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## #009 Confidentiality / Exchange of Information

### I. POLICY

It is the policy of Children's Community Mental Health Services and Wraparound Milwaukee (hereby referenced as Wraparound Milwaukee), the State of Wisconsin Statute (§) DHS 92 and the Mental Health Act Chapter 51(51.30), that all client information (written/electronic or verbal) remains confidential. Client identities and client specific information, whether stored in hard copy format or electronically, shall be considered confidential and may only be given/received/shared with authorized persons with the express, written, informed consent of the parent/legal guardian and youth (if aged 14 or older). Exceptions to this rule are identified under Chapter DHS 92.04, the Mental Health Act - Chapter 51.30(4)(b) 1-28, and Wraparound Milwaukee's Privacy Notice.

Client identities and client specific information (whether it be the actual hard copy record or electronic files) are not to be removed from the Care Coordination Agency, Provider Agency, or Administration and/or its satellite offices, except as deemed necessary by job responsibilities.

### II. PROCEDURE

#### A. Authorization for Release of Information

1. Client identity and client specific information (registration and treatment records) may only be discussed with or released to the individuals/agencies that are listed on the signed Wraparound Milwaukee AUTHORIZATION FOR RELEASE/EXCHANGE OF INFORMATION form for Care Coordinators (See *Care Coordination Frequently Used Forms*) or Agency specific Consents Forms for Providers as outlined in Policy #054-Provider Agency Responsibilities/Guidelines. Information that is released must be limited to the minimum necessary information required to comply with the request

as identified on the signed Authorization to Release Information form. (See Wraparound Milwaukee Policy #044 - Minimum Necessary Access to Client Information policy.) This form must be completed in full, signed, and dated by the appropriate parties **before** any information can be given/ received/ shared.

Per the Mental Health Act – Chapter 51:

**"Registration Records"** include all the records of the department, county departments under s. 51.42 or 51.437, treatment facilities, and other persons providing services to the department, county departments, or treatment facilities, that are created in the course of providing services to individuals for mental illness, developmental disabilities, alcoholism, or drug dependence.

**"Treatment Records"** include the registration and all other records that are created in the course of providing services to individuals for mental illness, developmental disabilities, alcoholism, or drug dependence and that are maintained by the department; by county departments under s. 51.42 or 51.437 and their staffs; by treatment facilities; or by psychologists licensed under s. 455.04 (1) or licensed mental health professionals who are not affiliated with a county department or treatment facility.

**Treatment records do not include** notes or records maintained for personal use by an individual providing treatment services for the department, a county department under s. 51.42 or 51.437, or a treatment facility, if the notes or records are not available to others.

Treatment Records may be released **with informed consent** to a "Health Care Provider" in the following circumstances where it is "necessary for the current treatment of the individual".

**Per §146.81 (1a-s) "Health Care Provider" is defined as:**

- a. A nurse licensed under ch. 441.
- b. A chiropractor licensed under ch. 446.146.81(1)(c)
- c. A dentist licensed under ch. 447.
- d. A physician, perfusionist, or respiratory care practitioner licensed or certified under subch. II of ch. 448.
- e. A naturopathic doctor or limited-scope naturopathic doctor licensed under ch. 466.
- f. A physical therapist or physical therapist assistant who is licensed under subch. III of ch. 448 or who holds a compact privilege under subch. XI of ch. 448.
- g. A podiatrist licensed under subch. IV of ch. 448.
- h. A dietitian certified under subch. V of ch. 448.
- i. An athletic trainer licensed under subch. VI of ch. 448.

- j. An occupational therapist or occupational therapy assistant who is licensed under subch. VII of ch. 448 or who holds a compact privilege under subch. XII of ch. 448.
- k. A genetic counselor licensed under subch. VIII of ch. 448.
- l. A physician assistant licensed under subch. IX of ch. 448.
- m. An optometrist licensed under ch. 449.
- n. A pharmacist or pharmacy technician licensed or registered under ch. 450.
- o. An acupuncturist certified under ch. 451.
- p. A psychologist who is licensed under ch. 455, who is exercising the temporary authorization to practice, as defined in s. 455.50 (2) (o), in this state, or who is practicing under the authority to practice inter-jurisdictional telepsychology, as defined in s. 455.50 (2) (b).
- q. A social worker, marriage and family therapist, or professional counselor certified or licensed under ch. 457.
- r. A speech-language pathologist or audiologist licensed under subch. II of ch. 459 or a speech and language pathologist licensed by the department of public instruction.
- s. A massage therapist or bodywork therapist licensed under ch. 460.
- t. A partnership of any providers specified under pars. (a) to (hp).
- u. A corporation or limited liability company of any providers specified under pars. (a) to (hp) that provides health care services.
- v. A cooperative health care association organized under s. 185.981 that directly provides services through salaried employees in its own facility.
- w. A hospice licensed under subch. VI of ch. 50.
- x. An inpatient health care facility, as defined in s. 50.135 (1).
- y. A community-based residential facility, as defined in s. 50.01 (1g).
- z. A rural medical center, as defined in s. 50.50 (11).
- aa. An ambulance service provider, as defined in s. 256.01 (3).
- ab. An emergency medical services practitioner, as defined in s. 256.01 (5).
- ac. An emergency medical responder, as defined in s. 256.01 (4p)

NOTE: Only record that would be needed to treat the medical emergency can be released. This does NOT include psychological or neuropsychological testing results.

**2. When releasing records/information the following must be recorded:**

- The name of the client whose record is being disclosed.
- The type of information to be disclosed.
- The types of health care providers making the disclosure.

- The purpose of the disclosure such as whether the disclosure is for further medical care, for an application for insurance, to obtain payment of an insurance claim, for a disability determination, for a vocational rehabilitation evaluation, for a legal investigation or for other specified purposes.
- The individual, agency or organization to which disclosure may be made.
- The signature of the client or the person authorized by the client and, if signed by a person authorized by the client, the relationship of that person to the client or the authority of the person.
- The date on which the consent is signed.
- The time period during which the consent is effective.

3. After the AUTHORIZATION FOR RELEASE OF INFORMATION form is completed and signed by **all** necessary parties, a copy of the form is to be given to the youth, youth's parent or legal guardian and the original copy of the form **must** be uploaded into the enrolled youth's record in Synthesis - Wraparound Milwaukee's electronic medical record (for non-Care Coordination Providers, must maintain a copy within the Client's File at Agency). The hard copy may be filed in the Care Coordination Agency's clients chart under the Intake/Consents section if the agency chooses to do so.
4. If new Providers, Team Members and/or any other individual(s) join the Child and Family Team and/or information needs to be shared/given/received after the initial authorization is signed, the Care Coordinator must complete an **additional** Authorization to Release / Exchange Information- Later Use form (See *Care Coordination Frequently Used Forms*) that lists the new Providers/Team Members/ Individuals. Again, this authorization must be signed and dated **before** any information can be given/ received/ shared.

**NOTE:** The State Mental Health Act 51.30(4)(b) and Chapter DHS 92.04 allows for access/disclosure of specific client related information **without informed written consent**. The allowable information being disclosed differs depending on the age of the enrollee (minor vs. adult,) the circumstance and who the recipient of the information is.

In a circumstance where the release of client information may be in question, consult with Wraparound Milwaukee Privacy Officer prior to releasing any documents.

#### **B. Re-release of Information**

If a document specifically states that it "May Not be Re-released", Wraparound Milwaukee will comply with that request. Otherwise, refer to the following in the Wisconsin State Regulations that allow for re-release of information:

**From State of Wisconsin § DHS 92.03(h)(i); Under "General Requirements":**

1. No personally identifiable information in treatment records may be re-released in any manner, including oral disclosure, except as authorized by informed consent of the subject individual, by this chapter or as otherwise required by law.

2. Any disclosure or re-release, except oral disclosure, of confidential information shall be accompanied by a written statement which states that the information is confidential and disclosure without patient consent or statutory authorization is prohibited by law.

Note: No personally identifiable information in treatment records may be re-released by Wraparound Milwaukee unless the re-release is authorized by the youth/guardian. Written disclosures of information must be accompanied by a written statement that the information is confidential and disclosure without youth/guardian consent or statutory authorization is prohibited by law.

#### **C. Disclosure Tracking**

1. For all disclosures of client related information in written form for which there is a signed Authorization and for ALL disclosures where there is NO signed authorization, an entry must be made within the context of a Care Coordination Progress or Provider Note (See *Wraparound Milwaukee Policy #037 - Progress Notes or Policy #078- Provider Notes*).
2. For each disclosure, the following information must be logged in the Progress or Provider Note and coded as 'Release of Information':
  - a. Date the request for the information was received. If "request date" does not apply, enter the date the entry is being made
  - b. Name of the individual and/or agency along with additional identifying information such as the agency address, phone number, email
  - c. Purpose for the disclosure
  - d. Disclosure type
    - Authorization on file – YES or NO.
    - Is the disclosure written material or an oral disclosure.
  - e. Information or document disclosed
  - f. Date the information was disclosed
  - g. Disclosed by – name of the person releasing the information
3. Disclosures related to determining financial eligibility status and change of placement information is maintained in the enrolled youth's record in Synthesis.

#### **D. Photographing/Videotaping Clients**

1. Agencies will obtain signed consents from the youth and/or youth's parent/legal guardian prior to any photographing/videotaping of the client. Signed consents must be on record before the photographing/videotaping occurs. This includes using cameras, cell phones or other devices that capture images of the client.
2. Clients have the right to decline to have their picture taken/be videotaped. There must be no inappropriate pictures or images of clients receiving care and treatment and/or engaging in an activity where a client feels unsafe or humiliated. It is the provider's obligation to protect and promote each client's right to privacy. Invasion of

privacy may form the basis for criminal or civil liability. See WI § 942.08, 942.09 and 995.50.

## III. References

Chapter DHS 92: [https://docs.legis.wisconsin.gov/code/admin\\_code/dhs/030/92](https://docs.legis.wisconsin.gov/code/admin_code/dhs/030/92)

Wisconsin Mental Health Law Chapter 51: <https://docs.legis.wisconsin.gov/statutes/statutes/51>

Chapter 942: <https://docs.legis.wisconsin.gov/statutes/statutes/942>

Chapter 995: <https://docs.legis.wisconsin.gov/statutes/statutes/995/50>

## Approval Signatures

Step Description	Approver	Date
	Michael Lappen: BHD Administrator	8/23/2022
	Brian McBride: ExDir2 – Program Administrator	8/23/2022
	Dana James: Integrated Services Manager- Quality Assurance	8/17/2022
	Dana James: Integrated Services Manager- Quality Assurance	8/17/2022