

SWMBH Operating Policy 11.6

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| Subject: Confidentiality and Disclosure of Substance Abuse Information | | Accountability: SAPT | Effective Date: 3/20/14 | Pages: 4 | |
| REQUIRED BY: BBA Section _____ PIHP Contract Section _____ NCQA/URAC Standard _____ Other _____ | | | Last Reviewed Date: 1/11/17 | Past Reviewed Dates: 5/29/15 | |
| LINE OF BUSINESS: <input type="checkbox"/> Specialty Waiver (B/C) <input type="checkbox"/> 1115 Waiver <input type="checkbox"/> Healthy Michigan <input checked="" type="checkbox"/> SUD Medicaid <input checked="" type="checkbox"/> SUD Block Grant <input type="checkbox"/> MI Health Link <input type="checkbox"/> Other: _____ | | APPLICATION: <input checked="" type="checkbox"/> SWMBH Staff and Ops <input checked="" type="checkbox"/> Participant CMHSPs <input checked="" type="checkbox"/> SUD Providers <input type="checkbox"/> MH / DD providers <input type="checkbox"/> Other: _____ | | Last Revised Date: 5/29/15 | Past Revised Dates: |
| Approved: <i>J. A. Suda</i> <i>Milac Sodal</i> | | | Required Reviewer: Chief Compliance Officer SAPT Director | | |
| Date: <i>1-18-17</i> <i>1-18-17</i> | | | | | |

I. Purpose

Southwest Michigan Behavioral Health (SWMBH) coordinates substance use disorder treatment, as well as treatment for co-occurring disorders. SWMBH supports the practice of integrated treatment whereby customers can receive mental health and substance use disorder services within one provider system. The documentation of these services is incorporated into one clinical record. This policy provides guidelines for protecting information and maintaining the confidentiality of an integrated customer record, and to identify circumstances under which protected health information may be disclosed.

Privacy and confidentiality concerns should not stop substance use disorder, mental health, or primary care providers from providing quality integrated care to customers. Instead of viewing confidentiality as a barrier, clinicians should focus on educating customers about information sharing to ensure better quality services and integrated care. Encourage customers to value professional collaboration, in addition to maintaining protection of all personal rights described under pertinent confidentiality laws and regulations.

II. Policy

In the course of providing services, SWMBH creates and/or receives protected health information related to the customers served. It is the policy of SWMBH to protect the confidentiality of protected health information in our possession to the highest extent possible. Information in the record of a customer, and other information obtained while providing services to a customer, will be kept confidential, including the fact that a person is or is not receiving services. Protected health information in paper form will be stored in a locked room or locked file cabinet, and will be accessed only on a need to know basis. Access to electronic protected health information will be limited to those with authorized access, in the form of a user name and password, and a need to know.

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All applicable regulations and requirements must be strictly adhered to in protecting the confidentiality and the release of information on individuals served based on appropriate laws and regulations.

- A. The confidentiality law and regulations prohibit federally assisted Alcohol and Other Drug (AOD) programs from disclosing any records or other information about any patient except under certain specified conditions. Programs that are covered by the regulations are those that, in whole or in part, provide AOD diagnosis, treatment or referral for treatment. Programs that are covered by the regulations cannot disclose any "patient-identifying information" (i.e., any information that would identify an individual as having an AOD problem or receiving AOD services) to managed care plans unless the specific conditions laid out in the regulations are met.
- B. The HIPAA Privacy Rule and 42 CFR Part 2 require that individuals provide written authorization prior to disclosing PHI and substance abuse information, except cases specifically provided by law.

III. Standards and Guidelines

According to federal law, a properly executed Release of Information must include the following:

- The name of the customer;
- A description of how much and what kind of information will be disclosed that identifies the information in a meaningful way;
- The name of the person or organization authorized to make the requested disclosure;
- The name of the person or organization to which the disclosure will be made;
- A description of the purpose of the disclosure;
- A date, event, or condition upon which the Release will expire and a statement that the release may be revoked at any time except to the extent that the program has already acted upon it;
- A statement regarding whether treatment and payment may or may not be conditioned upon a signed Release;
- The potential for information that is disclosed pursuant to the Release to be re-disclosed;
- Signature of the customer (or their legal representative) and the date of the signature;
- A statement prohibiting re-disclosure.

The Release of Information must be in plain language and a copy must be offered to the customer or his/her legal representative.

Redisclosure

Specific information in the record obtained from other agencies will be re-disclosed only with a signed Release of Information allowing such re-disclosure, unless precluded by 42 CFR Part 2, Confidentiality of Alcohol and Drug Abuse Patient Records. Persons requesting information that cannot be re-disclosed shall be referred directly to the source agency. If the request for re-disclosure is made by the customer, or someone legally authorized to act on behalf of the customer, for the purpose of obtaining access to the customer's own record, the entire medical and clinical record will be made available, including information obtained from other agencies (see subheading below: "Customer Access to Record" in this policy for further information).

Customer Right to Access His/her Own Record Information in the Clinical Record

A legally competent adult customer has the right to see all information entered into his/her clinical record, including reports obtained from other agencies, without regard to possible

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detriment, unless such information will be used to initiate or substantiate any criminal charges against the customer or to conduct any criminal investigation of the customer. Access shall be made as expeditiously as possible, but in no later than 30 days from the date of the request or prior to release from treatment.

A customer who requests access to his/her own record shall be asked to provide appropriate identification before seeing the record. Upon request, individuals will be provided one copy of their information at no charge. Charges for additional requests for copies will be consistent with charges made for requests made under the Freedom of Information Act.

Minimum Necessary Standard

Reasonable efforts will be made to limit PHI to the minimum necessary to accomplish the intended purpose of the use, disclosure or request. When information is disclosed, the identity of the person to whom it pertains shall be protected and shall not be disclosed unless it is germane to the authorized purpose for which disclosure was sought. No other information shall be disclosed unless it is germane to the authorized purpose for which disclosure was sought and based on the requestor's "need to know".

The minimum necessary standard shall not apply under the following circumstances:

- Disclosure of request to a health care provider for the purpose of treatment
- Uses or disclosure to the Individual
- Uses or disclosures made pursuant to an authorization.
- Disclosures made to the Secretary of Health and Human Services
- Disclosures required by law
- Uses or disclosures required for compliance with the Privacy Regulations

IV. References

Michigan Mental Health Code, Public Act 258 as amended - 330.1748, 330.1749, 330.1750, 330.1946.

DCH Administrative Rules - 330.7051

Your Rights When Receiving Mental Health Services in Michigan, 10/97, Pg. 5

Michigan Department of Community Health Policy, Resident Records: Release to Protection and Advocacy, 07-C-1748/GL-00.

Michigan Department of Community Health Policy, Records Retention and Disposal Schedules, 07-C-1746/GL

42 C.F.R. (Code of Federal Regulations) Part 2, Confidentiality of Alcohol and Drug Abuse Patient Records; Final Rule.

Michigan Public Health Code, Public Act 368 of 1978, as amended.

Michigan Public Health Code, Public Act 224 of 1987, as amended; and Michigan Compiled Law Sections 33.6121-.6124.

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

Confidentiality and Communication – A Guide to the Federal Drug & Alcohol Confidentiality Law and HIPAA, Legal Action Center, Fifth Edition, 2003.

V. Attachments

None

