Purpose:

To ensure that Huron Behavioral Health, 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) and the Medicaid Managed Specialty Supports/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, intellectual/developmental disability, or substance use disorder.

Scope:

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

Information:

N/A

Policy:

1. Huron Behavioral Health is responsible for obtaining consents in order to share information such as mental health records, information regarding 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 (DOH-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 (PHI) 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

   - Refer to the table below 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).

<table>
<thead>
<tr>
<th>DOES NOT REQUIRE CONSUMER CONSENT TO DISCLOSE INFORMATION</th>
<th>REQUIRES CONSUMER CONSENT TO DISCLOSE INFORMATION</th>
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</thead>
<tbody>
<tr>
<td>Treatment (The provision, coordination, or management of healthcare and related services by one or more healthcare provider, including the coordination or management of healthcare 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.)</td>
<td>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.)</td>
</tr>
<tr>
<td>Contracted Treatment Providers</td>
<td>CMHP, PIHP, Health Plans and Health Plan Providers involved in a care team for a specific consumer</td>
</tr>
<tr>
<td>Primary Care Physicians</td>
<td>Contracted Treatment Providers</td>
</tr>
<tr>
<td>Physical Health Care Specialists</td>
<td>Primary Care Physicians</td>
</tr>
<tr>
<td>Hospitals/Urgent Care/Labs - Medical and Psychiatric</td>
<td>Physical Health Care Specialist</td>
</tr>
<tr>
<td>Persons/Providers as required under Alternative Treatment Order (ATO)</td>
<td>Hospitals/Urgent Care/Labs - Medical and Psychiatric</td>
</tr>
<tr>
<td>Jail for medications &amp; aftercare coordination</td>
<td>DHHS Housing/Food/Other Assistance</td>
</tr>
<tr>
<td>Pharmacies</td>
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<td>School medication administration forms</td>
<td></td>
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<tr>
<td>DHHS when guardian (consumer is ward of the court/ward of the State)</td>
<td></td>
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<tr>
<td>Office of Inspector General (OIG) active investigations</td>
<td></td>
</tr>
<tr>
<td>DHHS-CPS/APS for active investigations</td>
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</tbody>
</table>
Title: Consent to Share Information/Standardized Consent to Share Policy

Prepared By: Clinical Director

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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
- PHI – Protected Health Information
- 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

**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

LARA (Licensing) for active investigations

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
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 (MDHHS – 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 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_In formation_514583_7.pdf
Behavioral Health Consent Form Handout @ http://www.michigan.gov/documents/mdhhs/Behavioral_Health_Consent_Form_Handout_514584_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

Change History:

<table>
<thead>
<tr>
<th>Change Letter</th>
<th>Date of Change(s)</th>
<th>Changes</th>
</tr>
</thead>
<tbody>
<tr>
<td>None</td>
<td></td>
<td>New policy to define existing practices and to comply with MSHN policy.</td>
</tr>
<tr>
<td>A</td>
<td>11/22/20</td>
<td>Made several minor wording/grammatical changes/corrections throughout policy without changing sentence content.</td>
</tr>
</tbody>
</table>

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