PROCEDURE # 9.16A		EFFECTIVE DATE	REVISED DATE
TITLE:	PRIVACY OF PROTECTED HEALTH INFORMATION	1/1/2014	8/10/2026
ATTACHMENT TO		REVIEW DATES	
POLICY #:	9.16		
POLICY TITLE:	HIPAA Privacy		
CHAPTER:	Compliance		

I. PURPOSE

To protect individually identifiable Protected Health Information (PHI), per the Health Insurance Portability and Accountability Act of 1996 (HIPAA), the HITECH act, the Center for Medicaid and Medicare Services privacy regulations implementing HIPAA, other federal and state laws protecting confidentiality of PHI, professional ethics and accreditation requirements.

II. PROCEDURES

A. Notice of Privacy Practices (NOPP)

1. Per 45 CFR 164.520, Lakeshore Regional Entity (LRE), Member Community Mental Health Services Programs (CMHSP) within the LRE region, and Network Providers contracted with CMHSPs within the LRE region must, as a covered entity, create and distribute a Notice of Privacy Practices (NOPP) that meets the requirements enumerated in the statute.
2. Per contract with the LRE, it is the responsibility of the CMHSP providing services to offer and provide a NOPP to all persons whose services are supported through LRE funding. The NOPP provides that an individual has a right to adequate notice of how their protected health information may be used.
3. This notice is available:
   a. Prominently posted and available on the LRE website.
   b. Offered/provided by the CMHSP to new enrollees at the time of intake no later than the date of first service delivery.
   c. Offered/provided to the individual at least once every three years.
   d. Revised and offered/provided to the individual within 60 days of material change.
   e. A paper copy of the revised NOPP is made available upon request.
   f. The revised NOPP is included in the next LRE Newsletter distribution.
4. The NOPP must contain:
   a. How LRE and its Member CMHSPs may use and disclose protected health information.
   b. The individual's rights with respect to the information and how the individual may exercise those rights including how to lodge a complaint.

c. The legal duties with respect to the information, including a statement that the CMHSP and the LRE are required by law to maintain the privacy of the protected health information.
d. Whom individuals can contact for further information about the privacy policies.

5. Acknowledgement of receipt of the NOPP must be obtained, or the provider must document efforts to obtain the acknowledgement and the reason it was not obtained.
6. Persons receiving services have the right to request restrictions to the uses and disclosures of their PHI. Except for exceptions identified in 45 CFR 164.522(a)(1)(vi), the covered entity is not required to agree to a restriction. If the covered entity agrees to a restriction, except in cases of obtaining emergency treatment, it may not use or disclose PHI in violation of that restriction. The restriction may be terminated at any time by either party; however, it will only be effective with respect to PHI created or received after the other party has been informed.

B. Disclosures of PHI:
   1. Are required:
      a. To an individual receiving services from a CMHSP within the LRE region and/or one of its service providers, except as provided in 45 CFR 164.524.
      b. To the HHS Secretary or the MDHHS OIG to investigate or determine LRE's compliance with 45 CFR 164.502.
   2. A business associate may use or disclose PHI only as permitted or required by its business associate contract or other arrangement pursuant to 45 CFR 164.504(e) or as required by law.
      a. A business associate is required to disclose PHI:
         i. When required by the Secretary to investigate or determine the business associate's compliance with 45 CFR 164.502.
         ii. To the covered entity, individual, or individual's designee, as necessary to satisfy a covered entity's obligations under 45 CFR 164.524(c)(2)(ii) and (3)(ii) with respect to an individual's request for an electronic copy of protected health information.
   3. Must provide the minimum necessary information to complete treatment, billing, and business operations functions, with the following exceptions:
      a. Disclosures to or requests by a healthcare provider for treatment purposes.
      b. Disclosures made to the individual who is the subject of the information (allowing them access to their own PHI)
      c. Disclosures made pursuant to a valid authorization signed by the person served. When an authorization is executed, the provider shall provide the person served with a copy of the signed authorization.
      d. Disclosures that are required by law, such as by court order or for public health reporting.
      e. Disclosures that are necessary for compliance with HIPAA.

   f. Disclosures to the HHS Secretary or MDHHS OIG for compliance enforcement actions.
4. LRE delegates the responsibility to the Member CMHSP and Network Providers for obtaining consent to share information such as mental health records or information on treatment or referrals for alcohol and substance use services.
   a. Member CMHSPs and Network Provider will utilize, accept, and honor the MDHHS Consent to Share Behavioral Health Information (MHDDS-5515).
   b. LRE will not use or disclose PHI without written authorization except where permitted or required by state and/or federal law(s).
5. Sharing Protected Health Information NOT Requiring a Signed Consent:
   a. 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 healthcare operations.
   b. Sharing information for Substance Use Service under the following conditions (42 CFR- Part 2; Subpart D and E):
   c. Medical Emergencies
   d. Research
   e. Audit and Evaluation
   f. Court Ordered
6. Sharing Protected Health Information that DOES Require a Signed Consent:
   a. Behavioral Health (including mental health services, services for persons with Intellectual, Developmental Disabilities, and substance use disorder services for purposes other than payment, treatment, and healthcare operations.
   b. Treatment, payment, and business operations related to services delivered to persons receiving substance use services (one-time consent).
   c. Substance use treatment records, or testimony relaying the content of such records may not be used or disclosed in any civil, administrative, criminal, or legislative proceedings against a person receiving substance use treatment services without their specific written permission or a court order authorizing the use or disclosure. A court order for this purpose must be accompanied by a subpoena or similar legal mandate compelling the disclosure.
7. MDHHS Standard Consent Form CANNOT be used for the following:
   a. To share psychotherapy notes (as defined by federal law - 45 CFR164.501)
   b. 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)
   c. For a release from any person or agency that has provided services for domestic violence, sexual assault, stalking, or other crimes.
8. Disclosures by a SUD program, including acknowledgment that a person is receiving SUD services, may be made only under the following circumstances:
   a. The person receiving services, or legal guardian, if the consumer is deemed incompetent, has signed a written consent for use of their PHI in completing

treatment, payment, and/or operations (TPO) within the following parameters:

i. Consent must be completed on the required MDHHS 5515 Consent to Share Behavioral Health Information form, including section 2.
ii. Consent may be completed one time for all subsequent uses of PHI for TPO purposes during the episode of care.
iii. Consent must be voluntary and signed by the person served and person authorized to give consent (if different from the person served).

b. The person receiving services, or legal guardian, if the consumer is deemed incompetent, has signed a written consent for any disclosures beyond treatment, payment, and/or operations. The consent must be signed voluntarily and contain the following:
   i. Be completed on the required MDHHS 5515 Consent to Share Behavioral Health Information form;
   ii. Date, event, or condition after which the consent will expire if not revoked before;
   iii. Statement that consent can be withdrawn/revoked at any time;
   iv. Name of person or general designation of the program(s) permitted to make the disclosure;
   v. Name or title of individual or organization to which disclosure is to be made;
   vi. Name of the person served;
   vii. Purpose of the disclosure, including how much and what kind of information is to be disclosed;
   viii. Signature of person served and person authorized to give consent (if different from the consumer).
   ix. Date on which the consent is signed;
   x. A no re-disclosure statement shall be made upon the confidential information release.
c. The disclosure is authorized by an appropriate court order granted after application showing good cause. In assessing good cause, the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship, and the treatment services. The court shall determine the extent of any disclosure (all or part of the record) and shall ensure appropriate safeguards against unauthorized disclosure.
d. The disclosure is made to medical personnel in a bona fide medical emergency.
e. The disclosure is made to qualified personnel for the purpose of conducting scientific research, management audits, financial audits, or program evaluation, and the information has been de-identified.

f. A crime or a threat of a crime may be reported to the appropriate authorities in accordance with Federal regulations. The name of the individual, the last known whereabouts, and the details of the crime may be reported.
g. Suspected child abuse or neglect may be reported under state laws to appropriate state or local authorities.

III. CHANGE LOG

Date of Change	Description of Change	Responsible Party
8/10/26	NEW Procedure - Bifurcated HIPAA Privacy procedures as well as procedures found in policies 9.14 and 12.3 into separate procedural document	CEO or designee