



**REGION 10 PIHP**

<b>SUBJECT</b> Release of Record Information		<b>CHAPTER</b> 03	<b>SECTION</b> 03	<b>SUBJECT</b> 05
<b>CHAPTER</b> Information Management		<b>SECTION</b> Health Records		
<b>WRITTEN BY</b> Kristen Potthoff	<b>REVIEWED BY</b> Carissa Rumps		<b>AUTHORIZED BY</b> PIHP Board	

**I. APPLICATION:**

- |                                                |                                             |                                        |
|------------------------------------------------|---------------------------------------------|----------------------------------------|
| <input type="checkbox"/> PIHP Board            | <input type="checkbox"/> CMH Providers      | <input type="checkbox"/> SUD Providers |
| <input checked="" type="checkbox"/> PIHP Staff | <input type="checkbox"/> CMH Subcontractors |                                        |

**II. POLICY STATEMENT:**

It shall be the policy of Region 10 PIHP that information of individuals receiving services is confidential and access to, and release of the information, will be in accordance with all State and Federal regulations and the procedures outlined below. This policy pertains to records maintained by the PIHP.

**III. DEFINITIONS:**

- A. Child: (for the purposes of this policy) Means an individual less than 14 years of age.
- B. Confidential: Any information in the records of consumers receiving services, all Electronic Health Information, and other information acquired in the course of providing services.
- C. Consumer: Broad, inclusive reference to an individual requesting or receiving services delivered and/or managed by the PIHP, including Medicaid Beneficiaries, and all other recipients of PIHP services.
- D. Legal Party: (for the purposes of this policy) This includes any court, attorney, prosecutor, worker’s compensation office, Michigan Employment Securities Commission, Protection and Advocacy, and Auditor General.
- E. Minor: (for the purposes of this policy) Means an individual 14 or more years of age and less than 18 years of age.
- F. Non-Legal Party: (for the purposes of this policy) This includes the consumer receiving services, guardian, family members, other programs, hospitals, health care offices, Social Security Administration, and similar parties.
- G. Subpoena: A legal request for the production of documents, or a request to appear in court or other legal proceeding(s). It is a court order that requires the PIHP to testify or produce documents that

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are needed for a pending legal case.

#### IV. STANDARDS:

##### A. All Records:

1. Information in the record of a consumer, and other information acquired in the course of providing behavioral health services to a consumer, shall be kept confidential and is not open to public inspection. The information may be released outside the department, community mental health services program, licensed facility, or contract provider, whichever is the holder of the record, only in the circumstances and under the conditions set forth in the Michigan Mental Health Code and/or 42 CFR Part 2.
2. The PIHP must permit a consumer to request access to inspect or to obtain a copy of the protected health information about the consumer that is maintained in a designated record set. The PIHP requires all requests for access in writing 45 CFR 164.524(b)(1).
3. A consumer has the right to see his/her record. The consumer receiving services, guardian, or parent of a child, may request a copy of the record. If any part of the information in the record could be deemed harmful to the consumer and/or others, the information believed to be harmful may be withheld and the consumer requesting the record will be told that this has been done.
4. The PIHP must act on a request for a record no later than 30 days after receipt of written request (refer to the 45 CFR 164.524(b)(2)(ii) for additional detail).
5. The PIHP may deny a request that:
  - a. does not meet all the elements of the state and federal laws and regulations related to confidentiality of consumer records; including but not limited to:
    - i. Michigan Mental Health Code Act 258 of 1974
    - ii. 42 CFR Part 2
    - iii. 45 CFR 164.524(a)(2) & (3)
    - iv. Where the PIHP determines disclosure of the record in part or in whole, could be detrimental to the consumer or others 45 CFR 164.524(a)(3).
6. If a request is denied, the consumer has the right to request a review of the denial. The secondary review will be conducted by a licensed health care professional who is designated by the PIHP to act as a reviewing official and who did not participate in the original decision to deny 45 CFR 164.524(a)(3)(4).
7. Information regarding HIV, AIDS, ARC, and substance use disorder treatment that pertains to third parties is separately statutorily protected by 42 CFR Part 2, The Public Health Code, or MCL 333.5131, and is not "detrimental information" under the provisions of this policy. The confidentiality of HIV, AIDS, ARC, or substance use disorder information protected by 42 CFR Part 2, the Public Health Code or MCL 333.5131, does not prohibit a consumer's access to his/her own record. However, access to such information pertaining to third parties shall not be released with the record without specific release from those respective parties.

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8. A fee may be charged for all requests except properly executed court ordered subpoenas. For requests processed electronically or on a CD, there will be a flat fee of \$15.00. For photocopied requests, the fee will be \$0.11 per page, the amount of labor/time needed to retrieve/produce the record so long as it is at the lowest hourly wage for staff capable of processing the request and postage. These fees may be waived for coordination of care or financial hardship.
9. PIHP managed records can only be released with consent of the consumer unless otherwise described below:
  - a. To medical personnel to the extent necessary to meet a bona fide medical emergency.
  - b. To qualified personnel for the purpose of conducting scientific statistical research, financial audits, or program evaluation, but the personnel shall not directly or indirectly identify a consumer in a report of the research audit or evaluation or otherwise disclose an identity in any manner.
  - c. Upon application, a court of competent jurisdiction may order disclosure of whether a specific consumer is under treatment by a program. In all other respects, the confidentiality shall be the same as the physician-patient relationship provided by law.

**B. Substance Use Disorder Records:**

1. Record requests of minor consumers acting alone with legal capacity to apply for and obtain substance use disorder treatment must be made in writing with signed consent by the minor only.
2. For record requests of a minor consumer who lacks capacity for rational choice:
  - a. Only facts relevant to reducing a threat to the life or physical well-being of the minor or any other individual may be released to the parent, guardian, or other individual authorized under State law to act in the minor's behalf if the designated individual judges that:
    - i. A minor lacks capacity because of extreme youth or mental or physical condition to make a rational decision on whether to consent to a disclosure to his/her parent, guardian or other individual authorized under State law; and
    - ii. The minor's situation poses a substantial threat to the life or physical well-being of the minor or any other individual which may be reduced by communicating relevant facts to the minor's parent, guardian, or other individual authorized under State law.
3. For all record requests of consumers receiving substance use disorder treatment submitted by a legal party, a subpoena, or a similar legal mandate, must be issued in order to compel disclosure. This mandate may be entered at the same time as and accompany an authorizing court order entered under the regulations of 42 CFR § 2.61.

**C. Subpoena Requests:**

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1. A subpoena must:
  - a. State the name of the person including the entity, if applicable, to whom the subpoena is addressed;
  - b. State the statutory authority for the subpoena;
  - c. Indicate the date, time, and place that the testimony will take place;
  - d. Include a reasonably specific description of any documents or items required to be produced; and
  - e. If the subpoena is addressed to an entity, describe with reasonable particularity the subject matter on which testimony is required. In that event, the entity must designate one or more natural persons who will testify on its behalf and must state as to each such person that person's name and address and the matters on which he or she will testify. The designated person must testify as to matters known or reasonably available to the entity.
2. A subpoena must be served by:
  - a. Delivering a copy to the natural person named in the subpoena or to the entity named in the subpoena at its last principal place of business; or
  - b. Registered or certified mail addressed to the natural person at his or her last known dwelling place, or to the entity at its last known principal place of business.
3. A subpoena must be signed by an attorney.
4. The PIHP requires a compliant Health Insurance Portability and Accountability Act (HIPAA) release form.
5. The PIHP requires a compliant PIHP Authorization for Release of Record Information form.

## **V. PROCEDURES:**

### **A. Request from a Non-Legal Party**

1. The consumer (parent of child/guardian/authorized representative) requests a copy of his/her record information, in writing, by using the PIHP Authorization for Release of Record Information form and submitting it to the PIHP Corporate Compliance Office (see Exhibit A). The consumer (parent of child/guardian/authorized representative) shall complete the Identifying Information section of the PIHP Authorization for Release of Record Information form.
  - a. The consumer may identify a legal or non-legal party to whom the record may be released to.
2. The consumer (parent of child/guardian/authorized representative) shall complete the Specific Information Requested section of the PIHP Authorization for Release of Record Information form stating the specific information to be released.
  - a. Types of information that could be found in a consumer record are (this list is not exhaustive, nor does it imply that any or all the items listed below are that of information contained in the consumer's record or are appropriate for disclosure):
    - i. Screenings

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- ii. Authorizations
    - iii. PIHP Claims / Payment
  - 3. The consumer (parent of child/guardian/authorized representative) shall complete the Purpose or Need for Request section of the PIHP Authorization for Release of Record Information form.
  - 4. The consumer (parent of child/guardian/authorized representative) shall sign the form approving and authorizing the release of requested information.
  - 5. The PIHP reviews authorization request and determines what information is available to be released.
  - 6. If no record is found, or the PIHP determines the authorization of release of information to be inappropriate, the requester will be notified in writing.
  - 7. Makes a CD, PDF file, or paper copy of the materials, stamps envelope "Confidential", and sends to the requester with a cover memo indicating fee, if applicable.
  - 8. All substance use disorder records released will be accompanied by a Prohibition on Redislosures Statement (Exhibit B).
- B. Request from a Legal Party
- 1. General
    - a. A legal party shall submit all record requests in writing to the PIHP Corporate Compliance Office.
    - b. The PIHP will ensure all information in the request is accurate and contains legally required signatures of authority.
    - c. The PIHP reviews authorization request and determines what information is available to be released.
    - d. If no record is found, or the PIHP determines the authorization of release of information to be inappropriate, the requester will be notified in writing.
    - e. All requests from a legal party will be reviewed by the Corporate Compliance Officer and/or other Executive Staff for approval.
    - f. Makes a CD, PDF file, or paper copy of the materials, stamps envelope "Confidential" and sends to the requester with a cover memo indicating fee, if applicable.
    - g. All information related to an approved release of record, for reasons that did not require the consumer's (parent of child/guardian/authorized representative) knowledge or authorization, will be documented.
    - h. All substance use disorder records released will be accompanied by a Prohibition on Redislosures Statement (Exhibit B).
  - 2. Subpoena
    - a. The PIHP shall ensure the following prior to producing records:
      - i. The subpoena is signed by an attorney;
      - ii. Receive a compliant HIPAA release form; and

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- iii. Receive a compliant PIHP Authorization for Release of Information form.

**EXHIBITS:**

- A. Authorization for Release of Information form
- B. Prohibition on Redisclosure Statement

**REFERENCES:**

42 CFR Part 2 Confidentiality of alcohol and drug abuse patient records  
 45 CFR §160.202 Definitions  
 45 CFR §160.314 Investigational subpoenas and inquires  
 45 CFR § 164.524 Access of individuals to protected health information  
 45 CFR § 164.528 Accounting of disclosures of protected health information  
 MCL 330.1261 Records; confidentiality; disclosure  
 MCL 330.1262 Person subject of record; consent to disclose content; revocation; form of authorization or revocation  
 MCL 330.1263 Consent to disclose not given: limitations  
 MCL 330.1700 Definitions  
 MCL 330.1748 Confidentiality



**Region 10 PIHP**  
**Authorization for Release of Record Information Form**

**IDENTIFYING INFORMATION**

Guardian     Parent of Child     Authorized Representative     Other: \_\_\_\_\_

NAME OF REQUESTOR:	PHONE NUMBER:
ADDRESS:	

**I hereby authorize Region 10 PIHP to release information regarding:**

NAME OF CONSUMER:	PHONE NUMBER:
ADDRESS:	DOB:

**Information requested to be released to:**

NAME:	PHONE NUMBER:
ADDRESS:	

*\*If the information requested is to be released to someone other than the Consumer, Guardian, Parent of Child, or Authorized Representative, a Consent to Share Behavioral Health Information form (MDHHS-5515 form) will need to be completed in addition to this form.*

**SPECIFIC INFORMATION REQUESTED**

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Check here if the specific information is related to alcohol, drugs of abuse and / or other drugs, drug testing results being shared between primary care physician and PIHP.

**PURPOSE OR NEED FOR REQUEST**

- Coordination of Benefits                       Coordination of Services / Care                       Legal  
 Consumer Request                                       Billing / Payment

- I understand that if the person(s) or organization(s) that receives the information is not a health care provider or health care plan covered by Federal privacy regulations, the information described above may be redisclosed and no longer protected by these regulations.
- I understand that I may refuse to sign this authorization and that generally my refusal to sign will not affect my ability to obtain treatment, payment, or my eligibility for benefits. When the exchange of personal health information (PHI) is specifically related to alcohol, drugs of abuse and/or other drugs, or drug testing results, my treatment may be conditioned because my refusal to release the results could compromise my safety and the availability of medication appropriate for my treatment.
- I understand that I may inspect and/or obtain a copy of any information used / disclosed under this authorization.
- I understand that these records may include information regarding mental health treatment, and/or alcohol or substance use, and/or information regarding HIV, AIDS, or the status of other communicable diseases.
- I understand this authorization will expire / not exceed 1 year, I further understand that I may revoke this authorization at any time by notifying the PIHP in writing, but I understand that previously disclosed information would not be subject to my revocation request.

**SIGNATURES**

_____ PRINTED NAME	_____ CONSUMER SIGNATURE	_____ DATE
_____ PRINTED NAME	_____ REQUESTOR SIGNATURE	_____ DATE



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Chief Executive Officer

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Chairman

**Robert Kozfkay**  
Vice Chairman

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Secretary

**Edwin Priemer**  
Treasurer

## Prohibition on Re-Disclosure Substance Abuse Services

In compliance with 42 CFR § 2.32, you are notified as follows:

This information has been disclosed to you from records protected by Federal confidentiality rules (42 CFR part 2). The Federal rules prohibit you from making any further disclosure of this information unless further disclosure of this information is expressly permitted by the written consent of the person to whom it pertains or as otherwise permitted by 42 CFR part 2. A general authorization for the release of medical or other information is NOT sufficient for this purpose. The Federal rules restrict any use of the information to criminally investigate or prosecute any alcohol or drug abuse patient.