

COMMUNITY MENTAL HEALTH PARTNERSHIP OF SOUTHEASTERN MICHIGAN/PIHP	<i>Policy Sanctions for Breaches of Security or Confidentiality</i>
Department: Author:	Local Policy Number (if used)
Regional Operations Committee Approval Date 1/12/15	Implementation Date 1/26/15

I. PURPOSE

To establish sanctions for violations of the Community Mental Health Partnership of Southeast Michigan (CMHPSM) policies that protect confidentiality and integrity of protected health information (PHI).

II. REVISION HISTORY

DATE	REV. NO.	MODIFICATION
2015	1	Revised to reflect the new regional entity effective January 1, 2014.

III. APPLICATION

This policy applies to all staff, students, volunteers, board members and contractual organizations within the provider network of the Community Mental Health Partnership of Southeast Michigan (CMHPSM).

IV. POLICY

It is the responsibility of all staff, students, volunteers, board members and contractual organizations within the provider network of the CMHPSM to protect the integrity and confidentiality of PHI pertaining to its consumers. Violations will constitute grounds for disciplinary action up to and including termination, professional discipline, criminal prosecution, and/or civil action to recover any fines or penalties levied against the CMHPSM and/or CMHSPs that result from a failure to comply with relevant state and federal legal requirements.

V. DEFINITIONS

Breach: the unauthorized acquisition, access, use, or disclosure of protected health information which compromises the security or privacy of such information, except

where an unauthorized person to whom such information is disclosed would not reasonably have been able to retain such information. Categories of breaches are as follows:

Category 1: Accidental or inadvertent violation. This is an unintentional violation of privacy or security that may be caused by carelessness, lack of knowledge, lack of training, or other human error. Examples of this type of incident include directing PHI via mail, e-mail, or fax to a wrong party or incorrectly identifying a patient record.

Category 2: Failure to follow established privacy and security policies and procedures. This is a violation due to poor job performance or lack of performance improvement. Examples of this type of incident include release of PHI without proper authorization; leaving detailed PHI on an unsecure answering machine; failure to report privacy and security violations; improper disposal of PHI; failure to properly sign off from or lock computer when leaving a work station; failure to properly safeguard password; failure to safeguard portable device from loss or theft; or transmission of PHI using an unsecured method.

Category 3: Deliberate or purposeful violation without harmful intent. This is an intentional violation due to curiosity or desire to gain information for personal use. Examples of this type of incident include accessing the information of high profile people or celebrities or accessing or using PHI without a legitimate need to do so, such as checking information about a consumer or employee without a work related need to know.

Category 4: Willful and malicious violation with harmful intent. This is an intentional violation causing patient or organizational harm. Examples of this type of incident include disclosing PHI to an unauthorized individual or entity for marketing or illegal purposes (e.g., identity theft); posting PHI to social media Web sites; or disclosing a consumer's PHI to the media.

Community Mental Health Partnership of Southeast Michigan (CMHPSM): The Regional Entity that serves as the PIHP for Lenawee, Livingston, Monroe and Washtenaw for mental health, developmental disabilities, and substance use disorder services.

Community Mental Health Services Program (CMHSP): A program operated under chapter 2 of the Mental Health Code as a county community mental health agency, a community mental health authority, or a community mental health organization.

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

1. Transmitted by electronic media;
2. Maintained in electronic media; or
3. Transmitted or maintained in any other form or medium.

Sanction: A punishment for the violation of rules of procedures, or some coercive measure intended to ensure compliance. Sanctions corresponding to the 4 categories of breaches are as follows:

Sanctions for Category 1 offenses shall include, but are not limited to:

- a. Verbal reprimand;
- b. Written reprimand in employee's personnel file;
- c. Retraining on HIPAA/Confidentiality awareness;
- d. Retraining on regional and local privacy and security policies and how they impact the individual and relevant department; or
- e. Retraining on the proper use of internal forms and confidentiality/HIPAA required forms.

Sanctions for Category 2 offenses shall include, but are not limited to:

- a. Written reprimand in employee's personnel file;
- b. Retraining on HIPAA/Confidentiality awareness;
- c. Retraining on regional and local privacy and security policies and how they impact the individual and relevant department;
- d. Retraining on the proper use of internal forms and HIPAA required forms; or
- e. Suspension of employee (parameters of time and payroll to be locally determined by the CMHSP).

Sanctions for Category 3 or 4 offenses shall include, but are not limited to:

- a. Termination of employment;
- b. Civil penalties as provided under HIPAA or other applicable Federal/State/Local law; or
- c. Criminal penalties as provided under HIPAA or other applicable Federal/State/Local law.

VI. STANDARDS

- A. All persons to whom this policy applies shall be trained on those policies and procedures protecting the confidentiality and integrity of PHI, including potential sanctions.
- B. All persons to whom this policy applies are required to sign a statement of adherence to security policy and procedures as a prerequisite to employment. The statement shall include an acknowledgement that violations of security policies and procedures may lead to disciplinary action, up to and including termination.
- C. Any persons to whom this policy applies shall immediately report suspected breaches to his or her supervisor, or to the CMHSP Privacy Officer.
- D. The CMHSP Privacy Officer shall notify the CMHSP Compliance Officer/Compliance Liaison of suspected breaches. The CMHSP Compliance

Officer/Compliance Liaison shall notify the CMHPSM Compliance Officer if a breach indicates any regional or CMHPSM-related risks.

- E. The CMHSP Privacy Officer shall conduct a thorough and confidential investigation of the allegation and recommend corrective action to the CMHSP Compliance Officer/Compliance Liaison. Any regional or CMHPSM-related investigation shall be conducted by the CMHPSM Compliance Officer.
- F. The responsible investigator shall inform the complainant of the results of the investigation and any corrective action taken.
- G. Neither the CMHSP nor the CMHPSM shall retaliate against or permit reprisals against any staff, student, board member or volunteer who reports a suspected violation in good faith. Allegations not made in good faith or that involve the reporter, may result in disciplinary action, up to and including termination.
- H. Individuals who violate this policy are subject to discipline up to and including professional discipline, termination from employment, or criminal prosecution in accordance with state and federal law. This policy does not mandate the use of progressive discipline or the imposition of lesser sanctions before the CMHSP or the CMHPSM terminates an employee, student, or volunteer for violating its policies protecting the confidentiality and integrity of its clients' personal medical information. At the discretion of the CMHSP or the CMHPSM Executive Director, an employee, student, or volunteer may be terminated for the first substantiated breach of confidentiality and security policies if warranted by the seriousness of that breach. In addition, the CMHSP or CMHPSM will seek to include such violations by contractors as grounds for termination of the contract and/or imposition of contract penalties.
- I. Further, substantiated violations this policy may constitute violations of professional ethics and be grounds for professional discipline. Any individual subject to professional ethics guidelines and/or professional discipline will be reported to the appropriate licensure/accreditation agencies, and the CMHSP or the CMHPSM will cooperate with any professional investigation or disciplinary proceedings.

VII. EXHIBITS
None

VIII. REFERENCES
None

IX. PROCEDURES
None