

# HEALTHWEST

## Policy and Procedure

No. 04-002

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Approved by:

Subject: Disclosure of Consumer  
Information

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### I. POLICY

HealthWest will protect the confidentiality of protected health information (PHI) contained in the clinical record of a consumer.

### II. PURPOSE

To ensure consumer information is disclosed according to the requirements of applicable Federal and State laws.

### III. APPLICATION

All Agency employees, volunteers, student interns, and persons under contract with HealthWest.

### IV. PROCEDURE

- A. HealthWest may disclose to requesting parties only when authorized using consent forms signed by the following:
  - 1. Competent adult recipient.
  - 2. Court-appointed guardian of incompetent adult recipient.
  - 3. Parent(s) or legal guardian of a minor recipient. If divorced, the legal parent(s).
  
- B. Michigan State laws require minors (a person under age 18) to authorize disclosure of the following information, except when a minor lacks capacity because of extreme youth or mental or physical condition to make a rational decision:
  - 1. Substance abuse.
  - 2. Venereal disease (MCL 333.2834).
  - 3. HIV, AIDS (P.A. 491).
  - 4. Pregnancy.
  
- C. An emancipated minor may consent to treatment and authorize disclosure of PHI. An emancipated minor is defined as a recipient under the age of eighteen (18) who is any of the following:

1. Married.
  2. Serving active duty with the Armed Forces of the United States.
  3. Emancipated through a Probate Court Order.
  4. A minor who is a parent may consent to the treatment of his/her child(ren).
  5. Probate Court may authorize disclosure of records for permanent wards.
- D. In cases of deceased recipients, consents may be signed by individuals in the following descending priority:
1. Personal representative of the estate appointed by the Probate Court.
  2. Executor of the estate.
- E. Subject to the limitations of the Michigan Mental Health Code, and Title 42, Part 2 of the Code of Federal Regulations, HealthWest may use or disclose PHI without consumer authorization as follows:
1. **Treatment.**
    - a. HealthWest can share PHI with other professionals who are treating a consumer under contract with HealthWest in order to provide and coordinate health care and related services.
    - b. HealthWest can share PHI with health care providers, both physical and mental health, as necessary for treatment and coordination of care in accordance with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-101.
      - i. Per the regulations of Title 42 CFR, Part 2 of the Code of Regulations, substance use disorder treatment information continues to require a signed consent from the consumer in order to share PHI with any provider/individual.
  2. **Payment.** HealthWest can disclose PHI in order to receive payment for services that are provided to the consumer.
  3. **Running the Organization.** HealthWest may use and share a consumer's PHI to support the business activities of the agency for operational purposes.
  4. **Fundraising and Other Communications.** HealthWest may use or disclose parts of a consumer's PHI to offer the consumer information that may be of interest to them.
  5. **Business Associates and Subcontractors.** HealthWest may contract with individuals and entities known as Business Associates to perform various functions or provide certain services. In order to perform these functions or provide these services, Business Associates may receive, create, maintain, use and/or disclose a consumer's PHI, but only after they sign an agreement with HealthWest requiring them to implement appropriate safeguards regarding a consumer's PHI. Similarly, a Business Associate may hire a Subcontractor to assist in performing functions or providing services in connection with a consumer's services.
  6. **Avert a Serious Threat to Health or Safety.** HealthWest may use and disclose a consumer's PHI when necessary to prevent a serious threat to their

health and safety or the health and safety of the public or another person. Any disclosure, however, would only be to someone able to help prevent the threat.

7. **Public Health.** HealthWest may disclose parts of a consumer's PHI to the Public Health Department when the law requires HealthWest to do so. This disclosure would only be made for the purpose of controlling disease, injury, or disability.
  8. **Health Oversight Entities.** HealthWest may disclose a consumer's PHI to agencies that are responsible for making sure HealthWest services meet quality standards.
  9. **Law Enforcement.** HealthWest will disclose a consumer's PHI when required to do so by Federal, State or local law.
  10. **Food and Drug Administration.** HealthWest may disclose a consumer's PHI if the Food and Drug Administration requires it.
  11. **Coroners or Medical Examiners.** HealthWest may disclose PHI to a coroner or medical examiner for identification purposes, determining cause of death or for the coroner or medical examiner to perform other duties.
  12. **Workers' Compensation.** HealthWest may disclose a consumer's PHI to comply with Michigan workers' compensation laws.
  13. **Michigan Department of Health and Human Services (MDHHS).** HealthWest must release a consumer's PHI to MDHHS so they can assure staff are following the law. HealthWest also will release a consumer's PHI if staff suspect there may have been child or vulnerable adult abuse or neglect. Federal and State Laws require these reports.
  14. **Military and or Veteran's Administration.** If a consumer is a member of the Armed Forces, HealthWest may release a consumer's PHI as required by military command authorities. HealthWest may also release PHI for a consumer to receive and/or coordinate benefits.
  15. **As Required by Law.** HealthWest will disclose PHI when required to do so by Federal, State, or local law.
  16. **Disclosure to Health Plan Sponsor.** PHI may be disclosed to health plans for purposes of facilitating claims payments under that plan.
- F. Consumer authorization is required for the disclosure of PHI not otherwise noted in Section E above.
- G. HealthWest will continue to require a signed consent for the purpose of exchanging information with a consumer's primary care physician.

- H. Per the regulations of Title 42 CFR, Part 2 of the Code of Regulations, substance use disorder treatment information continues to require a signed consent from the consumer in order to share PHI with any provider/individual.
- I. HealthWest utilizes three consent forms for the purpose of authorizing the disclosure of PHI from a consumer's medical record and/or requesting information from an outside entity:
  - 1. C061, "Authorization for Release of Information"
  - 2. C249, "Inter-Agency Authorization to Exchange Information"
  - 3. DCH-3927, "Consent to Share Behavioral Health Information for Care Coordination Purposes"

HealthWest staff may utilize any of the above forms, assuring all required sections of the form are completed.

If the consumer is physically unable to sign, he/she may authorize disclosure by marking an "X", or using a signature stamp. However, either must be witnessed and there must be documentation in the clinical record explaining why the consumer is unable to sign.

- J. No corrections, modifications, or additions to the consent form may be made once signatures are obtained. If corrections, modifications, or additions are needed, a new consent form must be completed.
- K. Consent forms shall have a duration no longer than one (1) year from the date of signature, unless an earlier date, event, or revocation is documented on the consent form.
- L. A consent form may be revoked at any time as follows:
  - 1. For consent form MDHHS-3927, the "Withdraw of Consent" section must be completed.
  - 2. For consent form #C061, "Authorization for Release of Information," staff must document the word "**REVOKED**" in large letters in an easily identifiable area on the document with their initials and date. The events contributing to the revocation must be documented in the clinical record in a progress note or documented at the bottom of the consent form.
  - 3. For consent form #C249, "Inter-Agency Authorization to Exchange Information," staff must clearly identify the agency(ies) needing revoked and document the word "REVOKED" next to the agency(ies), along with their initials and date. The events contributing to the revocation must be documented in the clinical record in a progress note or documented at the bottom of the consent form.
- M. When consent has been granted by the consumer/parent/guardian to release PHI from the clinical record, only information generated by HealthWest staff can be disclosed. HealthWest cannot disclose information from a consumer's clinical record that has been obtained from outside entities.

- N. When sending documents from a consumer's clinical record to an outside entity, assigned clerical staff will perform this responsibility per established procedures. If circumstances do not allow for clerical support to provide this service, the staff person(s) sending the information must assure the required supporting documentation is completed, #C181, "Disclosure of Information," or #M178, "Disclosure of Information Cover Letter."
- O. HealthWest may charge a fee for sending copies of clinical records, adhering to the County of Muskegon's "Freedom of Information Act" guidelines.

V. REFERENCES

CFR 42 Part 2  
MCL 330.1748

KF/jec