

## PRIVACY / CONFIDENTIALITY POLICY

**DATE:** July 1, 2005

**SUBJECT:** HMIS Privacy and Confidentiality

**APPROVAL LEVEL:** Agency Board of Directors

### REASONS FOR POLICY:

1. To protect the privacy of client information housed on MSHMIS
2. To comply with applicable laws and regulations
3. To insure fair information practices as to:
  - a. Openness
  - b. Accountability
  - c. Collection limitations
  - d. Purpose and use limitations
  - e. Access and correction
  - f. Data Quality
  - g. Security

**Definition:** The “System” refers to the Michigan Statewide HMIS (MSHMIS) Live Site ServicePoint Database that is maintained by Bowman Systems, Michigan’s HMIS Vendor

### STATEMENT OF POLICY:

- 1) **Privacy Officer:** MCAH assigns the duties of Privacy Officer to the MSHMIS Project Director.
  - a) The Privacy Officer must complete baseline Privacy Training with a Certified Privacy Expert.
  - b) The Privacy Officer must participate in continuing education as necessary with regard to the HUD Data Standards, HIPAA and 42CFR.
  - c) The Privacy Officer must oversees compliance to this policy for MSHMIS staff.
  - d) The Privacy Officer oversees the development of the Privacy Curriculum used to train MSHMIS participants.
  - e) The Privacy Officer oversees privacy audits conducted at participating agencies or organizations.
- 2) **Privacy Notice:** The MCAH Privacy includes: a description of the purpose of data collection and all uses and disclosures.
  - a) MCAH Privacy Notice is posted on the MCAH WEB Site [www.mihomeless.org](http://www.mihomeless.org).
  - b) A copy of the MCAH Privacy Notice may be had upon request.

- c) The Privacy Notice may be amended, and any amendments may effect uses of information collected before the amendment.
  - d) All amendments will be approved by the Board of Directors.
  - e) Changes in MSHMIS core Privacy Practice must be approved by MSHDA and the MSHMIS Steering Committee.
- 3) Compliance** MCAH will comply with all applicable laws governing HMIS client privacy/confidentiality. Applicable standards include:
- a) Federal Register Vol. 69, No. 146 (HMIS FR 4848-N-02) - Federal statute governing HMIS information.
  - b) HIPAA - the Health Insurance Portability Act.
  - c) 42 CFR Part 2. - Federal statute governing drug and alcohol treatment.
  - d) MSHMIS - Michigan Statewide HMIS Policy and Procedures
  - e) Negotiated QSOBAA(s) – administrative agreements between MCAH the agencies who collect client information.
- 4) Custody of Data:** MCAH acknowledges that the Agency entering or updating the data retained ownership over all the information it enters into the MSHMIS and that MCAH's role in the database is administrative.
- a) Any client requests for information relative to their personal record will be referred to the Agency who entered/updated the information.
- 5) Allowable Uses of Information** PPI (protected personal information , that is information which can be used to identify a specific client) can be used by MCAH staff for the following purposes:
- a) To support the administrative functioning of the database.
  - b) To generate specific reports that aggregate information that may be used for planning purposes, community education, or grant compliance auditing.
  - c) To support data quality and routine audit of the System.
  - d) For creating de-identified data sets for unduplicated counting, planning and research activities.
  - e) Where disclosure is required by law. Any disclosures required by law will limit the information shared to the minimum necessary.
  - f) Contractual research where privacy conditions are met (including a written agreement).
- 6) Publication of Aggregated Data:**
- a) MCAH will not publish reports on client data that identify specific agencies or persons, without prior agency and, where necessary, client permission.
  - b) Public reports otherwise published will be limited to presentation of aggregated data across multiple providers.
  - c) MCAH's publication practice will be governed by policies established by relevant committees operating at the MSHMIS level for statewide analysis and will include qualifiers such as coverage levels or other issues necessary to clarify the meaning of published findings.

**7) Administrative Responsibilities:**

- a) MCAH will work with Bowman Internet System to assure that the Live Site Database is maintained according to HUD Data Standards.
- b) MCAH will require all agencies participating in MSHMIS to determine:
  - i) The default configuration of the Client Profile used on the Search Screen.
  - ii) The agencies (if any) with which they plan to share information.
  - iii) What information is shared using the System.
  - iv) To obtain client consent regarding the Client Profile and any planned sharing.
  - v) To configure their provider page properly to support their sharing plan.
  - vi) To provide supervision of staff assuring that the System is used properly.
- c) MCAH will provide model/sample Privacy Notices, Client Release forms and other templates for agreements that may be adopted or adapted in local implementations of the MSHMIS.
- d) MCAH will provide designated Community Liaisons/System Administrators current information regards System and Policy issues with the expectation that the Liaison will convey this information to all agencies using the system.
  - i) In limited instances, where MCAH is serving as the sole System Administrator, MCAH may communicate directly with agencies.
- e) MCAH will provide both initial training and periodic updates to that training regarding the MSHMIS privacy model.
- f) MCAH will require that all agencies and staff sign the Participation Agreement, the Administrative QSOBAA and a User and Code of Ethics Agreement prior to being given access to the MSHMIS system.
- g) MCAH will require that all agencies have a Board Approved Confidentiality/Privacy Policy and will provide a sample policy that incorporates the privacy standards specified in the HUD Public Notice.
- h) MCAH will provide basic user support and technical assistance regarding privacy issues related to the use of MSHMIS. Access to this basic technical assistance will normally be available from 9:00 AM. to 5:00 PM. on Monday through Friday (with the exclusion of holidays). This consultation does not represent a legal interpretation of any privacy law or statute.

**6) MCAH will comply with all privacy standards and procedures set forth in the Administrative QSOBAA.**

- a) MCAH acknowledges that in transmitting, receiving, storing, processing or otherwise dealing with any consumer protected information, they are fully bound by state and federal regulations governing confidentiality of patient records.
- b) MCAH is prohibited from making any further disclosure of this information unless further disclosure is expressly permitted by the written consent of the person to whom it pertains or as otherwise permitted by state and federal regulations governing confidentiality of patient records. **A general authorization for the release of information is NOT sufficient for this purpose.**
  - i) MCAH will maintain audit trail of any disclosures.
  - ii) All disclosures will be limited to the minimum necessary to meet the legal requirement.
- c) MCAH agrees to use appropriate safeguards to prevent the unauthorized use or

- disclosure of the protected information.
- d) MCAH agrees to notify affected Participating Agencies/Organizations, within one business day, of any breach, use, or disclosure of the protected information not provided for by this agreement.
  - e) MCAH agree to adhere to the standards outlined within the Health Insurance Portability and Accountability Act of 1996 ('HIPAA', 45 CFR, Parts 160 & 164) which provides consumers access to their protected information, (164.524), the right to amend protected information (164.526), and receive an accounting of disclosures of protected information (164.528). However, MCAH does not have the authority to collect/enter/update or modify data within the System. All such requests to access and amend protected information will be referred to the Participating Agency who collected/entered or updated the client record and retains ownership of the data.
  - f) MCAH agrees to notify each of the other Participating Agencies/Organizations of their intent to terminate their participation in this agreement.
  - g) MCAH agrees to resist, through judicial proceedings, any judicial or quasi-judicial effort to obtain access to protected information pertaining to consumers, unless expressly provided for in state and/or federal regulations.
  - h) MCAH agrees to make available internal practices, books, and records, including policies and procedures relating to the use and disclosure of protected information received from the agency or program. Information created or received by the service or program may be reviewed for a compliance audit requested by an authorized agency, in a negotiated time and manner.
- 7) **MSHMIS User Agreement/Code of Ethics:** All MCAH staff are required to comply with the MSHMIS User Agreement. and Code of Ethics (attached).
- 8) **Training:** All MCAH staff are required to be fully trained with regard to both the Systems and Policy Privacy Protocols of the MSHMIS Project.
- a) All staff are required to complete initial Core Training.
  - b) All staff are required to update their training as the System changes and new Policies are developed.
- 9) **System Security** System security provisions will apply to all systems where PPI is stored, agency's networks, desktops, laptops, mini-computers, mainframes and servers.
- a) All policies relating to security and access apply to the MSHMIS Live Site Database and work stations that connect to the Live Site. A Training Database is also provided by the Project to allow community education regarding the System and to support training for new users. The Training Database is not secure and does not include live client data.
  - b) Password Access:
    - i) Only MCAH staff and consultants who have completed Privacy and System Training may be given access to the MSHMIS through User IDs and Passwords.
    - ii) Temporary/default passwords will be changed on first use.

- iii) Access to PPI requires a user name and password at least 8 characters long and using at least one number and one letter.
- iv) Passwords will not use or include the users name or the vendor name, and will not consist entirely of any word found in the common dictionary or any of the above words spelled backwards.
- v) User Name and password may not be stored or displayed in any publicly accessible location
- vi) Passwords must be changed routinely.
- vii) Users must not be able to log onto more than one workstation or location at a time.
- viii) Individuals with User IDs and Passwords will not give or share assigned User ID and Passwords to access the MSHMIS with any other organization, governmental entity, business, or individual.
- c) Virus Protection and Firewalls:
  - i) MCAH will maintain current commercial virus and spyware protection software.
  - ii) Virus protection will include automated scanning of files as they are access by users.
  - iii) Virus Definitions will be updated regularly.
  - iv) All workstations will be protected by a firewall either through a workstation firewall or a server firewall.
- d) Physical Access to Systems where HMIS Data is Stored
  - i) All MCAH Computers must be secured when workstations are not in use and staff are not present.
  - ii) Screen savers will be configured to automatically turn for short periods during which the system is not in use.
  - iii) For extended absence, staff must log off the computer.
  - iv) All MHMIS computers must be arranged to prevent public access to confidential information when the computer is in use or operate with a screen guard.
- e) Stored Data Security and Disposal:
  - i) All HMIS data downloaded onto a data storage medium must be maintained and stored in a secure location.
  - ii) Data downloaded for purposes of statistical analysis will exclude PPI whenever possible using the Client ID number.
    - (1) System Administrator II downloads may not include either the clients name or their social security number.
    - (2) The Unique Identifier/Algorithm should also be replaced with the Client ID number once un-duplication has been accomplished.
  - iii) HMIS data downloaded onto a data storage medium must be disposed of by reformatting as opposed to erasing or deleting.
  - iv) A data storage medium will be reformatted a second time before the medium is reused or disposed of.
- f) System Monitoring:



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- b) All analysis databases will use the Client ID number or other non-identifiable coding and will not include either the Unique Client ID (algorithm), name or social security number.
- c) Periodically, MCAH will work with DIT to merge data from multiple databases.
  - i) The goal of any data merges will be to generate de-identified analysis databases.
  - ii) MCAH will work with MSHDA to develop de-identified data sets.
- d) Data sets that include PPI will not be shared with contracted researchers without client and organization consent.