



HURON BEHAVIORAL HEALTH OPERATIONAL POLICY

Policy #: **QI.1.32**
Issue Date: **02/20/19**

Rev. Date:
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Title: **Consent to Share Information/Standardized Consent to Share Policy**

Prepared By: **Clinical Director**

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Purpose:

To ensure that Huron Behavioral Health (HBH) as a participating member of the 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.

Scope:

This policy applies to all employees (including full-time employees, part-time employees, contractual providers, volunteers, students, and/or interns) of HBH.

Information:

N/A

Policy:

1. Huron Behavioral Health is responsible for obtaining consents to share information such as mental health records, information on treatment, and/or referrals for alcohol and substance use services.
2. The consent form is to be utilized for both electronic and non-electronic Health Information Exchange environments (such as hard copies of records that are passed from one provider to another.)
3. HBH may utilize 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"). Staff may also utilize the HBH "Consent to Share Information Form" (in the Electronic Medical Record/EMR system). Staff will accept and honor the MDHHS standard release form whenever it is provided and signed by the consumer.
4. HBH will not use or disclose protected health information without written authorization except where permitted or required by state and/or federal law(s).
5. Staff is to use the following guidelines and if any questions arise, they should contact the HBH Recipient Rights Officer, the Privacy Officer, and/or the Compliance Officer:
 - a. Sharing Protected Health Information NOT Requiring a Signed Consent:
 - The Health Insurance Portability and Accountability Act (HIPAA) and the Michigan Mental Health Code (under Public Act 559 of 2016) allow the sharing of mental health records for the purposes of treatment, payment, and coordination of care.
 - Sharing information for Substance Use Disorder (SUD) services under the following conditions (42 CFR- Part 2 -Subpart D and E):
 - Medical Emergencies
 - Research
 - Audit and Evaluation
 - Court-Ordered

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- Refer to Attachment A for examples of when a signed consent is not required

b. 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 the table below for examples of when a signed consent is required

c. 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

The table below gives guidance regarding disclosure of information. See also "[Recipient Rights – Confidentiality and Disclosure of Information Procedure](#)" (RR.2.07), "[Minimum Necessary Protocols for Routine Disclosure of PHI and EPHI \(External Disclosures Policy\)](#)" (ORI.1.13), and "[Minimum Necessary Policy for Internal and Non-Routine Disclosure of PHI and EPHI](#)" (ORI.1.14).

DOES NOT REQUIRE CONSUMER CONSENT TO DISCLOSE INFORMATION			REQUIRES CONSUMER CONSENT TO DISCLOSE INFORMATION
Treatment	Coordination of Care	Payment	
The provision, coordination, or management of healthcare and related services by one or more healthcare provider, including the coordination or management of health care by a healthcare provider with a third party; consultation between healthcare providers relating to a patient; or referral of a patient for healthcare from one healthcare provider to another	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.	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.	
Contracted Treatment Providers	CMHP, PIHP, Health Plans and Health Plan Providers involved in a care team for a specific consumer	DHHS-for Medicaid/ Financial Assistance Reasons	
Primary Care Physicians	Contracted Treatment Providers	Payment to Providers	
Physical Health Care Specialists	Primary Care Physicians	Contracted Providers	
Hospitals/Urgent Care/Labs -Medical and Psychiatric	Physical Health Care Specialist	BCBS/other 3rd party payor reviews	
Persons/Providers as required under Alternative Treatment Order (ATO)	Hospitals/Urgent Care/Labs - Medical and Psychiatric	Any insurance companies related to payment for services	
Jail for medications & aftercare coordination	DHHS Housing/Food/Other Assistance	Social Security	
Pharmacies			
School medication administration forms			
DHHS when guardian (consumer is ward of the court/ward of the State)			

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Office of Inspector General (OIG) active investigations			Foster Care Parents
DHHS-CPS/APS for active investigations			Fair Hearing Representatives
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)
Protection & Advocacy (P&A) (governor designated agency under public law 94-103,89 Stat. 486)			Mental Health Court/Drug Court/Veterans Court
			Coroner/Medical Examiner (consent from authorized or court appointed representative -45 CFR 164.502 and HIPAA Privacy Rule)
			Guardian Ad Litem
			Court Appointed Special Advocate (CASA)
			Ombudsman

Definitions/Acronyms:

Acronyms:

- COA – Council on Accreditation
- CMHSP - Community Mental Health Service Programs
- DHHS - Department of Health and Human Services
- EMR – Electronic Medical Record
- HBH – Huron Behavioral Health
- MDHHS - Michigan Department of Health and Human Services
- MSHN - Mid-State Health Network
- PI – Performance Improvement
- PIHP - Prepaid Inpatient Health Plan
- SUD - Substance Use Disorder

Definitions:

(Based on Medicaid Managed Specialty Supports and Service Concurrent 1915 (b)/(c) Waiver Program FY19 Contract and Michigan Mental Health Code):

Coordination of 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. 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.

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

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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.

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

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.

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 in order to perform their job function.

Forms:

MDHHS Standard Consent Form ([DCH-3927](#))

Standard Consent Form (MDHHA – 5515) @ https://www.michigan.gov/mdhhs/0,5885,7-339-71550_2941_58005_70642---,00.html

HBH Consent to Share Information (in EMR)

Records:

Records of releases and consents are retained in the EMR system in accordance with the "[HBH Record Storage and Retention Policy](#)" (QI.1.23).

Reference(s) and/or Legal Authority

COA standards

Medicaid Managed Specialty Supports and Service Concurrent 1915 (b)/(c) Waiver Program: Section 7.9.3: MDHHS Standard Consent Form

Michigan Mental Health Code, Sections 330-1261, 330-1262 and 330-1263

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

Behavioral Health Consent Form Background Information @

http://www.michigan.gov/documents/mdhhs/Behavioral_Health_Consent_Form_Background_Information_514583_7.pdf

Behavioral Health Consent Form Handout @

http://www.michigan.gov/documents/mdhhs/Behavioral_Health_Consent_Form_Handout_514584_7.pdf

Frequently Asked Questions for Michigan Residents About the DCH-3927 @

http://www.michigan.gov/documents/mdhhs/MDHHS-Pub-1101_514350_7.pdf

Public Act 129 of 2014

Public Health Code – Section 333.5131

Mental Health Code - Section 330.1141a

Public Act 559 of 2016

Code of Federal Regulation – Title 45 - Section 164.501

[RR.2.07 Recipient Rights – Confidentiality and Disclosure of Information Procedure](#)

[ORI.1.13 Minimum Necessary Protocols for Routine Disclosure of PHI and EPHI \(External Disclosures Policy\)](#)

[ORI.1.14 Minimum Necessary Policy for Internal and Non-Routine Disclosure of PHI and EPHI](#)

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Change History:

Change Letter	Date of Change(s)	Changes
None		New policy to define existing practices and to comply with MSHN policy.