

Chapter: CONFIDENTIALITY
Title: RELEASE OF CONFIDENTIALITY
PERSON SERVED INFORMATION – COURT ORDERS / SUBPOENAS

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Proposed by: Traci Smith 09/04/2026
Chief Executive Officer Date

Approved by: AL Lorenzo 09/04/2026
County Executive Office Date

I. ABSTRACT

This policy establishes standards and procedures for the internal and external release of privileged information regarding of services of the Macomb County Community Mental Health (MCCMH) Board pursuant to subpoenas and court orders.

II. APPLICATION

This policy shall apply to all directly-operated and contract network providers of the MCCMH Board.

III. POLICY

It is the policy of the MCCMH Board that confidential information from person served clinical records shall be released upon the presentation of court orders or subpoenas only pursuant to the provisions of this policy.

IV. DEFINITIONS

A. Privileged Communication

A communication that is protected by law from compelled disclosure in a legal proceeding, or that cannot be used against the person who made it.

Examples include:

1. Communications made between a person served and a psychiatrist or psychologist (or someone under his/her supervision) while engaged in the examination, diagnosis or treatment of a recipient for a mental condition) or between other

- persons while they are participating in such examinations, diagnosis or treatment.
2. Communications made between a person served and a licensed master's social worker, limited license master's social worker, licensed bachelor's social worker, limited licensed bachelor's social worker, registered social service technician, or limited registered social service technician, or an agency of which the mental health professional is an agent, during the course of professional services.
 3. Communications made between a person served and a licensed professional counselor or a limited licensed counselor during the course of professional services.
- B. Other definitions are contained in MCCMH MCO Policy 6-001, "Release of Confidential Information -- General."

V. STANDARDS

- A. The person served clinical record is comprised of all information pertaining to services provided to the individual by directly-operated or contract network providers of the MCCMH Board. Individual providers may hold any or all portions of the record on behalf of the Board for the purpose of providing services to the person served or subsequent to the termination of services prior to archival record storage.
- B. Confidential information regarding an identifiable person served of MCCMH services shall be released upon presentation of a valid court order of HIPAA compliant subpoena for production of records or testimony issued by a court of appropriate jurisdiction. Privileged communications shall not be disclosed otherwise, absent a legal authorization to do so.
- C. Person served record information shall be released only as specifically described in the court order/subpoena. Caution shall be exercised to determine what (if any) materials should not be released on the basis of detrimental impact on the person served or third persons. A list shall be maintained in the person served clinical record indicating the materials released, to whom they were released, and the date on which release was made.
 1. The MCCMH Clinical Records office shall be provided with the original of all court orders or subpoenas for the production of records regarding services to a Board person's served by the receiving provider immediately upon receipt.
 2. The appropriate provider manager shall be provided with copies of all court orders or subpoenas for production of records regarding services to a MCCMH person served by the receiving provider or the MCCMH Clinical Records office immediately upon receipt, with a copy placed in the individual person's served clinical record.
 3. All original court orders or subpoenas for testimony regarding an MCCMH person served shall remain with the person who was served.
 4. County Corporation Counsel, the MCCMH Deputy Director, and the appropriate provider manager shall be provided with copies of all court orders or subpoenas for testimony regarding services to a Board person's served by the receiving provider or the Clinical Records office immediately upon receipt, with a copy placed in the individual person served clinical record.
 5. In the event that a lawsuit is initiated against MCCMH or an employee, any pertinent clinical records which are due for disposal shall not be destroyed until resolution of the lawsuit including appeals.
- D. Where information is transmitted by facsimile (fax), the provisions in MCCMH MCO Policies 6-004, "Facsimile Document Transmission," and 6-005, "Notice of Confidentiality," shall be followed.

VI. PROCEDURES

- A. All subpoenas and court orders to disclose MCCMH documents shall be directed to the COO and to County Corporation Counsel. Staff shall assist with the gathering of information or responding to questions if requested by the COO or Corporation Counsel.
- B. Corporation Counsel and the COO shall confer to the degree helpful in the determination of whether to honor a purported subpoena or purported court order.

VII. REFERENCES / LEGAL AUTHORITY

- A. MCL 330.1748
- B. 1990 MDMH Administrative Rules, R 330.7051
- C. MDCH Guidelines for Disclosure of Confidential or Privileged Information, XX-X-XXXX/GL (11-19-96) (dft)
- D. Commission on Accreditation of Rehabilitation Facilities (CARF) 2009 Standards Manual §I.K., "Rights of Persons Served," 9., p. 83; and §5.B., "Records of the Persons Service," 2 - 3, pp. 241 - 242.
- E. MCCMH MCO Policy 6-001, "Release of Confidential Information -- General"
- F. MCCMH MCO Policy 6-004, "Facsimile Document Transmission"
- G. MCCMH MCO Policy 6-005, "Notice of Confidentiality"

VIII. EXHIBITS