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| GOVERNMENT OF THE DISTRICT OF COLUMBIA  DEPARTMENT OF BEHAVIORAL HEALTH | Policy No. 116.1B | Date <i>10/14/2024</i> | Page 1 TL-343 |
| | Supersedes: DBH Policy 116.1A, Health Information Exchange Policy | | |
| Subject: Health Information Exchange Implementation Policy | | | |

1. **Purpose.** To establish the Department of Behavioral Health's (DBH or Department) policies and procedures regarding provider responsibilities to participate in the District of Columbia's Health Information Exchange (HIE).
2. **Applicability.** DBH and all DBH-certified Mental Health and Rehabilitation Services (MHRS), Substance Use Disorder (SUD), Free Standing Mental Health Clinic (FMHC), Transition Planning and Behavioral Health Stabilization (Crisis Service) providers.
3. **Authority.** Department of Behavioral Health Establishment Act of 2013 (Dec. 24, 2013, D.C. Law 20-61, §5113, D.C. Code §§7-1141.02, *et seq.*); Behavioral Health Coordination of Care Amendment Act of 2015 (Dec. 15, 2015, D.C. Law 21-37); Title 22-A District of Columbia Municipal Regulations (DCMR) Chapter 30, FSMHC Certification Standards; Title 22-A DCMR Chapter 34, MHRS Provider Certification Standards; Title 22-A DCMR Chapter 63, Certification Standards for SUD Treatment and Recovery Providers; Title 22-A DCMR Chapter 65, Transition Planning Eligibility, Provider Certification and Service Standards; Title 22-A DCMR Chapter 80, Certification Standards for Behavioral Health Stabilization Providers; and Title 29 DCMR Chapter 87, District of Columbia Health Information Exchange.
4. **Background.** DBH encourages the timely coordination of care between a consumer's/client's treating health provider(s) and behavioral health provider(s) to improve overall health and wellness. An HIE is a system that enables the secure electronic exchange of health information across multiple organizations. HIEs promote coordinated care, reduce duplicative treatments, improve healthcare quality and outcomes and lower healthcare-related costs. Since 2020, the Chesapeake Regional Information for Our Patients (CRISP DC) has functioned as the District of Columbia's (District) designated HIE, sharing health information among participating organizations through secure electronic means. Title 29 DCMR Chapter 87 governs the HIE, regulating the efficient and secure transmission of health information according to nationally recognized standards.
5. **Definitions.** The following definitions apply for purposes of this policy:
 - 5a. **Chesapeake Regional Information for Our Patients (CRISP DC):** The designated HIE serving the District.

5b. Client: A person receiving SUD services from a DBH-certified SUD provider.

5c. Consumer: A person receiving mental health services from a DBH-certified MHRS, Transition Planning, Crisis Services or FSMHC provider.

5d. DBH Network: DBH direct service providers and DBH-certified MHRS, SUD, FMHC, Transition Planning and Crisis Service providers.

5e. Health Information Exchange (HIE): A system that enables the secure, electronic exchange of health information across multiple organizations.

5f. Opt-In: A client's choice to participate in the HIE, allowing the provider to disclose the client's protected health information or data derived from the client's protected health information to the HIE.

5g. Protected Health Information (PHI): Individually identifiable health information as defined under the Health Insurance Portability and Accountability Act (HIPAA) and its implementing regulations.

5h. Provider: All FSMHC, MHRS, Crisis Services, Transition Planning and SUD providers.

6. **Policy**:

6a. All MHRS, Transition Planning, Crisis Services and FSMHC providers shall sign a participation agreement with CRISP DC and take all required steps to establish the necessary technological linkages to receive and transmit PHI in compliance with HIPAA and the D.C. Mental Health Information Act.

6b. All SUD providers shall sign a participation agreement with CRISP DC and take all required steps to establish the necessary technological linkages to receive and transmit PHI for clients who consent to share SUD treatment information with the HIE in compliance with 42 Code of Federal Regulations (C.F.R.) § 2.33.

6c. DBH and its providers shall distribute a Joint Notice of Privacy Practices (*see* Exhibit 1, Joint Notice of Privacy Practices) to all consumers/clients upon admission to provide consumers/clients with written notice of the uses and disclosures of PHI within the DBH Behavioral Health Network. Providers may either adopt the DBH Joint Notice of Privacy Practices or develop their own that substantially conforms to Exhibit I.

6d. DBH and its providers shall participate in CRISP DC. At least annually, DBH and its providers shall provide: (a) the Joint Notice of Privacy Practices to all consumers/clients; (b) the opportunity for all consumers to opt-out of participation in the HIE; and (c) the opportunity for all clients to consent to share SUD treatment information with HIE.

6e. Consumer/client participation in the HIE is voluntary. Providers shall not condition the receipt of services on a consumer/client's decision to participate in the HIE.

7. **Procedures:**

7a. The Department and its providers shall:

- (1) Provide each consumer/client an updated copy of the Department's Joint Notice of Privacy Practices at their first appointment following the adoption of or update to this Policy, and at least annually thereafter. *See* Exhibit 1, Joint Notice of Privacy Practices.
- (2) Explain to each consumer/client that the provider is participating with CRISP DC, and that participation in the HIE is voluntary. Providers shall also explain that, due to the D.C. Mental Health Information Act, mental health information will be shared with CRISP DC unless a consumer specifically opts-out of the program. Conversely, due to 42 C.F.R. Part 2 requirements, clients receiving SUD services must specifically consent to share SUD treatment information utilizing the procedures established by Section 7e of this Policy.
- (3) Obtain the consumer/client's signature on the Acknowledgement of Receipt of the Notice of Privacy Practices page of the Joint Notice of Privacy Practices DBH HIPAA Form 1 (*see* Exhibit 1). The acknowledgment of receipt on the last page of the Joint Notice of Privacy Practice DBH HIPAA Form 1 (*see* Exhibit 1) provides a place for consumers receiving mental health services to sign and opt-out of sharing PHI with the HIE if the consumer wishes and clients receiving SUD services to consent to share SUD treatment information with the HIE if they wish by completing the CRISP consent tool.
 - (a) The acknowledgment of receipt page of the Notice shall be filed in the consumer/client's electronic record health record.
 - (b) If the consumer/client fails or refuses to sign the Notice, the provider shall document their effort to obtain the signature on the acknowledgment of receipt page of the Notice and file it in the consumer/client's clinical record. A consumer's refusal to sign the acknowledgment shall not alone be considered a request to opt-out of the HIE.
 - (c) Providers may direct consumers/clients who cannot write to sign using an "X" with a witness to verify and note they observed this activity by the consumer/client.

- (d) Providers may read the Joint Notice of Privacy Practice to consumers/clients who are illiterate.
- (e) Providers shall give a translated copy to a limited or non-English proficient consumer/client utilizing the copies available at <https://dbh.dc.gov/>.

7b. For each mental health consumer who does not opt-out of CRISP DC and each SUD client who consents to share SUD information with CRISP DC, the provider shall comply by transmitting the consumer/client's designated data set as outlined in the CRISP participation agreement.

7c. Consumers may opt-out of CRISP DC by:

- (a) Completing and submitting an opt-out form to CRISP DC by mail, fax or through the CRISP DC website at www.crispdc.org; or
- (b) Calling (877) 952-7477.

Upon request by the consumer, the treating provider will assist with submitting the consumer's opt-out form. The provider must notate on the opt-out form their relationship to the consumer and provide the consumer with a confirmation of the submission of the form in the medium selected by the consumer (e-mail, letter, phone or text message).

7d. Consumers who previously did not opt-out of CRISP DC may later opt-out at any time by utilizing the procedure established in Section 7c of this Policy.

7e. SUD clients may consent to share SUD treatment information with CRISP DC at any time by completing the opt-in form. The provider must scan the client's opt-in form into the CRISP system within twenty-four (24) hours of receipt. The provider must provide the Department all opt-in forms upon request for audit purposes. SUD clients who previously consented to share SUD treatment information may opt-out at any time.

7f. Providers shall comply with HIPAA and its implementing regulations, the D.C. Mental Health Information Act, and 42 C.F.R. Part 2. Providers must adhere to all governing privacy and security laws and regulations in adopting this policy. It is the responsibility of each provider to ensure that all staff responsible for implementing this policy receive appropriate training. Providers shall implement policies and procedures to monitor compliance and promptly report to the Department all violations of HIPAA, the D.C. Mental Health Information Act and/or 42 C.F.R. Part 2 pursuant to DBH Policy 480.1A, Reporting a Major and Unusual Incident.

7g. Providers may contact DBH's Privacy Officer, at dbh.privacy@dc.gov for any questions concerning this policy.

8. Exhibits

Exhibit 1, Joint Notice of Privacy Practices, DBH HIAA Form 1

Approved by:

Barbara J. Bazron, Ph.D.
Director, DBH

 10/14/2024
(Signature) **(Date)**