CENTRA WELLNESS NETWORK

Board Adopted Procedure			
Procedure	03.14	**Policy Title: 03.00 Enrollee Rights**	
Effective Date: 1/13/2011		**Subject: Confidentiality and Disclosure**	
Review Cycle:			
Approval Validation Record			
Action		**Date**	**Board Sec'y Initials**
Full Board Vote:		1/13/2011	
Minutes Approved:		2/10/2011	
Accountability			
Board Committee:		Policy Committee	
Agency Function:		Confidentiality and Disclosure	
Sunset Review Begins:			
Revised Date:		12/02/2015	
		6/11/2020	
		9/06/2023	
		9/30/2026	
Review Date:		3/27/2014	
		10/03/2018	
		5/03/2023	

CENTRA WELLNESS NETWORK
PROCEDURE 03.14 CONFIDENTIALITY AND DISCLOSURE

I. PURPOSE STATEMENT:

Centra Wellness Network's (CWN) Governing Body establishes and evaluates policies and related procedures as required by statutory and contractual obligations.
CWN reserves the right in its sole discretion to adopt and implement policies and procedures that ensure a safe, functional and professional workplace that operates with integrity using person-centered focus and planning, trauma informed practices and respect of others, cultural sensitivity and transparency in communication and practice. Organizationally and in practice, CWN is responsive to the needs of clients, community and staff.
Any statements and procedures are subject to review and/or unilateral change, modification, suspension or cancelation in whole or in part of any published/unpublished policies or procedures without notice and without having to give cause, justification, or consideration to any employee. Recognition of these rights and prerogatives of CWN is a term and condition of and maintaining employment.
Policies and Procedures are approved by the Board and/or upon recommendation by the Executive Director or his/her designee.

II. APPLICATION:

Agency Wide, including employees, affiliated providers and interpreters.

III. DEFINITIONS:

Recipient/Consumer:
An adult, responsible parent, or legally empowered guardian of a child, or a legally empowered guardian of a person who is legally incapacitated or developmentally disabled.

Privileged Communication:
A communication made to a psychiatrist or psychologist, or someone under the supervision of each person, in connection with the examination, diagnosis, or treatment of a recipient, or to other persons while they are participating in such examination, diagnosis, or treatment

Proper Authorization:

a. A valid consent executed by the recipient; or
b. An order form the presiding judge/court after hearing testimony on the privileged nature of the information.

IV. POLICY STATEMENT:

The intent of this procedure is to ensure that all information in the recipient's case record and other information acquired in the course of providing mental health services are kept confidential. And that information may be disclosed outside the agency only in the circumstances and conditions set forth in sections 748 and 750 of the Michigan Mental Health Code (PA 258 of 1974, as amended).

V. PROCEDURES:

A. All information in the recipient case record and other information acquired in the course of providing mental health services will be kept confidential and will not be open to public inspection.
B. Confidential information may be disclosed outside the agency only in the circumstances and under the conditions set forth in Sections 748 and 750 of the Michigan Mental Health code (PA 258 of 1974, as amended). The confidential information disclosed will be limited to that which is germane to the authorized purpose for which disclosure was sought. A staff person must be able to answer the question, "Does the person requesting the information have a 'need to know'?"
C. The person making the disclosure will inform the receiver that disclosure of the information by the receiver to another party is strictly prohibited unless consistent with the authorized

purpose for which the information was obtained.

D. Each person seeking mental health services will be asked to sign consent for acknowledgment of Recipient Rights Information and will include a summary of Section 748 of the Mental Health Code. A summary of Section 748 will be retained as a part of each person's record.

E. Conditions to Release Information:
   1. Confidential information may be disclosed to providers of mental health services, to the recipient, or to any individual or agency if consent has been obtained from:
      a. Recipient or
      b. Recipient's guardian with authority to consent or
      c. Parent with legal custody of a minor recipient or
      d. Court approved personal representative or executor of the estate of a deceased recipient.
   2. For case records made after March 28, 1996, information made confidential by Section 748 of the Mental Health Code shall be disclosed to a competent adult recipient upon the recipient's request. Release is done as expeditiously as possible but in no event later than the earlier of 30 days of the request or prior to discharge from treatment.
   3. For all other records, minor or adult recipients with guardians, information placed in the record prior to March 28,1996 may be disclosed to the recipient, attorney for the recipient, or any other person or agency, provided that the recipient consents and the disclosure would not be detrimental.
      a. Unless section 784 of the act applies (see b. above) the Executive Director may make a determination whether the disclosure of information would be detrimental to the recipient or others.
      b. If the Executive Director declines to disclose information because of possible detriment to the recipient or others, then the Executive Director shall determine whether part of the information may be released without detriment.
      c. A determination of detriment shall not be made if the benefit to the recipient from the disclosure outweighs the detriment.
      d. If the record of the recipient is located on-site, the Executive Director shall make a determination of detriment within 3 business days from the date of the request. If the record is off-site, the Executive Director will make a determination within 10 business days of the request.
      e. The Executive Director shall provide written notification of the determination of detriment and justification for the determination to the person who requested the information.
      f. If a determination of detriment has been made and the person seeking the disclosure disagrees with that decision, he or she may appeal/file a rights complaint to the Office of Recipient Rights of CWN.
   4. Except as provided otherwise in this procedure, when requested, confidential information shall be disclosed only under at least one of the following circumstances:
      a. Pursuant to orders or subpoenas of a court of record or the legislature, unless the information is made privileged by law.
      b. To a prosecuting attorney as necessary for the prosecuting attorney to participate in a proceeding governed by the Mental Health Code.
      c. To an attorney, who shall be permitted to review the record on the provider's premises upon presentation of identification, 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. Attorneys shall be refused information by phone or in writing without the consent or release from the recipient or the request is accompied by or proceeded by a certified

copy of an order from a court ordering disclosure of information to that attorney.

d. To an attorney, who has been retained or appointed to represent a minor pursuant to an objection to hospitalization of a minor shall be allowed to review the records.
e. To attorneys who are not representating recipients, only if the attorney presents a certified copy of an order from a court directing disclosure of information concerning the recipient to the attorney.
f. To the office of the auditor general if the information is necessary for that office to discharge its constitutional responsibility.
g. When necessary to comply with another provision of law.
h. To the Michigan Department of Health and Human Services if the information is necessary in order for the department to discharge a responsibility placed upon it by law.
i. To a surviving spouse of the recipient, or if none, closest relative of the recipient in order to apply for and receive benefits, but only if the spouse or closest relative has been designated the personal representative or has a court order.
j. To Department of Human Services / Child Protective Services within 14 days after receipt of a written request for pertinent records and information.
k. To a private physician or psychologist appointed by the court or retained to testify in civil, criminal, or administrative proceedings shall, upon presentation of identification and a certified copy of a court order, be permitted to review the records of the recipient on the provider's premises. Before the review, notification shall be provided to the reviewer and to the court if the records contain privileged communication which cannot be disclosed in court, unless disclosure is permitted because of an express waiver of privilege or because of other conditions that, by law permit or require disclosure.
l. As necessary for the treatment, coordination of care, or payment for the delivery of mental health services, in accordance with the health insurance portability and accountability act of 1996, Public Law 104-191.

5. In regards to child abuse or neglect – if there is 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 Human Services agency caseworker or administrator directly involved in the child abuse or neglect investigation shall notify CWN that a child abuse or neglect investigation has been initiated involving a person who has received services from CWN and shall request in writing mental health records and information that are pertinent to that investigation. Upon receipt of this notification and request, the clinician shall review all mental health records and information in the clinician's possession to determine if there are mental health records or information that is pertinent to that investigation. Within 14 days after receipt of a request made under this section, the clinician shall release those pertinent mental health records and information to the caseworker or administrator directly involved in the child abuse or neglect investigation. These privileges do not apply to mental health records or information to which access is given under this section:
    a. The physician-patient privilege created in section 2157 of the revised act, 19671 PA 236.
    b. The dentist-patient privilege created in section 16648 of the public health code, 1978 PA 368.
    c. The licensed professional counselor-client and limited licensed counselor-client privilege created in section 18117 of the public health code, 1978 PA

368.

d. The psychologist-patient privilege created in section 18237 of the public health code, 1978 PA 368.
e. Any other health professional-privilege created or recognized by law. To the extent not protected by the immunity conferred by 1964 PA 170, an individual who in good faith gives access to mental health records or information under this section is immune from civil or administrative liability arising from that conduct, unless the conduct was gross negligence or willful and wanton misconduct. A duty relating to releasing the mental health records under this section, does not alter a duty imposed under another law including the child protection law regarding reporting child abuse or neglect.

6. Disability Rights Michigan shall be granted access to the records of all of the following:
    a. A recipient, if the recipient, the recipient's guardian with authority to consent, or a minor recipient's parent with legal and physical custody of the recipient has consented to the access.
    b. A recipient, including a recipient who has died or whose whereabouts are unknown, if all of the following apply:
        1. Because of mental or physical condition, the recipient is unable to consent to the access.
        2. The recipient does not have a guardian or other legal representative, or the recipient's guardian is the state.
        3. Disability Rights Michigan has received a complaint on behalf of the recipient or has probable cause to believe based on monitoring or other evidence that the recipient has been subject to abuse or neglect.
7. A recipient who has a guardian or other legal representative if all of the following apply:
    a. A complaint has been received by Disability Rights Michigan or there is probable cause to believe the health or safety of the recipient is in serious and immediate jeopardy.
    b. Upon receipt of the name and address of the recipient's legal representative, Disability Rights Michigan has contacted the representative and offered assistance in resolving the situation.
    c. The representative has failed or refused to act on behalf of the recipient.
8. When authorized by the recipient, or guardian, or a parent of a minor to release information for clinical purposes, a copy of the entire medical and clinical record will be released to a provider of mental health services.
9. <u>If consent is obtained</u> from the recipient, the recipient's guardian with authority to consent, the parent with legal custody of a minor recipient, or the court-appointed personal representative or executor of the estate of a deceased recipient, information made confidential by this section <u>may be disclosed</u> to providers of mental health services to the recipient.
10. Confidential information <u>may</u> be disclosed under the following conditions at the discretion of the Executive Director or his/her designee and <u>without consent from the recipient or legally authorized representative:</u>
    a. If it is necessary for the recipient to apply for and receive benefits and only if the benefits shall accrue to the provider or shall be subject to collection for liability of mental health services.
    b. If there is compelling need based upon a substantial probability of harm to the recipient or others, information may be released to other public agencies or health providers.
    c. A prosecutor may be given non-privileged information or privileged

information which may be disclosed if it contains information relating to names of witnesses to acts which support the criteria for involuntary admission, information relevant to alternatives to admission to a hospital or facility, and other information designated in policies of governing body.

11. The records, data, and knowledge collected for or by individuals or committees assigned a peer review function are confidential, shall be used only for the purposes of peer review, are not public records, and are not subject to court subpoena.
12. The following shall constitute the agency's procedures regarding disclosure of information for purposes of outside research, evaluation, accreditation, and statistical information:
    a. For outside research and other uses of statistical compilation, information may be released if it does not identify the individual recipient. If the identity of the recipient is essential to the research or other compilation, written releases of information shall be obtained.
    b. The Executive Director or his/her designee shall review a sampling of the information released to ensure that adequate safeguards protecting the recipient have been observed. If the director or designee determines that the release of information would be harmful, they shall withdraw authorization for the research or use of the statistical information.
    c. It shall be the practice of the agency to require reviewers or auditors to present identification and sign a statement acknowledging that the information reviewed is confidential and will not be further released without proper consents or authorizations under the following conditions:
        1. Audits of financial and clinical records for the purpose of evaluating the agency's compliance with state and federal regulations.
        2. Audits and reviews to ensure that the agency is meeting accreditation standards, and when it is too impractical to withhold the identity of individual recipients, Or when the identification of the individual is essential to the evaluation, audit, etc.

F. When a recipient has given permission in writing for information to be disclosed, the request for information must specify:
    1. The type of information to be disclosed; releases should be as specific as possible in order to protect client rights.
    2. The individual or agency to whom the information is to be disclosed.
    3. Purpose or need for such disclosure stated by the person requesting the information.
    4. Statement indicating how the information disclosed is germane to the stated purpose.
    5. The part of law under which the disclosure was made.
    6. The length of time such release is valid.
    7. Statement that the persons receiving the disclosed information could only further disclose consistent with authorized purpose for which it was released. All confidential documents released by CWN will be stamped " This Document Represents Confidential Or Privileged Information. It Is Not To Be Duplicated, Identified, Shared, Nor Quoted For Purposes Other Than Those Specified By Law Including Michigan P.A.258 Sec. 7 and 750. Manistee-Benzie Community Mental Health Services Board.
    8. A standard consent form created by MDHHS under Public Act 129 of 2014 will be utilized, accepted and honored by CWN provider network for formal care coordination between health care providers, health care organizations, health plans, and other healthcare related organizations. All other releases of information not related to healthcare (schools, court systems, friends, family etc.) will utilize the standard release form embedded in the CWN electronic health record system.

G. A copy of the signed release of information form may be sent with the requested information

as appropriate.

H. A record of any disclosure and/or decision not to release information shall be documented in the recipient's case file. The signed Release of Information form may be used as a record of disclosure if it specifies what information was released, to whom it was released, the purpose for disclosure, a statement as to how the disclosed information is germane to the stated purpose, the law allowing disclosure and a statement that the persons receiving the disclosed information shall only further disclose consistent with the authorized purpose.

I. A recipient, guardian, or parent of a minor recipient, after having gained access to treatment records, may challenge the accuracy, completeness, timeliness, or relevance of factual information in the recipient's record. The recipient, guardian, or parent of a minor recipient shall be allowed to insert into the record a statement concerning the information at issue. The statement shall become part of the record.

VI. EXHIBITS:

N/A

VII. REFERENCES:

Authority and Related Directives Trace	
Federal	CFR 438.224, 438.228, 42 CFR Subchapter IV, Mental Health Rights and Advocacy, Section 9501. (O) (2) (B); Protecting Access to Medicare Act PL 113-93 Section 223
State	MHC 330.1748, 330.1752; AR 330.7051, Michigan P.A.258 Sec. 7 and 750, Public Act 129 of 2014
NMRE	
County	Interlocal Agreement of December 1992 Section IX(j)
CARF	CARF 2026 Behavioral Health Standards
Other	Board By-Laws Health Insurance Prtability and Accountability Act of 1996 (HIPAA)