

# BARRY COUNTY COMMUNITY MENTAL HEALTH AUTHORITY POLICY AND PROCEDURE MANUAL

Policy: Confidentiality & Disclosure of Substance Use Disorder Records 3-Q		Application: BCCMHA Staff
Reviewed	Revised	First Effective 12/21/2022

## **PURPOSE**

To define the limits and procedures for disclosing information about Barry County Community Mental Health Authority (BCCMHA) clients with a Substance Use Disorder per HIPAA and 42 CFR Part 2.

## **POLICY**

Records associated with the provision of substance abuse services are protected by HIPAA and the Federal Confidentiality Rules (42 CFR Part 2). The Federal Confidentiality Rules prohibit federally funded Part 2 Programs (Substance Use Disorder Providers) from disclosing protected health information except under specified conditions such as:

1. Reporting suspected child abuse or neglect
2. Client requesting their own record(s)
3. Within a Part 2 program or between a Part 2 program and an entity that has direct administrative control over the Part 2 program

Programs that are covered by Part 2 regulations cannot disclose information identifying a client as being or having been diagnosed with a substance use disorder, having or having had a substance use disorder, or being or having been referred for treatment of a substance use disorder.

BCCMHA will utilize the MDHHS 5515 Consent to Share Behavioral Health Information. A general consent for the release of medical or other information is NOT sufficient and must include 42 CFR Part 2 language when a records request is made by an outside entity.

The Federal Rules restrict any use of the information to criminally investigate or prosecute any alcohol or drug abuse client.

## **PROCEDURE**

Any disclosure of substance use diagnosis, treatment, or the referral of treatment must have a signed consent prior to the release of records verbally or physically. A consent must be completed for the insurance company and/or managed care entity prior to the release of any substance use information including for payment or operations.

Reasonable efforts will be made to limit Protected Health Information to the minimum necessary to accomplish the intended purpose of the use, disclosure, or request for information.

All disclosures and requests for information should go through BCCMHA Medical Records Department.

When disclosing Substance Use Disorder records, the Medical Records Department will:

1. Verify that there is an up-to-date and signed MDHHS 5515 Consent to Share Behavioral Health Information or 42 CFR Part 2 language is included in an outside entities consent.
2. Verify each disclosure made with the patient's written consent must be accompanied by one of the following written statements:
  - a. This record which has been disclosed to you is protected by federal confidentiality rules (42 CFR Part 2). The federal rules prohibit you from making any further disclosure of this record unless further disclosure is expressly permitted by the written consent of the individual whose information is being disclosed in this record or, is otherwise permitted by 42 CFR Part 2. A general authorization for the release of medical or other information is NOT sufficient for this purpose (see § 2.31). The federal rules restrict any use of the information to investigate or prosecute with regard to a crime any patient with a substance use disorder, except as provided at §§ 2.12(c)(5) and 2.65; or
  - b. 42 CFR Part 2 prohibits unauthorized disclosure of these records.
3. Complete an entry into the EHR disclosure log

## **REFERENCES**

BCCMHA

Department of Health and Human Services

Michigan Mental Health Code

CMS

HIPPA

Office of Recipient Rights

Office of Civil Rights

Public Health Code Article 6

SOAHR Administrative Rules (R 325.14302 to 325.14306)

42 CFR Part 2

## **APPROVED BY:**

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Richard Thiemkey  
Executive Director

Date