COMMUNITY MENTAL HEALTH AUTHORITY

ADMINISTRATIVE POLICY AND PROCEDURES MANUAL				
Chapter **Program Quality**	**Section** **HIPAA**	**Chapter** **05**	**Section** **03**	**Subject** **04**
Subject **GCMHA Authorization for Release of Information**	**Authorization**		**Approved: 04/08/03** **Replaces: None**	

Updated: October 2024; Reviewed/No Update: October 2025

I. PURPOSE: To establish policy and procedure regarding the disclosure of protected health information.

II. APPLICATION: All programs operated by Gogebic Community Mental Health Authority (GCMHA).

III. DEFINITIONS:

Protected Health Information (PHI): means individually identifiable health information:

1. Except as provided in paragraph (2) of this definition, that is:

- **a.** Transmitted by electronic media;
- **b.** Maintained in any medium described in the definition of electronic media at §162.103 of this subchapter; or
- **c.** Transmitted or maintained in any other form or medium.

2. Protected health information excludes individually identifiable health information in:

- **a**. Education records covered by the Family Educational Right and Privacy Act, as amended, 20 U.S.C. 1232g; and
- **b.** Records described at 20 U.S.C. 1232g(a)(4)(B)(iv).

Consent to Share Behavioral Health Information form: Also referred to as **MDHHS-5515**. The standard consent form that must be used by all providers requesting release of information for behavioral health and/or substance use disorder related information. The consent is required to be accepted, honored and used for all Fee for Service (FFS), Managed Care and Prepaid Inpatient Health Plan (PIHP) beneficiaries both from and to any of those providers or entities. The MDHHS-5515 is maintained and updated on the MDHHS website at www.michigan.gov/bhconsent.

ELMER: **El**ectronic **M**edical **R**ecord system

Primary Case Coordinator (PCC): the community clinician in charge of a consumer's care, serving as Case Manager, Supports Coordinator, Home-Based Clinician, or Outpatient Therapist

IV. POLICY: GCMHA will not share PHI with any entity without proper written release or legal authority. There are additional protections to those individuals receiving substance abuse treatment; reference policy 05-01-33 ("42 CFR Part 2").

V. PROCEDURE:

A. Disclosures - Mandatory

1. Except as otherwise provided in this policy (i.e., sections 1. h., E. 1., E. 5., or 1,) when requested, confidential information shall be disclosed only under one or more of the following circumstances:

a) Pursuant to valid orders or subpoenas of a court of record, or subpoenas of the legislature, unless the information is made privileged by law.

b) To a prosecuting attorney as necessary to the prosecuting attorney to participate in a proceeding governed by the Mental Health Code if it is either:
(1) Non-privileged information, or
(2) Privileged information disclosed pursuant to Section 750(2) including:
(a) Names of witnesses to acts which support the criteria for involuntary admission;
(b) Information relevant to alternatives to admission to a hospital or facility;
(c) Other information designated in GCMHA policies.

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 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.

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 closest relative of the recipient in order to apply for and receive benefits only if spouse or closest relative has been designated the personal representative or has a court order.

h) Within 14 days of a written request from Michigan Department of Health and Human Services (MDHHS)/Child Protective Services (CPS) pertinent records and information are released, consistent with Section 748a of the Michigan Mental Health Code.

i) To an adult recipient if all of the following apply:
(1) A request has been received from the recipient; and
(2) The recipient does not have a guardian and has not been adjudicated legally incompetent; and
(3) The case entry was made after March 28, 1996.

2. The holder of the record shall comply with the adult recipient's request for disclosure as expeditiously as possible but in no event later than the earlier of 30 days after receipt of the request or, if the recipient is receiving treatment from the holder of the record, before the recipient is released from treatment provided that the release of information is:

a) A mandatory disclosure listed above.

b) A request from the recipient's attorney even if the legally empowered guardian or the parent of a minor recipient has requested a delay.

c) A case record entry made after March 28, 1996, which is being disclosed to an adult recipient, upon the recipient's request, if the recipient does not have a guardian and has not been adjudicated legally incompetent.

3. When a "Duty to Warn" circumstance is present (reference policy 05-03-11 Duty to Warn).

B. When an inquiry is made by telephone, fax, in person, etc., the first step is to establish whether GCMHA has records for the individual identified in the Consent to Share Behavioral Health Information form.

C. An individual may revoke an authorization at any time provided that their revocation is in writing. Charts that are 42 CFR Part 2 protected may have authorizations revoked verbally or in writing.

D. GCMHA must document and retain any signed authorization. The authorizations will be filed in ELMER under the Legal/Court Order/Releases section of the chart in the "Consent to Share Behavioral Health Information" tab.

E. A valid Consent to Share Behavioral Health Information form must contain at least the following elements:

1. A description of the information to be used or disclosed that identifies the information in a specific and meaningful fashion.

2. The name or other specific identification of the person(s) or class of persons authorized to make the requested use or disclosure.

3. The name or other specific identification of the person(s) or class of persons to whom the covered entity may make the requested use or disclosure.

4. An expiration date or expiration event that relates to the individual or the purpose of the use or disclosure.

5. A complete description of each purpose of the requested use or disclosure.

6. A statement of the individual's right to revoke the ROI in writing.

7. A statement that information used or disclosed pursuant to the ROI may be subject to re-disclosure by the recipient and no longer be protected by this rule.

8. Signature of the individual and date. If the ROI is signed by a personal representative of the individual, a description of such representative's authority to act for the individual.

9. At times, it may be necessary to obtain consent to release information verbally. If this is the case, it MUST be witnessed by a second individual and the WRITTEN SIGNATURE be obtained within two (2) weeks. In rare instances, (i.e., due to severe physical impairment), where a written signature can never be obtained, document situation on the ROI.

10. A statement that GCMHA will not condition treatment, payment, enrollment or eligibility for benefits on the recipient signing the consent form.

11. If GCMHA requests a consent to release information for marketing purposes, any direct or indirect remuneration to GCMHA from a third party will be disclosed in the ROI. An ROI will not be required if the marketing communication occurs face-to-face with the recipient or a promotional gift of nominal value is given.

F. Any use or disclosure of psychotherapy notes requires a valid consent except:
1. Use by the originator of the psychotherapy notes for treatment.
2. Use or disclosure by GCMHA for its own internal training programs.
3. Use or disclosure by GCMHA to defend itself in a legal action or other proceeding brought by the recipient.
4. To the recipient.
5. Uses and disclosures required by law.
6. Uses and disclosures for health oversight of the originator.
7. Uses and disclosures by Coroners and Medical examiners.
8. If necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public.

G. GCMHA will not consider a Consent to Share Behavioral Health Information form valid if:
1. The expiration date has passed or the expiration event is known by GCMHA to have occurred.
2. The consent form is not filled out completely.
3. GCMHA knows that the consent form has been revoked.
4. The consent form is combined with another document.
5. GCMHA knows that material information in the consent form is false.

H. The consent form must be written in plain language.

I. GCMHA will offer the recipient a copy of the signed consent form.

J. GCMHA must retain copies of signed consent forms. The Consent to Share Behavioral Health Information form will be done in ELMER if recipient/guardian is present at GCMHA. If this is done in the community, the Consent to Share Behavioral Health Information form will be printed from ELMER and then scanned into ELMER by Medical Records staff.

K. It is the responsibility of the Medical Records Department to check the clinical record and/or the ELMER for a current Consent to Share Behavioral Health Information form. Assure that what the individual(s) is/are requesting is covered on the current ROI. Only then can the requested information be released.

L. When preparing information to be released, first determine the method by which they will be released whether electronically or by paper. An electronic release is done through the Medical Records Queue by medical records staff only. Documents can be electronically sent by FAX, manually by FAX, or printed and mailed. Detailed instructions are available in the Medical Records procedure manual (reference policy 05-02-04).

M. A disclosure log should be done in one of the following ways:
1. Automatically through the electronic medical record if sent to the Medical Records Queue.
2. Manually entered in the ELMER disclosure log if recipient has chart in ELMER.
3. Manually on a paper disclosure log if no chart available in ELMER.

N. If a Consent to Share Behavioral Health Information form is not found in the chart, it is necessary to obtain consent. Do not give out any information without a valid and complete Consent to Share Behavioral Health Information form. Obtaining consents may be done as follows:
1. If the request is being made by an agency or other facility, they may have a release on file.
2. If they have a current release on file, ask for a copy to be sent to GCMHA.
3. There are circumstances whereby the recipient is contacted to come in and complete the Consent to Share Behavioral Health Information form.

O. When physician's and/or primary case coordinator (PCC) dictate letters to attorneys, legal institutions, other healthcare facilities, etc., the medical record is checked to ensure a current consent form exists for that particular correspondence.

P. Information pertaining to an individual's HIV infection or diagnosis of acquired immunodeficiency syndrome or AIDS related condition (ARC) is confidential and shall not be disclosed in conjunction with an individual's clinical or medical record unless expressly authorized in writing by the individual. If the individual is legally incapacitated or a minor, the written authorization may be executed by the guardian or parent with legal custody. The electronic medical record has a radio button indicating "the Release of HIV/AIDS/ARC information is allowed." The ROI must be printed, signed by the recipient so the signature can be scanned in as an attachment.

Q. Information contained within the medical record that originated from other doctors, hospitals, clinics, psychiatrists, facilities, schools, etc., that were released to GCMHA can be re-released with written consent of the recipient or guardian. However, if the information is stamped "Do Not Re-Release" GCMHA will not release, and the requesting party will be encouraged to obtain the information directly from the other agency.

R. Information regarding the release of information pertaining to substance abuse can be found in policy 05-01-33 ("42 C.F.R. Part 2").

VI. REFERENCES AND LEGAL AUTHORITY: Act 258 of the Public Acts of 1974, as amended (Michigan Mental Health Code) Sections 748, 748 (a), and 750; 45 CFR Part 164 section 508; 42 C.F.R. Part 2 subpart C section 2.3; MDHHS Bulletin Number MSA 18-14

VII. EXHIBITS: None