BARRY COUNTY COMMUNITY MENTAL HEALTH AUTHORITY
POLICY AND PROCEDURE MANUAL

Policy: 7-B Confidentiality	Application: All
Approved: Richard S Thiemkey, M.A. Richard S Thiemkey, M.A. (Sep 19, 2025 16:14:07 EDT) Richard Thiemkey, MA Executive Director	

Reviewed	Revised	First Effective
9/17/2025	9/17/2025	1/2/1997

PURPOSE

To define the limits and procedures for disclosing information about community mental health and substance use disorder services outside the agency.

POLICY

It is the policy of the BCCMHA Board to adhere to and follow the statutes set forth regarding confidentiality in Chapter 7 of the Mental Health Code, Sec 330.1748(a); Health Information Portability and Accountability Act of 1996 (HIPAA); 42 CFR Part 2; and R 325.14302 to R325.14306.

A Summary of Section 748 of the Mental Health Code will be made part of each recipient file. [AR 330. 7051(1)]

Except as otherwise provided in this section or section 748a, when requested, information made confidential by this section shall be disclosed only under 1 or more of the following circumstances:
(a) Under an order or a subpoena of a court of record or a subpoena of the legislature, unless the information is privileged by law.
(b) To a prosecuting attorney as necessary for the prosecuting attorney to participate in a proceeding governed by this act.
(c) To an attorney for the recipient, with the consent of the recipient, the recipient's guardian with authority to consent, or the parent with legal and physical custody of a minor recipient.
(d) If necessary in order to comply with another provision of law.
(e) To the department if the information is necessary in order for the department to discharge a responsibility placed upon it by law.
(f) To the office of the auditor general if the information is necessary for that office to discharge its constitutional responsibility.
(g) To a surviving spouse of the recipient or, if there is no surviving spouse, to the individual or individuals most closely related to the deceased recipient within the third degree of

consanguinity as defined in civil law, for the purpose of applying for and receiving benefits. [MHC 1748(5)].

All information in the client's case record, and other information acquired in the course of providing mental health services shall be kept confidential and shall not be open to public inspection [MHC 1748(1)].

The information may be disclosed outside the agency only in the circumstances and under the conditions set forth in Sections 748, 748(a) and 750 of the Michigan Mental Health Code (PA 258 of 1974, as amended), the Health Information Portability and Accountability Act of 1996 (HIPAA), Health Information Technology for Economic and Clinical Health Act (HITECH), American Recovery and Reinvestment Act of 2009 (ARRA), and 42 CFR Part 2. The confidential information disclosed should be limited to that which is germane to the authorized purpose for which disclosure was sought. [MHC 330.1748(2)]

Information will be provided as necessary for treatment, coordination of care, or payment for the delivery of mental health services, in accordance with the Health Information Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191. [MHC 1748(7)(b)].

The holder of a record may disclose information that enables a recipient to apply for or receive benefits without the consent of the recipient or legally authorized representative only if the benefits will accrue to the provider or will be subject to collection for liability for mental health service [330.7051(7)].

The holder of the record, when authorized to release information for clinical purposes by the individual or the individual's guardian or a parent of a minor, will release a copy of the entire medical and clinical record to the provider of mental health services. [MHC 330.1748(10)].

Records, data, and knowledge collected for or by individuals or committees, assigned a peer review function including the review function under Sec. 143a (1) are confidential, are used only for the purpose of peer review, are not public records, and are not subject to court subpoena. [MHC 330.1748(9)].

The holder of the record shall not decline to disclose information if a client or other empowered representative has consented, except for a documented reason (only applies before March 28, 1996). If a holder declines to disclose because of a possible detriment to the client or others, there shall be a determination whether part of the information can be released without detriment. A determination of detriment shall not control if the benefit of the disclosure to the client outweighs the detriment. A decision not to disclose may be appealed to the Recipient Rights Officer by the person seeking disclosure, a recipient, a legally empowered guardian, or parents of a minor who consent to disclosure. Detriment does not apply to competent adults for all information after March 28, 1996. For case records made after March 28, 1996, information made confidential by Sec. 748 will be disclosed to a competent adult recipient upon the recipient's request

and that the information is released as expeditiously as possible, but in no event later than the earlier of 30 days of the request or prior to release from treatment. *[MCL 330.1748(4)]*

BCCMHA prohibits unauthorized audio or video recording due to confidentiality.

The BCCMHA Board administrator and staff will adhere to the rules of the Mental Health Code, Chapter 7, Sec 330.1748 (748, 748(a), and 750), the Health Information Portability and Accountability Act of 1996 as amended, (45 CFR Sections 160, 164, and Subparts A and E), HITECH, ARRA, 42 CFR Part 2, and R325.14302 to R325.14306.

Except as otherwise provided in Sec. 748(4), if the consent has been obtained from:
a. The recipient
b. The recipient's guardian who has the authority to consent
c. A parent with legal custody of a minor recipient
d. Court appointed personal representative or executor of the estate of a deceased recipient, information made confidential by Sec. 748 may be disclosed to: 1. A provider of mental health services to the recipient, or 2. The recipient, recipient's guardian, the parent of a minor or another individual or agency unless, in the written judgement of the holder of the record the disclosure would be detrimental to the recipient or others [MHC 330.1748(6)].

If there is a compelling need for mental health records or information to determine whether child abuse or neglect has occurred or to take action to protect a minor where there may be a substantial risk of harm, a Department of Health and Human Services caseworker or administrator directly involved in the child abuse or neglect investigation shall notify a mental health and/or addiction professional that a child abuse or neglect investigation has been initiated involving a person who has received services from the mental health professional and shall request in writing mental health records and information that is pertinent to that investigation. Upon receipt of this notification and request, the mental health and/or addiction professional shall review all medical records and information in the mental health or addiction professional's possession to determine if there are medical records or information that is pertinent to that investigation. Within 14 business days after receipt of a request made under this subsection, the mental health or addiction professional shall release those pertinent medical records and information to the caseworker or administrator directly involved in the child abuse or neglect investigation. [MCH 1847a(1)]

BCCMHA staff will adhere to policy regarding internal record control and understand the concept of "Need to Know". Please refer to the Record Content Policy regarding record management practices.

All new employees, interns, and independent contract providers will receive specific training regarding confidentiality within 30 days of hire, internship, or initiation of the contract. The Recipient Rights Officer will review the information contained in the agency's recipient rights

policies annually with the entire staff and contracted providers.

PROCEDURES

CONSENT TO RELEASE INFORMATION

BCCMHA will not use or disclose PHI without written authorization except where permitted or required by state and/or federal law(s). In obtaining written authorization for the disclosure of confidential mental health and substance use disorder information for use by all 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, SWMBH and its provider network shall honor, accept and use MDHHS- 5515, "Permission to Share Behavioral Health Information" (hereafter referred to as "Standard Consent Form"), for the electronic and non-electronic sharing of all behavioral health and SUD information, in accordance with PA 129 of 2014, MCL 330.1141a. No other consent forms may be used for such treatment-related disclosures. When obtaining written authorization for disclosures that do not fall under a Health Insurance Portability and Accountability Act (HIPAA) exception, a HIPAA compliant consent form shall be used.

REDISCLOSURE

An individual receiving information made confidential by this section will disclose the information to others only to the extent with the authorized purpose for which the information was obtained. [MHC 330.1748(3)]

Specific information in the record obtained from other agencies will be re-disclosed only with a signed Release of Information allowing such re-disclosure, unless precluded by 42 CFR Part 2, Confidentiality of Alcohol and Drug Abuse Patient Records. Persons requesting information that cannot be re-disclosed shall be referred directly to the source agency. If the request for redisclosure is made by the client or someone legally authorized to act on behalf of the client, for the purpose of obtaining access to the client's own record, the entire medical and clinical record will be made available, including information obtained from other agencies.

A record of disclosures will be kept including:

a. Information released
b. To whom it was released,
c. Purpose stated by person requesting the information,
d. Statement indicating how disclosed information is germane to the stated purpose,
e. The part of law under which disclosure is made,
f. Statement that the persons receiving the disclosed information could only further disclose consistent with the authorized purpose for which with a released. [AR 330.7051(2)]

DETRIMENTAL INFORMATION

In the event the clinician judges that the release of certain information might be detrimental to the client or others, the clinician shall review this judgment with the Executive Director. Should the Executive Director concur with this judgment, the information shall not be disclosed. The

Executive Director will determine whether part of the information may be released without determent. A determination of detriment will not be made if the benefit to the recipient from the disclosure outweighs the detriment. [AR 330.7051(3)]
Documentation of the decision to withhold information and the reasons for withholding it shall be entered into the client's record.

If a request for information has been delayed, the Executive Director shall review the request and make a determination within three business days if the record is on-site or ten business days if record is off-site whether the disclosure would be detrimental [AR 7051(3)].

This determination can be appealed to the Recipient Rights Officer by the person seeking disclosure [AR 7051(3)].

Disclosure of confidential information may be delayed if deemed detrimental, unless disclosed pursuant to the following:

1. Order of subpoena and/or search warrant of a court or Legislature for nonprivileged information;
2. Request of a prosecutor as necessary for participation in a proceeding governed by the Michigan Mental Health Code;
3. Request of a recipient's or minor recipient's attorney, with consent of the recipient or minor recipient's parent and/or guardian (despite request for delay by a legally empowered guardian or parents of the minor); or
4. Request of the Auditor General.

The holder of the record shall not decline to disclose information if a client or other empowered representative has consented, except for a documented reason. If a holder declines to disclose, there shall be a determination whether part of the information can be released without detriment.

ATTACHMENTS:
MDHHS 5515_Consent to Share Behavioral Health Information

REFERENCES
CARF
42 CFR
45 CFR
HIPAA
HITECH
ARRA
MHC/AR
Michigan Department of Health and Human Services