

# Confidentiality Resources

Magellan Behavioral Health of Pennsylvania, Inc. (Magellan) wants to protect our member's privacy. There are laws about who can see a member's health information. The below information includes some of the valuable resources that may assist our provider network with understanding and being compliant with all federal and state confidentiality laws. In providing information regarding confidentiality, Magellan is not furnishing legal advice. Please direct all inquiries regarding the interpretation of privacy laws to your legal counsel.

## Confidentiality Basics

- Confidentiality of all information about a member receiving mental health and/or substance abuse treatment service is of paramount importance.
- Confidentiality is an ethical obligation of all treatment professionals, and a legal right for every member, regardless of the source or the format of the information. As a Magellan network provider, you are responsible for maintaining the confidentiality of all member information.
- HIPAA (Health Insurance Portability and Accountability Act of 1996) guides what information can be shared and with whom. State Confidentiality Laws as well as Federal Substance Abuse Laws may be more stringent than HIPAA. You must follow the most stringent law.
- Providers are responsible for knowing, understanding and following all applicable laws regarding confidential patient information including any applicable reporting requirements for child or elder abuse, and the common law or statutory duty-to-warn.
- Providers are covered entities under HIPAA, and therefore, must follow all applicable regulations concerning reporting requirements (providers do not need to report HIPAA violations to Magellan).

## Confidentiality and Coordination of Care

Care Coordination is critical to an individual's recovery. In that process, we want to protect individual's private healthcare information in accordance with the laws and regulations while obtaining the necessary consents in order to coordinate care.

- Care Coordination Avoids:
  - Waste: Duplication of services or rework
  - Over, under or misuse of prescription medications
  - Conflicting plans of care or treatment plans
- Care Coordination Improves:
  - Access: allows for coordination between providers and could assist in removing any barriers to referral to higher levels of care
  - Comprehensive treatment
  - SDoH Needs (i.e., supports access to resources and referrals)
  - Members support system (i.e., families and loved ones can be involved in crisis and discharge planning)
  - Transition and discharge planning

## Coordination of Care- Release of Protected Health Information (PHI) Forms

- Providers must develop and implement their own release of PHI forms in order to coordinate care with other treatment providers, service systems and member supports.
- [Authorization to Use and Disclose \(AUD\) form](#), Magellan's consent form to share information with a third party should be completed by the member (or member's personal representative):
  - Fillable Form: [https://www.magellanoftpa.com/documents/2022/07/070122\\_pahcaudform.pdf/](https://www.magellanoftpa.com/documents/2022/07/070122_pahcaudform.pdf/)
  - Online Submission: <https://www.magellanoftpa.com/consent-to-release-protected-health-information-phi/>
  - Important Reminders about Magellan's AUD:
    - Use the online submission option whenever possible as it reduces invalid forms (personal representatives can also upload supporting legal documentation when applicable)

- If using the fillable form and faxing, e-mailing or mailing to Magellan, please complete all sections in full or the form will be returned.
  - In most cases, members aged 14 and older control the release of their records and thus MUST sign the AUD.
  - For members under 14, the legal guardian must sign the AUD. If someone other than the biological parent has legal custody of the child, proof of custody MUST be provided.
- Providers or other third parties requesting written information from Magellan related to an individual's past treatment history or other information must submit requests in writing and have the member (or member's personal representative) complete an AUD.
  - Completed AUDs (when utilizing the Fillable Form) may now be submitted via e-mail to: [PAHC\\_AUD@magellanhealth.com](mailto:PAHC_AUD@magellanhealth.com)
  - Record Requests and other supporting legal documents may now be submitted via e-mail to: [PAHCCompliance@magellanhealth.com](mailto:PAHCCompliance@magellanhealth.com)

#### Links to Federal/ State Confidentiality Regulations

- [PA Code Title 55, 5100.32. Nonconsensual release of information](#)
- [PA Code Title 55, 5100.33. Patient's access to records and control over release of records](#)
- [PA Code Title 55, 5100.34. Consensual release to third parties](#)
- [PA Code Title 55, 5100.35. Release to courts](#)
- [PA Code Title 55, 5100.38. Child or patient abuse](#)
- On July 7, 2022, [Act 33](#) was signed into law. Act 33 made significant changes to the Substance Use Disorder (SUD) confidentiality provisions under Pennsylvania (PA) law. Act 33 made PA's SUD confidentiality requirements consistent with federal law. Federally-assisted programs for the diagnosis, referral, or treatment for SUD are covered by the federal regulations at [42 CFR Part 2](#). So,

providers will now follow 42 CFR Part 2 instead of 255.5: [42 CFR, Part 2. Code of Federal Regulations Confidentiality of Alcohol and Drug Abuse Patient Records](#)

- [42 CFR Chapter IV. Code of Federal Regulations Centers for Medicare & Medicaid Services, Department of Health and Human Services](#)
- [45 CFR Parts 160 and 164. Code of Federal Regulations HIPAA Privacy Rule](#)
- [US Department of Health and Human Services Office for Civil Rights Health Information Privacy](#)
- Filing a Complaint (If you believe that a HIPAA-covered entity or its business associate violated your (or someone else's) health information privacy rights or committed another violation of the Privacy, Security, or Breach Notification Rules, you may file a complaint with the Office for Civil Rights (OCR): <https://ocrportal.hhs.gov/ocr/smartscreen/main.jsf>)
- [Act 65 of 2020 Mental Health Treatment- Consent to Treatment and Release of Medical Records](#)
- [Pennsylvania Department of Human Services \(DHS\) Privacy Rights](#)
- [DHS HIPAA Definitions](#)
- [DHS Notice of Privacy Practices](#)