---|---|--|
| Chapter: | Compliance | | |
| Title: | Confidentiality and Notice of Privacy | | |
| Policy: <input checked="" type="checkbox"/> Procedure: <input type="checkbox"/> Version: 2.0 Page: 1 of 3 | Review Cycle: Biennial Author: Chief Compliance & Quality Officer | Adopted Date: 09.02.2014 Review Date: 11.07.2023 | Related Policies: Consent to Share Information |

Purpose

To assure the information contained in the records of the beneficiaries of Mid-State Health Network (MSHN) or other such recorded information required to be held confidential by Federal Drug and Alcohol Confidentiality Law (42 CFR, Part 2), Health Insurance Portability and Accountability Act (HIPAA) of 1996 (45 CFR 160 and 164), Mental Health Code (PA 258 of 1974), Public Health Code (PA 368 of 1978), as amended, and Uses and Disclosures of Protected Health Information: General Rules (45 CFR 164.502) in connection with the provision of services or other activity under this agreement shall be confidential and protected communication.

Policy

MSHN staff and the provider network shall comply with confidentiality and protected communication in accordance with the State of Michigan/PIHP Contract.

1. Confidential and protected communication shall not be divulged without the written consent of either the recipient or a person responsible for the recipient except as may be otherwise required or allowed by applicable law or regulation. Such information may be disclosed in summary, statistical, or other form, which does not directly or indirectly identify particular individuals.
2. Beneficiaries will receive information regarding privacy and confidentiality as defined in the State of Michigan/PIHP Contract and State and Federal Rules and Regulations.
3. Non-compliance with confidentiality and notice of privacy will be addressed as outlined in the MSHN Personnel Manual (MSHN staff) or contractual language provisions (contracted personnel and providers) that may result in suspension/termination of employment or contract.

Permitted Uses, Disclosures and Restrictions

A covered entity or business associate may not use or disclose protected health information, except as permitted or required.

1. Permitted uses and disclosures: A covered entity is permitted to use or disclose protected health information as follows:
 - a. To the individual
 - b. For treatment, payment, or health care operations/coordination of care
2. Required disclosures: A covered entity is required to disclose protected health information:
 - a. To an individual, when requested under, and required by 45 CFR § 164.524 or § 164.528; and
 - b. When required by the Secretary to investigate or determine the covered entity's compliance.
3. Business Associates: Permitted uses and disclosures:
 - a. A business associate may use or disclose protected health information only as permitted or required by its business associate contract or other arrangement pursuant to 45 CFR § 164.504(e) or as required by law.

4. Business associates: Required uses and disclosures:
 - a. When required by the Secretary to investigate or determine the business associate's compliance.
 - b. To the covered entity, individual, or individual's designee, as necessary to satisfy a covered entity's obligations to an individual's request for an electronic copy of protected health information.

When using or disclosing protected health information or when requesting protected health information from another covered entity or business associate, a covered entity or business associate must make reasonable efforts to limit protected health information to the minimum necessary to accomplish the intended purpose of the use, disclosure, or request.

1. Minimum necessary does **not** apply to:
 - a. Disclosures to or requests by a health care provider for treatment;
 - b. Uses or disclosures made to the individual;
 - c. Uses or disclosures made pursuant to an authorization;
 - d. Disclosures made to the Secretary;
 - e. Uses or disclosures that are required by law;
 - f. Uses or disclosures that are required for compliance with applicable requirements.

A covered entity must permit an individual to request that the covered entity restrict:

1. Uses or disclosures of protected health information about the individual to carry out treatment, payment, or health care operations/coordination of care; and
2. Disclosures permitted under § 164.510(b).
 - a. A covered entity is not required to agree to a restriction, except as noted in 1.e. below.
 - b. A covered entity that agrees to a restriction may not use or disclose protected health information in violation of such restriction, except that, if the individual who requested the restriction is in need of emergency treatment and the restricted protected health information is needed to provide the emergency treatment, the covered entity may use the restricted protected health information, or may disclose such information to a health care provider, to provide such treatment to the individual.
 - c. If restricted protected health information is disclosed to a health care provider for emergency treatment, the covered entity must request that such health care provider not further use or disclose the information.
 - d. A restriction agreed to by a covered entity is not effective to prevent uses or disclosures permitted or required under § 164.502(a)(2)(ii), § 164.510(a) or § 164.512.
 - e. A covered entity must agree to the request of an individual to restrict disclosure of protected health information about the individual to a health plan if:
 - i. The disclosure is for the purpose of carrying out payment or health care operations/coordination of care and is not otherwise required by law; and
 - ii. The protected health information pertains solely to a health care item or service for which the individual, or person other than the health plan on behalf of the individual, has paid the covered entity in full.

Privacy Notice

Privacy Notice provides that an individual has a right to adequate notice of how protected health information about an individual may be used.

1. The Privacy Notice must be:
 - a. Available to any person who requests it.
 - b. Prominently posted and available on a website.
 - c. Provided to new enrollees at the time of intake, but no later than the date of first service delivery.
 - d. Provided to the individual at least once every three years.
 - e. Revised and provided to the individual within 60 days of material change.
2. Privacy Notice must contain:
 - a. How the covered entity may use and disclose protected health information.
 - b. The individual's rights with respect to the information and how the individual may exercise those rights including how to complain to the covered entity.
 - c. The covered entities legal duties with respect to the information, including a statement that the

- covered entity is required by law to maintain the privacy of the protected health information.
- d. Whom individuals can contact for further information about the privacy policies.
3. Acknowledgement of receipt of the Privacy Notice must be obtained, or the provider must document efforts to obtain the acknowledgment and why the reason it was not obtained.

Applies to:

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

Definitions:

CFR-Code of Federal Regulation

HIPAA: Health Insurance Portability and Accountability Act

MDHHS: Michigan Department of Health and Human Services

MSHN: Mid-State Health Network

Other Related Materials:

MSHN Privacy Notice

References/Legal Authority:

Federal Drug and Alcohol Confidentiality Law (42 CFR, Part 2)

Health Insurance Portability and Accountability Act (HIPAA) of 1996 (45 CFR 160 and 164)

Michigan Mental Health Code (PA 258 of 1974)

Michigan Public Health Code (PA 368 of 1978)

State of Michigan/PIHP Contract: Schedule A: Statement of Work Contract Activities: Q. Observance of State and Federal Laws: 4. Confidentiality; and 9. Health Insurance Portability and Accountability Act and 42 CFR Part 2

45 CFR 164.502 - Uses and disclosures of protected health information: General rules

45 CFR 164.522 – Rights to request privacy protection for protected health information

Change Log:

| Date of Change | Description of Change | Responsible Party |
|----------------|---|--------------------------------------|
| 09.2014 | New Policy | Chief Compliance Officer |
| 08.2015 | Update MDHHS | Deputy Director |
| 11.21.2016 | Annual review | Customer Service Committee |
| 12.18.2017 | Annual review | Customer Service Committee |
| 12.03.2018 | Annual review | Customer Service Committee |
| 03.16.2020 | Annual Review, policy recommended to be moved under MSHN Compliance | Customer Service Committee |
| 08.2021 | Bi-Annual Review; Updated references | Chief Compliance and Quality Officer |
| 08.2023 | Biennial Review; Added references for 45 CFR 164.502 and Privacy Notice | Chief Compliance and Quality Officer |