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| **MONTCALM CARE NETWORK** **611 North State Street, Stanton, MI 48888**  |
| SUBJECT: Confidentiality  | Section: 8906  |
| Effective Date: December 21, 1987  |  Revised Date: February 23, 2021   |

1. Information in the record of a recipient, and other information acquired in the course of providing mental health services to a recipient, will be kept confidential and will not be open to public inspection. The information may be disclosed outside the Montcalm Care Network or contracted providers, only in the circumstances and under the conditions set forth in Chapter 7, Section 748 and 748aof the Mental Health Code. This includes the following information:
	1. Information acquired in diagnostic interviews or examinations;
	2. Results and interpretations of tests ordered by a mental health professional or given

by a facility;

* 1. Entries and progress notes by mental health professionals and support personnel.
1. A summary of Section 748 of the Mental Health Code will be made part of each recipient file.
2. A record of all disclosures will be made part of each recipient file and will include:
	1. Theinformation released;
	2. To whom it is released;
	3. Thepurpose stated by person requesting the information;
	4. Astatement indicating how disclosed information is germane to the stated purpose;
	5. The part of law under which disclosure is made;
	6. A statement that any person receiving information made confidential by this section shall disclose the information to others to the extent consistent with the authorized purpose for which the information was obtained.
3. When requested, confidential information will be disclosed only under one or more of the following circumstances:
	1. Pursuant to orders or subpoenas of a court of record, or subpoenas of the legislature, for non-privileged information;
	2. To a prosecuting attorney as necessary for him or her to participate in a proceeding governed by the Mental Health Code;
	3. Attorneys representing recipients may review records only upon presentation of identification and the recipients consent or a release executed by the parent or guardian shall be permitted to review the record on the providers premises. 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.
	4. Attorneys who are not representing recipients may review records only if the attorney presents a certified copy of an order from a court directing disclosure of information concerning the recipient to the attorney.
	5. Attorneys shall be refused information by phone or in writing without the consent or release from the recipient or the request is accompanied or preceded by a certified copy of an order from a court ordering disclosure of information to that attorney.
	6. To the Auditor General;
	7. When necessary in order to comply with another provision of the law;
	8. To the Michigan Department of Health & Human Services when necessary in order for the department to discharge a responsibility placed upon it by law;
	9. To a surviving spouse, or if none, closest relative of the recipient in order to apply for and receive benefits, but only if spouse of closest relative has been designated the personal representative or has a court order.
4. Pertinent records and information will be released to DHS/CPS within fourteen (14) days after receipt of a written request in accordance with Section 748a of the Mental Health Code.
5. For case records made subsequent to March 28, 1996 information made confidential by Section 748 of the Mental Health Code will be disclosed to a competent adult recipient upon the recipient's request. Release will be done as expeditiously as possible, but in no event later than the earlier of thirty (30) days of the request or prior to release from treatment.
6. Except as otherwise provided in paragraph six (6) above, 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:
	1. An adult recipient who does not have a guardian;
	2. A recipient's guardian with authority to consent;
	3. A parent with legal custody of a minor recipient;
	4. A court appointed personal representative or executor of the estate of a deceased recipient.
7. Unless disclosure of confidential information is pursuant to paragraph six (6) above, disclosure may be delayed if there is substantial and documented reason to believe that disclosure would be detrimental to the recipient or others, or if the recipient, legally empowered guardian, or parents of a minor child, request that information not be released or decline consent to release information. Once any employee or contracted provider is made aware that the release of information may cause substantial or serious harm to the recipient or another person, the employee or contracted provider will immediately notify the Agency/program Director, or designee. As there are no records held off-site, within three (3) business days of a request for information which has been delayed because of concerns about potential detriment, the Director of the Montcalm Care Network, or designee, will review the request and the reported concerns and make a determination whether or not there is a substantial and documented reason to believe that the disclosure would be detrimental. If the record is not disclosed because there is a substantial and documented reason to believe that the disclosure would be detrimental, there will be a determination whether part of the information can be released without detriment. Any decision to not disclose the requested information may be appealed to the rights office by the person seeking disclosure.
8. 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 providers’ 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.

1. 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 the Montcalm Care Network.
2. Information may be disclosed at the discretion of the Director of the Montcalm Care Network, or designee, without the consent of the recipient or legally authorized representative:
	1. Information shall be provided as necessary for 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.
	2. In order for the recipient to apply for or receive benefits, but only if the benefits will accrue to the Montcalm Care Network, or will be subject to collection for liability for mental health services;
	3. As necessary for the purpose of evaluation, accreditation, or statistical compilation, provided that the person who is the subject of the information can be identified from the disclosed information only when such identification is essential in order to achieve the purpose for which the information is sought or when providing such identification would clearly be impractical, but in no event when the subject of the information is likely to be harmed by such identification;
	4. To a provider of mental or other health services or a public agency when there is a compelling need for disclosure based upon a substantial probability of harm to the recipient or other individuals.
3. If required by federal law, Montcalm Care Network will grant a representative of Disability Rights Michigan access to the records of all of the following:
	1. A recipient, if the recipient or other empowered representative has consented to the access.
	2. A recipient, including a recipient who has died or whose whereabouts are unknown, if all of the following apply:
		1. Because of a mental or physical condition, the recipient is unable to consent to 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.
	3. A recipient who has a guardian or other legal representative if all of the following apply:
		1. 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;
		2. 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;
		3. The representative has failed or refused to act on behalf of the recipient.
4. In addition to consumer records, clinical information and otherrecords, data, and knowledge collected for or by individuals or committees assigned a peer review function, including the review function under Section 143a(1) of the Mental Health Code, are confidential, are used only for the purpose of peer review, are not public records, and are not subject to court subpoena.
5. Montcalm Care Network when authorized to release information for clinical purposes by the individual, or the individual's guardian, or parent of a minor, will release a copy of the entire record to the provider of mental health services.
6. 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 or other empowered representative will be allowed to insert into the record a statement correcting or amending the information at issue. The statement will become part of the record. (also refer topolicy #11861).