

COMMUNITY MENTAL HEALTH PARTNERSHIP OF SOUTHEASTERN MICHIGAN		<i>Policy and Procedure</i> <i>Notice of Privacy Practices and Consumer Complaints for Protected Health Information</i>	
Department: Compliance Author: Suzanne Kapica		Local Policy Number (if used)	
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I. PURPOSE

To establish guidelines for informing recipients of the circumstances under which Protected Health Information will be used and disclosed, and their rights regarding their protected health information including standards and procedures for the handling of consumer complaints against Community Mental Health Partnership of Southeast Michigan Board (CMHPSM) members, staff, students, volunteers or contracted service providers for failure to comply with established policies protecting the confidentiality and security of consumers' protected health information.

II. POLICY

All recipients of CMHPSM services have the right to notice of the uses and disclosures of protected health information that may be made in the course of providing services to the recipient. Furthermore, a recipient has the right to know his or her rights and the Community Mental Health (CMH) legal duties with respect to the use and disclosure of confidential information. Such information will be provided by the CMH to all recipients in the form of a Notice of Privacy Practices, which will comply with section 164.520 of the Health Insurance Portability and Accountability Act of 1996, the Michigan Mental Health Code, 42 C.F.R. (Code of Federal Regulations) Part 2, Confidentiality of Alcohol and Drug Abuse Patient Records; Final Rule, and all other applicable laws.

CMHPSM has adopted policies requiring all Board members, staff, students, volunteers and those of organizations under contract with the CMHPSM, to protect the confidentiality and security of its consumers' protected health information. Specific allowable uses of protected health information have been set forth in a Notice of Privacy Practices which is provided to each consumer, or have been authorized by the proper execution of an Authorization for Release of Information.

III. APPLICATION

All WCHO, CSSN and CSSN Look-alike staff within the Community Mental Health Partnership of Southeast Michigan (CMHPSM) including students, volunteers, those of organizations under contract with affiliation members.

IV. DEFINITIONS

Complaint – Any written documentation received that expresses concern that a consumer's right to confidentiality and security of protected information has been violated.

Complainant - A consumer or anyone acting on behalf of a consumer, who files a complaint that the consumer's right to confidentiality and security of protected information has been violated.

Protected Health Information – Medical, mental health, and substance abuse information that is individually identifiable and that is transmitted in any form or medium.

Community Mental Health Partnership of Southeast Michigan (CMHPSM) - An affiliation of the mental health boards for the Counties of Lenawee, Livingston, Monroe, and Washtenaw.

Comprehensive Specialty Services Network (CSSN) - An organization that is certified as a CMHSP, including a recipient rights systems, services across all populations, a publicly appointed Board of Directors, and accreditation from JCAHO.

Comprehensive Specialty Services Network Look-Alike (CSSN look-alike)- A public entity with a publicly appointed Board of Directors or a Board of Directors composed of elected officials, services across all populations, and accreditation from JCAHO.

V. STANDARDS

NOTICE OF PRIVACY

A Notice of Privacy Practices (see exhibit A) shall be posted at all CMHPSM service delivery sites, and the service delivery sites of all contractual providers. Notice must be posted in a clear and prominent location where it is reasonable to expect recipients and those seeking services from the CMHPSM to be able to read it. Copies of the Notice of Privacy Practices shall be available at each service delivery location to be given to consumers or others upon their request.

A Notice of Privacy Practices shall be given to each new recipient, guardian, or parent of a minor during his or her initial visit along with a brief explanation of the Notice and an opportunity for the recipient to have questions answered. If services are provided in an emergency situation, a good faith effort must be made to provide the recipient with a copy of the Notice Privacy Practices; such efforts must be documented in the recipient's record. A copy of the Notice of Privacy Practices shall be given to the recipient as soon as reasonably practical after treatment of the emergency situation.

Each recipient who received a Notice of Privacy Practices shall be asked to sign an Acknowledgement of Receipt (see exhibit A), which will be made a part of the recipient's record. If the recipient cannot or will not sign the Acknowledgment of Receipt, a good faith effort to obtain such signature must be documented in the recipient's record, as well as the reason why the acknowledgement was not obtained.

Whenever the Notice of Privacy Practices is revised, the revised Notice of Privacy Practices must be made available upon request on or after the effective date of the revision, and promptly posted at all CMHPSM service delivery sites.

The Notice of Privacy Practices and policy shall be reviewed annually, updating as needed.

In the CMHPSM, the Rights Office appoints a local Privacy Officer for each county. The Rights Office Contact will ensure that the Privacy Officer is informed and begins necessary follow up and/or actions as needed.

CONSUMER COMPLAINTS

A consumer, who feels that his /her confidentiality has been violated, or his /her protected health information has been improperly used, has the right to a thorough and confidential investigation.

All CMHPSM Board members, employees, students and volunteers shall be apprised of its policies and procedures protecting the confidentiality and integrity of its consumers' protected health information and be asked to sign a Confidentiality Statement.

The CMHPSM will designate a Privacy Officer/designee at each local affiliate to receive complaints concerning the Community Mental Health's (CMH) policies and procedures related to protecting the confidentiality and security of protected health information, or its compliance with such policies and procedures.

A consumer, or anyone acting on behalf of a consumer, who feels that any Board member, employee, student, volunteer or those of organizations under contract with the CMHPSM, has violated the confidentiality and security of their protected health information should contact the Privacy Officer to file a complaint.

The Privacy Officer/designee will maintain a system for logging all complaints received and for the secure storage of all investigative documents and evidence.

The Privacy Officer/designee will conduct a thorough and confidential investigation of the allegation in a timely manner, and will recommend corrective action to the Affiliate Executive Director. Investigations will be conducted in a manner that will not violate employee rights. e.g. the Bullard-Plawecki Employee Right to Know Act.

The Privacy Officer will inform the County and/or the Organization's Risk Manager and/or Compliance Officer at the time a complaint is received, and notifies the Risk Manager and/or Compliance Officer of the results of the investigation and any corrective action taken.

The Privacy Officer/designee will inform the complainant in writing of the results of the investigation and any corrective action taken, and will ensure the complainant understands that he/she also has the option of contacting the Office of Civil Rights to file a complaint against the CMH.

There shall not be any retaliation or reprisals against any consumer, or any person acting on behalf of a consumer, who reports a suspected violation of its policies protecting the confidentiality and integrity of protected health information. Nor will the CMH require consumers to waive their right to a complaint to the Secretary of Health and Human Services as a condition of receiving treatment.

The Privacy Officer will provide a quarterly aggregate report of complaints and investigations to the Affiliation Compliance Committee for the purpose of trend analysis.

The Privacy Officer will maintain documentation related to an investigation, and any corrective action taken, for a minimum of six years from the date of its creation or the date it was last in effect, whichever is later.

VI. EXHIBITS

Notice of Privacy Practices and Acknowledgement of Receipt, effective date 4/13/03

VII. REFERENCES

Reference:	Check if applies:	Standard Numbers:
42 CFR Parts 400 et al. (Balanced Budget Act)	X	
45 CFR Parts 160 & 164 (HIPPA)	X	
42 CFR Part 2 (Substance Abuse)	X	
Michigan Mental Health Code Act 258 of 1974	X	
JCAHO- Behavioral Health Standards	X	
Confidentiality and Access to Clinical Records Policy	X	
Local Affiliate Ethics Policy	X	
Corporate Compliance Policy	X	

VIII. PROCEDURES

PRIVACY NOTICE

WHO

DOES WHAT

Privacy Officer/Affiliation Compliance Committee

1. Drafts Notice of Privacy Practices.

CMH Partnership of Southeastern Michigan, Affiliation Compliance Committee, legal counsel, affiliate management teams, affiliation executive committee
Regional Subcommittee

1. Reviews and provides comments regarding draft Notice of Privacy Practices.

WCHO Board

1. Reviews and Approves the policy/notice; or
2. Approves with changes; or
3. Requests changes and resubmission to the subcommittee.

Privacy Officer

1. Final approval of the policy and notice.
1. Ensures that a copy of the Notice of Privacy Practices is posted at each service location no later than the effective date of the Notice.
2. Ensures that a copy of the Notice of Privacy Practices is placed on the local and affiliation website.

Clinical Staff

1. During the initial admission visit, briefly reviews with the recipient, guardian or parent of a minor the content of the Notice of Privacy Practices.
2. Gives a copy of the Notice of Privacy Practices to the recipient, guardian or parent or a minor.
3. Makes a good faith effort to obtain signature of the recipient, guardian or parent of a minor on the Acknowledgment Form.
4. For recipients currently receiving services on the effective date of the Notice of Privacy Practices, gives the recipient, guardian or parent of a minor a copy of the Notice no later than the first contact after the effective date of the notice.
5. Provides a brief explanation of the contents of the Notice and makes a good faith effort to obtain signature of recipient, guardian or parent of a minor on the Acknowledgment Form.
6. If unable to obtain a signed Acknowledgment Form, documents in the clinical record that a good faith effort was made to obtain the signature.

Privacy Officer/Affiliation Compliance Committee

1. At minimum, annually reviews the current notice to determine if it continues to conform to the actual privacy practices of CMHPSM, its contract providers and affiliation members.
2. Updates Notice as necessary.
3. Ensures that a copy of the updated Notice is

posted at each service location no later than the effective date of the Notice and that copies are available to be given to recipients and others upon request.

Clinical Staff

1. Ensures that new recipients receive a copy of the updated notice and sign an Acknowledgment Form at their initial visit.
2. Reviews the Privacy Notice annually with the recipient to facilitate the recipient's awareness and understanding of the Privacy Notice.
3. Is available to answer questions a recipient may have regarding the privacy practices of CMHPSM.

Affiliation Member/Customer Services

1. Ensures that all current recipients receive a copy of the Notice when there are any significant changes.

All Staff

1. During new staff orientation, shall read the Notice of Privacy Practices and sign a Confidentiality Agreement.
2. Shall receive regular Confidentiality training that includes a review of the provisions in the Notice of Privacy Practices.

CONSUMER COMPLAINTS

WHO

DOES WHAT

A. INVESTIGATION

Individual makes inquiry to Office of Recipient Rights (ORR)

1. Request is referred in a timely manner in the following order to:
 - ORR
 - Alternate ORR
 - Director
 - Director's designee

Rights Officer/designee

1. Assesses and initiates the appropriate response, e.g., formal investigation, intervention, or brief contact report. Enters information in the ORR log.
2. Within five (5) business days notifies complainant that complaint has been received and will either be investigated or reason why an investigation is not warranted. Encloses a copy of the complaint. Offers to assist the individual with the complaint process and also advises that advocacy organizations are available to assist. Informs complainant that mediation is an option at any

time after the completion of the Investigative Report if both parties agree.

3. In the absence of assistance from an advocacy organization, assists in preparing a written complaint containing a statement of the allegation, the right allegedly violated and the outcome desired by the complainant.
4. Conducts independent investigation of the complaint.
5. If investigation is not completed within 30 calendar days after receiving the complaint, submits a written status report to the complainant and respondent including:
 - a. statement of the allegation(s)
 - b. statement of issues involved
 - c. citations to relevant provisions of the Mental Health Code, rules, policies and guidelines
 - d. investigation progress to date
 - e. expected date for completion of the investigation
6. Completes pending or final Report Investigative Findings, including:
 - a. statement of the allegation(s)
 - b. statement of the issues involved
 - c. citations to relevant provisions of the Mental Health Code, rules, policies and guidelines
 - d. investigative findings
 - e. conclusions
 - f. recommendations, if any
7. Forwards report and recommendations, if applicable, to the respondent and responsible Program Administrator.
8. Requests completion and return of Remedial Action Verification form by date specified to insure that action has been taken or is planned.
9. Reviews Remedial Action Verification form to determine if remedial actions taken or proposed are appropriate and:
 - a. correct or provide a remedy for the rights violation(s)
 - b. are implemented in a timely manner
 - c. attempt to prevent a recurrence of the rights violation(s).
10. Files the Remedial Action Verification form with the Report of Investigative Findings.
11. Submits a copy of the Report of Investigative Findings and remedial action taken or proposed

to Local Director along with names and addresses of the complainant, recipient, and guardian as applicable.

Local Director

1. Within 10 business days of issuance of the ORR report, submits a summary report to the complainant, recipient (or parent of a minor under age 14), and guardian as applicable, with a copy also to the ORR. The summary report shall include:
 - a. statement of the allegation(s)
 - b. statement of issues involved
 - c. citations to relevant provisions of the Mental Health Code, rules, policies and guidelines
 - d. summary of investigative findings
 - e. conclusions
 - f. recommendations made by the ORR
 - g. action taken or planned by the respondent, including specific disciplinary action taken as part of Plan of Correction, if any.
2. Advises of:
 - a. right to appeal
 - b. time line for appeal, e.g., no later than 45 days after receipt of the summary report
 - c. grounds for an appeal as follows:
 - 1) investigative findings of the rights office are not consistent with the facts, law, rules, policies, or guidelines
 - 2) action taken or plan of action proposed by the respondent does not provide an adequate remedy
 - 3) investigation was not initiated or completed on a timely basis
 - d. advocacy organizations available to assist with an appeal and/or ORR available to assist
 - e. mediation an option if both parties agree.

B. APPEALS

Recipient Rights Appeal Committee on behalf of the local Director

1. Receives written appeal of investigative findings within required time line.
2. Within five (5) business days of receiving the appeal:
 - a. Reviews the appeal to determine if it meets the required criteria.
 - b. If denied, notifies appellant in writing.
 - c. If the appeal is accepted, notifies appellant in writing and provides a copy of the appeal to the respondent and to the local Director.

3. Within 30 days of receipt of a written appeal, meets to make a decision on the appeal and does one of the following:
 - a. Upholds the findings of the ORR and the action taken or plan of action proposed by respondent.
 - b. Returns the investigation to the ORR, requesting that it be reopened or reinvestigated.
 - c. Upholds the investigative findings of the ORR but recommends that the respondent take additional or different action to remedy the violation.
 - d. Recommends that the Board request an external investigation by DCH ORR.
4. Documents its decision in writing and within ten (10) days after reaching its decision, provides copies of the decision to:
 - a. appellant
 - b. respondent
 - c. recipient, and guardian if applicable
 - d. Local Director
 - e. Office of Recipient Rights (ORR)
5. Includes a statement of appellant's right to appeal to the Department of Community Health within 45 days of receipt of decision on the grounds that investigative findings were inconsistent with facts, rules, policies or guidelines.

Appellant

1. Accepts decision or files appeal with the DCH within forty-five (45) days.

C. MEDIATION

Appellant and Respondent

1. Agree to mediate dispute regarding investigative outcome.
2. Jointly select impartial party with training in mediation.

Mediator

1. Meets with complainant and respondent to resolve disagreement.
2. Prepares report summarizing agreement.
3. Signs agreement that becomes binding on both parties.
4. Notifies local ORR of agreement.

Appellant

1. If parties fail to reach agreement, this is documented and copies are sent to both parties and to local Office of Recipient Rights within ten

(10) days after the end of mediation process.

2. Proceeds with other available options if desired.

Exhibit A

NOTICE OF PRIVACY PRACTICES

(Insert Name)

This notice describes how medical, mental health and substance abuse information about you may be used and disclosed and how you can get access to this information. Please review it carefully.

The Community Mental Health Partnership of Southeast Michigan (CMHPSM) is committed to protecting the privacy of your medical, mental health and substance abuse information. We are required by law to maintain the privacy of your health information, to provide you with this notice and to comply with its terms. The privacy practices in this notice apply to all CMHPSM staff, students and volunteers and to CMHPSM contract providers and affiliates.

We reserve the right to change the terms of this notice and will post the revised notice and, upon your request, we will give you a copy of the revised notice. The new notice would be effective for any health information that we hold at that time or receive from that time on.

YOUR RIGHTS REGARDING YOUR HEALTH INFORMATION

- **Confidential Communications:** You may ask that we communicate with you in a particular way, or at a certain location, such as calling you at work rather than at home, to maintain your confidentiality.
- **Inspect and Copy:** You have the right to review and/or receive a copy of the information in your record. Under limited circumstances we may deny access to the record, or to portions of the record (for instance, if disclosing the information would endanger you or someone else). You can request a review of this decision.
- **Addendum:** You may ask us to add an addendum to the information in your record if you feel that it is incorrect or incomplete. You may prepare a correcting statement that will be included in your record.
- **Accounting of Disclosures:** You may request a list of disclosures that we have made of your protected health information with the exceptions of treatment, payment and healthcare operations described in this notice, or information that was released with your authorization.
- **Requesting Restrictions:** You may ask us to limit our use or disclosure of your health information. We are not required to agree to your request, but if we do agree to it, we will honor your request unless the information is needed to provide emergency treatment for you.
- **Receiving a Copy:** You may receive a paper copy of this notice at any time upon request.

HOW WE WILL USE AND DISCLOSE YOUR HEALTH INFORMATION

Uses and Disclosures for Treatment, Payment and Healthcare Operations

- **For Treatment:** We may use and disclose your health information to provide, coordinate and manage your services. Information about you may be shared with CMHPSM staff, students or volunteers, and with CMHPSM contract providers or affiliation members who may be involved in your care. For example, a staff person may need to speak with his or her supervisor about the services that you are receiving. We also may use your health information to remind you about an appointment or to provide information about treatment alternatives or other health-related benefits and services that may be of interest to you.
- **For Payment:** Your health information will be used and disclosed, as needed and allowed by law, to obtain payment for services. (42 CFR requires authorization for payment regarding Substance abuse treatment.) For example, a bill for services, sent to you or to a third-party payer such as Medicaid, might include identifying information about you such as your name, your diagnosis and services received.

- **For Health Care Operations:** We will use or disclose your health information, as needed, to support and improve the activities of the CMHPSM. For example, staff may use information in your clinical record to evaluate the care that you received.

Uses and Disclosures That May Be Made Only With Your Specific Authorization

- Other uses and disclosures of your protected health information will be made only with your written authorization, unless otherwise permitted or required by law as described below.

Uses and Disclosures That May be Made Without Your Authorization

- **As Required by Law:** We may be required by federal, state, or local law to disclose your health information.
- **For Public Health Activities:** We may need to disclose your health information to a public health authority that is required by law to receive the information. Such disclosures would be made for the purpose of controlling disease, injury or disability.
- **Abuse or Neglect:** We may be required to disclose your health information if we suspect that you or another person has been abused or neglected.
- **Health Oversight:** We may be required to disclose your health information for an audit, inspection, investigation or other health care oversight activity.
- **Judicial and Administrative Proceedings:** We may have to disclose your health information if we receive a court order or subpoena or for risk management purposes.
- **Law Enforcement:** We may have to disclose your health information in connection with a criminal investigation by a federal, state, or local law enforcement agency, or to authorized federal officials who provide protective services for the President or other persons.
- **Serious Threat to Health or Safety:** We may be required to disclose information about you to prevent a serious threat to your health and safety or that of another person or of the public.
- **Coroner or Medical Examiner:** We may need to disclose your health information to help identify a deceased person or to determine a cause of death.
- **Research:** We may disclose your health information to researchers if their research proposal includes protocols to ensure the privacy of your health information and has been approved by an Institutional Review Board.

If you believe that your rights have been violated, contact the (Insert name) Privacy Officer or the Office of Civil Rights. Your services will not be affected in any way if you file a complaint.

- To file a complaint with (Insert Name), or if you have any questions or want more information, call or write: Privacy Officer, (Insert Name, address and phone number). To file a complaint with the Office of Civil Rights, call or write: Office of Civil Rights, U.S. Department of Health and Human Services, 200 Independence Ave. SW, Washington, DC 20201 or toll-free phone 1-877-696-6775.

(Insert Organization name here)

ACKNOWLEDGMENT OF RECEIPT OF NOTICE OF PRIVACY PRACTICES

I, (please print) _____, acknowledge that I have received a copy of the CMHPSM's Notice of Privacy Practices.

My signature below indicates that I have received the notice and that I have been provided an opportunity to ask questions about the agency's privacy practices as they pertain to my protected health information.

Signature Date

Client ID Number

Witness Date