



Wellplace

1333 Brewery Park Blvd., Suite 140, Detroit, MI 48207



Standards: CARF: 2.G.1, 1.E.3

Revision Date: 10/10/08; 2/27/09; 11/4/09; 12/16/09; 5/7/10; 4/21/11; 7/10/12; 6/26/13, 11/15/2013, 9/4/2014, 8/27/2015, 6/17/2016, 6/2/2017

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Chapter: VII. Confidentiality

Subject: C. Consumer Request to Restrict Use & Disclosure of PHI

I. POLICY:

Wellplace will strive to comply with all legal (HIPAA) and ethical guidelines concerning the consumer's right to request restrictions on use and disclosure of Protected Health Information.

II. PURPOSE:

To establish clear and concise procedures for the process of consumer request to restrict use and disclosure of PHI.

III. APPLICATION:

This policy applies to all Wellplace employees.

IV. DEFINITIONS:

Consumer:

A Recipient of mental health services. There are two types:

1. Primary Consumer refers to the recipient of services.
2. Secondary Consumer refers to family members of the primary recipient.

Health Information Privacy Portability Administration Act (HIPAA): The statutes that applies to the maintenance and management of all confidential information to prevent unauthorized disclosure of pertinent and private health information of an individual.

Protected Health Information: "any information, whether oral or recorded in any form or medium" that

- "is created or received by a health care provider, health plan, public health authority, employer, life insurer, school or university, or health care clearinghouse"; and
- "relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual."

V. STANDARDS:

1. The consumer or his/her legal guardian, if any, has a right to request that Wellplace restrict how it uses and discloses the consumer's Protected Health Information (PHI). This right applies to situations when Wellplace can use the consumer's PHI without an authorization for treatment, payment and health care operations (e.g., internally within Wellplace) and for discussions with family members involved in the consumer's care. If an authorization is required to release, use or disclose PHI, then the consumer, or his/her legal guardian, if any, can restrict the use and disclosure by not signing the authorization or by limiting the authorization. Wellplace cannot agree to restrict use or disclosure of PHI that is required by law or that is necessary for health, safety or oversight reasons.



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Wellplace does not have to agree to any such request. Each request for restriction on the use and/or disclosure of PHI will be reviewed independently. It is not anticipated that this right will be exercised widely and that, if exercised, it generally will be approved. This is because most disclosures of PHI by Wellplace to a third party require Wellplace to obtain an Authorization.

2. Request Requirements:

A request by the consumer or his/her legal guardian to restrict the use and/or disclosure of PHI must be made in writing on a form prescribed by Wellplace. A request may be made at any time.

3. Agreement by Wellplace:

Wellplace is not required to agree to any such request. Wellplace cannot agree to a request to restrict a use or disclosure of PHI that is:

- required by law
- required by a court order
- to a public health authority for public health purposes
- to a health oversight agency for oversight purposes
- made to avert a serious threat to health or safety
- for certain law enforcement purposes and certain specialized government functions

If Wellplace agrees to such a request, the PHI will be restricted as agreed. The restriction applies to applicable PHI that Wellplace has at the time the request is granted and to PHI created or received while the restriction is in place. Wellplace, however, does not need to comply with a restriction if the consumer is in need of emergency treatment and a Health Care Provider providing treatment needs the restricted PHI. Wellplace must request that such Health Care Provider not make any future disclosures of the PHI. In addition, Wellplace must inform the individual or his/her legal guardian, if any of any such disclosures.

4. Termination of a Restriction:

- With Consent of the Individual.** Wellplace may terminate an agreement to restrict the use or disclosure of PHI if agreed to by the consumer or his/her legal guardian, if any. The consumer or legal guardian may agree to the termination either in writing or verbally. If verbal, the agreement must be documented by Wellplace.
- Without Consent of the Individual.** Wellplace may unilaterally terminate an agreement to restrict the use or disclosure of PHI by informing the consumer or legal guardian, if any, of such in writing. The termination, however, is only effective with respect to PHI that is created or received after the consumer or legal guardian has been informed. The difficulty of separating this information is another example of why requests for restrictions need to be reviewed carefully and granted only when appropriate.

5. Who Can Make a Request:



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Any consumer who has PHI that is maintained by Wellplace has the right to request that the use/and or disclosure of PHI be restricted. However, if the consumer has a legal guardian, only the legal guardian may make such requests. If however, the consumer is a minor and the minor legally consented to the underlying treatment to which the PHI relates, then the minor rather than the legal guardian has the right to make requests to restrict the use or disclosure of such PHI.

6. Request Form:

A request by the consumer or legal guardian to restrict the use and/or disclosure of PHI must be made in writing on the Restriction of Use & Disclosures Request Form. The form must be signed and dated by the consumer who is the subject of the PHI or, if he/she has a legal guardian, by his/her legal guardian. The desired restriction must be specified as well as the reason for requesting it. Copies of the Restriction of Use & Disclosures Request Form shall be available at Wellplace. It also will be posted on the Wellplace Internet website. If reasonable accommodations are needed, Wellplace will honor requests for alternative methods of making requests for amendments.

7. Approval or Denial by Wellplace:

a. Authority to Make Determinations. The decision to approve or deny a request to restrict the use and/or disclosure of PHI will be made by the following individuals (decision-maker):

- Program Director, Chief Privacy Officer, or designee

b. Approval. Approval of a request must be agreed to by all applicable decision-makers. If the decision-makers cannot agree, the matter shall be referred to the Wellplace Privacy Officer/Corporate Compliance Officer who shall make the final decision in consultation with the CEO. The decision-maker must notify the consumer or legal guardian of the decision to approve or deny the request. If a request is approved, the Wellplace Privacy Officer/Corporate Compliance Officer must be notified of the approval.

c. Standard of Review. In determining whether or not to grant a request, the decision-maker shall consider the reason for the request and the ability of Wellplace to implement such a restriction. The latter shall include consideration of how the restriction would impact Wellplace ability to provide treatment or services to the consumer and the ability of Wellplace to ensure compliance with the restriction. If a decision-maker is unsure as to whether Wellplace can comply with a particular type of request, the decision-maker shall contact the Wellplace Privacy Officer/Corporate Compliance Officer for guidance.

d. Notice and Documentation. The approval or denial of a request to restrict the use or disclosure of PHI shall be noted on the request form as indicated and it shall be signed and dated by the applicable decision-maker. The decision-maker must notify the consumer or legal guardian of the decision in writing. The reason for the decision does not need to be stated. If the request is granted, the restriction that is agreed upon must be specified in the notice. The notice shall inform the consumer that the



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decision is final and not subject to further review, however, it also shall state that an individual or legal guardian may file a complaint with Wellplace and/or the U.S. Secretary of Health and Human Services and explain how such complaints may be filed.

A copy of the request and decision must be kept in all Wellplace files and relevant to Wellplace record disposal schedule. At a minimum, the request and decision must be kept for six years from the date of the decision, or if applicable, from the date that the restriction is last in effect.

e. Decision is Final. The decision of Wellplace to approve or deny a request to restrict the use or disclosure of PHI is final and is not subject to appeal. The consumer or legal guardian however, may file a complaint with Wellplace and/or the U.S. Secretary of Health and Human Services.

f. Termination of a Restriction.

1. With Consent. Wellplace may terminate a restriction with the agreement of the consumer or legal guardian, if any. The consumer or legal guardian may agree to the termination in writing or verbally. To the extent feasible, written agreement of the termination shall be sought. If there is a verbal agreement to terminate a restriction, the details of the verbal agreement (date, time, place, Wellplace Staff Member(s) that participated in the discussion and the reason why a written agreement to terminate could not be obtained) shall be documented in writing and signed and dated by one of the Wellplace Staff Member(s).

2. Documentation. The termination agreement or notice, or a copy of the agreement or notice, must be maintained in Wellplace and Wellplace record disposal schedule. However, the agreement or notice must be kept at a minimum be for six years.

VI. QUALITY ASSURANCE:

The Quality Improvement/Utilization Management Committee shall monitor adherence to the policy as one element of its overall quality processes. The Wellplace Policy and Procedure Manual is reviewed and revised on an annual basis and is approved annually by the Board of Managers. When applicable, the Wellplace subcontractor to whom this policy is applicable shall monitor adherence to this policy as part of a program of ongoing quality management.

VII. COMPLIANCE WITH ALL APPLICABLE LAWS:

Wellplace, Inc. and its subcontractors are bound by all applicable federal, state, and county laws, rules, regulations, policies, and guidelines.

VII. REFERENCES:

Michigan Department of Community Health



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Recipient Rights

HIPAA (1996)

DWMHA

VIII. EXHIBITS:

VIII. C. 1. *Restriction of Use & Disclosures Request Form*