

## Policy 9.14

<b>POLICY TITLE: STANDARD MDHHS CONSENT TO SHARE</b>	<b>POLICY # 9.14</b>		
<b>Topic Area: CORPORATE COMPLIANCE</b>  <b>Applies to:</b> Lakeshore Regional Entity (LRE) Staff and Operations  <b>Developed and Maintained by:</b> CEO and Designee  <b>Supersedes:</b> N/A	<b>ISSUED BY:</b> CEO  <b>APPROVED BY:</b> Board of Directors  <b>Effective Date:</b> July 22, 2022	<b>REVIEW DATES</b>	
		7/21/23	
	<b>Revised Date:</b> July 22, 2023		

### I. PURPOSE

To ensure that the LRE 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.

### II. POLICY

The Lakeshore Regional Entity (LRE) delegates the responsibility to the Member Community Mental Health Services Program (CMHSP) and Provider Network for obtaining consents to share information such as mental health records or information on treatment or referrals for alcohol and substance use services. The consent form is to be utilized for all electronic and non-electronic Health Information Exchange environments. This would include hard copies of records that are passed from one provider to another. Member CMHSP and SUD Providers will utilize, accept and honor the Michigan Department of Health and Human Services (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). LRE will not use or disclose protected health information (PHI) without written authorization except where permitted or required by state and/or federal law(s).

#### A. Sharing Protected Health Information NOT Requiring a Signed Consent:

1. Health Insurance Portability and Accountability Act (HIPAA) and the Michigan Mental Health Code (under Public Act 559 of 2016) allows for the sharing of mental health records for the purposes of treatment, payment, and coordination of care
2. Sharing information for Substance Use Service under the following conditions (42 CFR- Part 2; Subpart D and E):

- a. Medical Emergencies
  - b. Research
  - c. Audit and Evaluation
  - d. Court Ordered
3. 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:
1. Behavioral health and mental health services for purposes other than payment, treatment and coordination of care
  2. Referrals and/or treatment for substance use disorder services
  3. Refer to Attachment A for examples of when a signed consent is required
- C. MDHHS Standard Consent Form CANNOT be used for the following:
1. To share psychotherapy notes (as defined by federal law - 45 CFR164.501)
  2. Release of information pertaining to HIV infection or acquired immunodeficiency syndrome (unless by court order or subpoena as defined in the Public Health Code – Section333.5131)
  3. For a release from any person or agency that has provided services for domestic violence, sexual assault, stalking, or other crimes.

### III. APPLICABILITY AND RESPONSIBILITY

This policy applies to Lakeshore Regional Entity (LRE) staff and operations, Member CMHSPs, and contracted providers.

### IV. MONITORING AND REVIEW

The CEO and designee will review this policy on an annual basis.

### V. DEFINITIONS:

**Care Coordination:** 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.

**CMHSP:** Community Mental Health Service Programs

**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

**DHHS:** Department of Health and Human Services

**MDHHS:** Michigan Department of Health and Human Services

**Network 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.

**PIHP:** Prepaid Inpatient Health Plan

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

**SUD:** Substance Use Disorder

**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.

## VI. RELATED POLICIES AND PROCEDURES

- A. Lakeshore Regional Entity Compliance Plan
- B. Compliance Reporting Responsibility Procedure

## VII. REFERENCES/LEGAL AUTHORITY

- A. Michigan Medicaid Managed Special Supports and Service Contract
- B. Michigan Mental Health Code, Sections 330-1261, 330-1262 and 330-1263

## VIII. ATTACHMENTS:

- A. 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](http://www.michigan.gov/mdhhs/0,5885,7-339-71550_2941_58005_70642---_00.html)
- B. Behavioral Health Consent Form Background Information [https://www.michigan.gov/documents/mdhhs/Behavioral\\_Health\\_Consent\\_Form\\_Background\\_Information\\_641578\\_7.pdf](https://www.michigan.gov/documents/mdhhs/Behavioral_Health_Consent_Form_Background_Information_641578_7.pdf)
- C. Behavioral Health Consent Form Handout [https://www.michigan.gov/documents/mdhhs/Behavioral\\_Health\\_Consent\\_Form\\_Handout\\_641579\\_7.pdf](https://www.michigan.gov/documents/mdhhs/Behavioral_Health_Consent_Form_Handout_641579_7.pdf)
- D. Frequently Asked Questions for Michigan Residents About the DCH-3927 [http://www.michigan.gov/documents/mdhhs/MDHHS-Pub-1101\\_514350\\_7.pdf](http://www.michigan.gov/documents/mdhhs/MDHHS-Pub-1101_514350_7.pdf)

## IV. CHANGE LOG:

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<b>Date of Change</b>	<b>Description of Change</b>	<b>Responsible Party</b>
7/22/2022	New Policy	Chief Compliance Officer
7/22/2023	Annual Review	CEO and Designee