



The Protected Health Information (PHI) Consent Tool Grids

Welcome to the PHI Consent Grids. The goal of these Consent Grids is to reduce confusion about when an individual's consent is necessary to share general and behavioral health PHI.

The U.S. Department of Health and Human Services (HHS) provides [helpful resources](#) that give federal guidance around an individual's consent to sharing PHI. However, these resources do not address the specific requirements of Michigan laws and regulations.

These user-friendly Consent Grids include easy-to-navigate grids that reference both State of Michigan and federal laws and regulations to provide clear guidance about when consent is necessary for common PHI requests.

The Consent Grids are intended to increase the flow of PHI from clinician to clinician, particularly with respect to behavioral health information, resulting in improved care coordination across the state of Michigan.

NOTE: The word "consent" is used frequently throughout the Consent Tool and is meant to refer to an individual's permission to share their PHI rather than permission for treatment.

Disclaimer

This PHI Consent Grids document has been prepared for educational purposes only. Nothing in this document is intended as, nor should be relied upon, as legal advice. Any party that is contemplating the use or disclosure of PHI for any purpose is encouraged to consult with their legal counsel. This document contains the Consent Tool Grids for ease of reference. The full PHI Consent Tool contains comprehensive information about navigating consent decisions.

Due to the legislative ambiguity surrounding the applicability of Chapter 2A of the Michigan Mental Health Code, the PHI Consent Tool takes an expansive view, protecting the confidentiality/privacy of SUD/SUD treatment information held by any hospital, clinic, organization, or health professional providing treatment to individuals. This wider view of the applicability of Chapter 2A ensures greater protection for the individual, requiring consent before sharing SUD/SUD treatment information. Should state law clarify/change the rules, the PHI Consent Tool will be updated accordingly.

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Quick Tips for Simplifying the Exchange of Behavioral Health, General Medical, and Domestic Violence PHI in Michigan

1. Mental and general medical health information (not including substance use disorder information or psychotherapy notes) may be disclosed without an individual's consent for purposes including, but not limited to:
 - a. Treatment
 - b. Coordination of care
 - c. Payment for the delivery of mental health services
 - e. De-identified information for research
 - f. "Duty to warn" situations (i.e., threats of serious and imminent harm made by an individual)
 - g. Mandatory reporting (i.e., elder and/or child abuse and neglect)
2. If an adult individual requests their mental or general medical health record (not including substance use disorder information or psychotherapy notes) from a covered entity, then the covered entity must comply with this request, unless any one of the following apply:
 - a. The individual has a legal guardian
 - b. The individual has been deemed legally incompetent
3. Neither an individual, legal guardian, nor personal representative have the right to access psychotherapy notes, and a covered entity cannot make most disclosures about psychotherapy notes, without an individual's consent.
4. The disclosure of substance use disorder (SUD) information requires the use of a **behavioral health standard consent form/MDHHS-5515** (or equivalent), unless the disclosure falls under any one of the following:
 - a. Medical emergencies
 - b. Specific court orders (i.e., to determine if an individual is under treatment; treatment hearings for minors)
 - c. Mandatory reporting (i.e., elder and/or child abuse and neglect)
 - d. "Duty to Warn" situations (i.e., threats of serious and imminent harm made by an individual)
 - e. Information de-identified for research
 - f. Information de-identified for financial audits
 - g. Information de-identified for program evaluations
5. Title 42 CFR Part 2 rules say that an individual must consent to the sharing of SUD PHI and that there are very few instances where SUD PHI can be released without an individual's consent. Not everyone is subject to Part 2 rules; however, many are subject to Chapter 2A of the Michigan Mental Health Code (§330.1263), which states that unless the disclosure falls under the seven scenarios outlined above, consent is necessary. Entities may determine for themselves whether or not Chapter 2A applies to their work.
6. If you receive federal funding under the Family Violence Prevention and Services Act (FVPSA), the Victims of Crime Act (VOCA), and/or the Violence Against Women Act (VAWA), and you have provided someone with services for domestic abuse, sexual assault, stalking, or other crimes, you must use a specialized form to obtain consent. The National Network to End Domestic Violence (NNEDV) has developed sample **Client Limited Release of Information forms** for federal grantees that you may adapt (available in English and Spanish).

- If you do not receive federal funding under FVPSA, VOCA, and/or VAWA, and you have provided someone with services for domestic abuse, sexual assault, stalking, or other crimes, your decision whether to use a standardized (e.g., MDHHS-5515) or specialized (e.g., NNEDV) consent form should be informed by a discussion about the potential risks and benefits of information-sharing with the person you are serving, keeping in mind that standard consent forms may not address the heightened safety and privacy concerns the person may have.
- Refusal to share mental or general medical health information when it is legal to do so not only jeopardizes individual safety and negatively impacts care coordination, but could also be viewed as Information Blocking. Information blocking will result in financial penalties in accordance with Information Blocking Rules based on the 21st Century Cures Act. For more information on the 21st Century Cures Act and information blocking, see the **proposed rule**.

How to Use the PHI Consent Tool and the Grids

- The General Grid references five pieces of legislation (three State laws and two federal laws) listed horizontally across the page, pertaining to the sharing of any type of PHI.

Reason Category: ALL
 (Self, Continuity of Care, Personal Representative, Friends/Family, Health Care Claim Payment, Facility Operations, Research, Marketing, Psychotherapy Notes)

	LEGISLATION				
REASON FOR REQUEST	Michigan Mental Health Code Act 258 of 1974 <i>(Behavioral Health PHI not including SUD)</i>	Michigan Public Health Code Act 368 of 1978	Michigan Medical Records Access Act, Act 47 of 2004	Health Insurance Portability and Accountability Act (HIPAA) of 1996. Expanded to include electronic PHI in 2009.	Title 42 Code of Federal Regulations (CFR) Part 2 - Confidentiality of Substance Use Disorder Patient Records - 1975 <i>(In combination with MI Mental Health Code as it relates to SUD)</i>
The individual asks a covered entity for some or all of their own	▲	▲	▲	▲	◐

- The other Grid references the three federal domestic violence (DV) laws, listed across the page, for those that receive federal funding under those pieces of legislation.

FVPSA, VOCA, VAWA

	LEGISLATION		
REASON FOR REQUEST PHI requests received by a covered entity and whether patient authorization is required based on state and federal laws for that type of request.	Family Violence Prevention and Services Act (FVPSA) - 1984/2018	Victims of Crime Act (VOCA) - 1984/2002	Violence Against Women Act (VAWA) - 1994/2019

- Each legislation listed at the top of the Grids is hyperlinked to its actual webpage so that you can learn more.
- There are additional pieces of legislation that apply to a limited number of reasons for PHI requests and contain certain caveats. The caveats are footnoted on the Grids and are listed in the full PHI Consent Tool.

There are 32 common reasons a request for PHI might be made. Reasons are listed vertically on the left side of the Grids.

These “reasons” are broken into categories by age (adults and minors) as well as circumstances dealing with emergencies, legal, and victims regardless of age (i.e., “All”).

Reason Category: ALL
 (Self, Continuity of Care, Personal Representative, Friends/Family, Health Care Claim Payment, Facility Operations, Research, Marketing, Psychotherapy Notes)

REASON FOR REQUEST
The individual asks a covered entity for some or all of their own health records.
For any individual's care team to be able to provide continuity of care for medical and/or behavioral health issues.
For a covered entity to inform a individual's personal representative about their care.






The following table summarizes how the Grids are broken out by reason category to help you determine which to use.

Table 1 : Guide to Help Determine Which PHI Consent Tool Grid to Use

GRID NAME	REASON CATEGORY
General Grid	1. ALL (Adults and Minors)
	2. ADULT SUD
	3. ADULT VICTIM
	4. MINORS (SUD, Public Health, BH, Abuse)
	5. MINORS (Reproductive Health)
	6. EMERGENCY (Adults and Minors)
	7. LEGAL (Adults and Minors)
Family Violence (FVPSA), Victims of Crime (VOCA), and Violence Against Women Legislation (VAWA) Grid	1. When NO individual consent is needed

There are five colored shapes that will help you to determine if an individual’s consent is necessary, based on the reason for the request, and whether your facility receives specific federal funds.

What Do the Colored Shapes Mean?

 Individual authorization necessary	A RED stop sign means an individual’s consent is necessary to release PHI for that particular reason, under that piece of legislation.
 Individual authorization NOT needed	A GREEN circle means an individual’s consent is not necessary to release PHI for that particular reason, under that piece of legislation.
 Not addressed by that legislation	A GRAY square means that this particular reason is not referenced within that legislation and has no bearing on a Yes or No answer.
 Clinician discretion applies	A YELLOW triangle means that a clinician is allowed to use their professional judgment in determining if it is safe to release PHI without consent.
 SUD caveats apply	A PURPLE diamond means that if the PHI being requested contains any mention of SUD (and is not for one of the seven reasons defined in Quick Tip #4) then an individual’s consent will be necessary per the Michigan Mental Health Code for SUD in adults, and may be necessary for SUD in minors (see Caveat #11).

How Do I Know Which Legislation to Follow?

You will first need to determine what kind of PHI is being sought:

1. **Behavioral Health (BH)** records
2. Records with **mention of SUD**
3. Records for someone who has experienced **DV, sexual assault (SA), stalking, etc.**
4. **All other records** not containing BH, SUD, or DV.

Once you determine what kind of PHI is being sought and who is seeking the PHI, you can then determine which column on that Grid to follow. For records that pertain to a person who has experienced DV, SA, stalking, etc., you will need to use the FVPSA, VOCA, VAWA Grid on page 16 . For all other requests, take the following into consideration:

1. Behavioral health records: pay special attention to the Michigan Mental Health Code and HIPAA columns, always following the one that provides more protection to the individual who is the subject of the PHI.
2. Records with mention of SUD: pay special attention to the Title 42 CFR Part 2 column and the respective caveats that take the Michigan Mental Health Code into consideration.
3. Records without the mention of BH and/or SUD or DV, etc., pay special attention to the Michigan Public Health Code and HIPAA columns, always following the one that provides more protection to the individual who is the subject of the PHI.

Table 2 : Guide to Help Determine Which Legislation to Follow

IF RECORD INVOLVES	THEN REVIEW
BH	MI Mental Health Code <i>and</i> HIPAA
SUD	Title 42 CFR Part 2 <i>and</i> caveats regarding MI Mental Health Code
DV / SA / Stalking	FVPSA, VOCA, VAWA
All others	MI Public Health Code <i>and</i> HIPAA

Example of How to Use the Grids

Example #1

Your clinic, which provides both behavioral health and family medical care services, receives a request from Dr. Smith, an endocrinologist, for notes from Mr. Doe’s last visit and corresponding lab work. Dr. Smith has asked for these in order to coordinate care for Mr. Doe’s diabetes.

1. This request is not related to DV, so use the Grid on page 8 with Reason Category ALL.


























Grid: Reason Category - ALL 8
 (Self, Continuity of Care, Personal Representative, Friends/Family, Health Care Claim Payment, Facility Operations, Research, Marketing, Psychotherapy Notes)

2. Upon reading the Reason For Request descriptions, you see: “For any individual’s care team to be able to provide continuity of care for medical and/or behavioral health issues.”

Reason Category: ALL

(Self, Continuity of Care, Personal Representative, Friends/Family, Health Care Claim Payment, Facility Operations, Research, Marketing, Psychotherapy Notes)

LEGISLATION

REASON FOR REQUEST	Michigan Mental Health Code Act 258 of 1974 (Behavioral Health PHI not including SUD)	Michigan Public Health Code Act 368 of 1978	Michigan Medical Records Access Act, Act 47 of 2004	Health Insurance Portability and Accountability Act (HIPAA) of 1996. Expanded to include electronic PHI in 2009.	Title 42 Code of Federal Regulations (CFR) Part 2 - Confidentiality of Substance Use Disorder Patient Records -1975 <i>No combination with MI Mental Health Code as it relates to SUD</i>
The individual asks a covered entity for some or all of their own health records.	 1	 2	 2	 2	
For any individual’s care team to be able to provide continuity of care for medical and/or behavioral health issues.					 3
For a covered entity to inform a individual’s personal representative about their care.	 4	 4	 2	 4	 5
For a covered entity to inform a spouse, family member, or friend about a individual’s care.		 6		 6	 *
To assist a covered entity in determining medical insurance eligibility, performing medical billing and collections activities, determining medical necessity, for utilization review (activities related to getting					

3. On that same line, there are two green circles, a gray square, a green circle, and a purple diamond.

4. You then need to determine whether or not there is any mention of SUD in Mr. Doe’s record. You see a refill authorized for Antabuse for treatment of alcohol use disorder that is mentioned in the notes along with the details of Mr. Doe’s visits addressing his uncontrolled blood sugar.

5. Because there is mention of SUD, you need to refer to the Title 42 CFR Part 2 column, the federal law pertaining to privacy and security of SUD records. Here there is a purple diamond with the number 3 next to it. This means you must refer to Caveat #3.

6. Caveat #3 references the Michigan Mental Health Code as it relates to SUD, offering an individual more protection than Title 42 CFR Part 2 and HIPAA. The PHI Consent Tool takes a wider view of the applicability of Chapter 2A of the Michigan Mental Health Code, ensuring greater protection for the individual and requiring consent before sharing SUD/SUD treatment information.

7. Mr. Doe may choose to have you share his record, but **not include** the mention of his alcohol abuse disorder and subsequent Antabuse refill, only including information about his diabetes. The consent must spell out exactly what he will allow to be shared, as well as to whom it can be shared, and for how long the consent is valid. If Mr. Doe does not give consent for his SUD information to be shared, then you can still share the rest of the record with the SUD information redacted.






Reason Category: ALL

(Self, Continuity of Care, Personal Representative, Friends/Family, Health Care Claim Payment, Facility Operations, Research, Marketing, Psychotherapy Notes)

LEGISLATION






REASON FOR REQUEST	<u>Michigan Mental Health Code Act 258 of 1974</u> <i>(Behavioral Health PHI not including SUD)</i>	<u>Michigan Public Health Code Act 368 of 1978</u>	<u>Michigan Medical Records Access Act 47 of 2004</u>	<u>Health Insurance Portability and Accountability Act (HIPAA) of 1996.</u> Expanded to include electronic PHI in 2009.	<u>Title 42 Code of Federal Regulations (CFR) Part 2 - Confidentiality of Substance Use Disorder Patient Records - 1975</u> <i>(In combination with MI Mental Health Code as it relates to SUD)</i>
The individual asks a covered entity for some or all of their own health records.	 1	 2	 2	 2	
For any individual's care team to be able to provide continuity of care for medical and/or behavioral health issues.					 3
For a covered entity to inform an individual's personal representative about their care.	 4	 4	 2	 4	 5
For a covered entity to inform a spouse, family member, or friend about an individual's care.		 6		 6	 *
To assist a covered entity in determining medical insurance eligibility, performing medical billing and collections activities, determining medical necessity, for utilization review (activities related to getting medical claims paid).					 *
For the covered entity to perform facility operations (certain administrative, financial, legal, and quality improvement activities that are necessary to run the business).					 7
For a covered entity to provide de-identified information for scientific study or research purposes.					
For a covered entity to report STIs, communicable diseases, adverse drug reactions, and/or medical device failure for public health.					 8
Communication made to describe a health-related product or service (or payment for such product or service) that is provided by, or included in a plan of benefits of the covered entity making the communication.					
For a covered entity to sell PHI or give to a business associate (BA) to market to individuals or sell PHI.					
To review psychotherapy notes.					

* Michigan Mental Health Code, as it relates to SUD, appears to be more protective than Title 42 CFR Part 2 in these instances, therefore individual consent is necessary to share SUD PHI.

 Individual consent necessary
  Individual consent NOT needed
  Not addressed by that legislation
  Clinician discretion applies
  SUD caveats apply

**Reason Category:
ADULT SUD**











LEGISLATION

REASON FOR REQUEST	<u>Michigan Mental Health Code Act 258 of 1974</u> <i>(Behavioral Health PHI not including SUD)</i>	<u>Michigan Public Health Code Act 368 of 1978</u>	<u>Michigan Medical Records Access Act 47 of 2004</u>	<u>Health Insurance Portability and Accountability Act (HIPAA) of 1996. Expanded to include electronic PHI in 2009.</u>	<u>Title 42 Code of Federal Regulations (CFR) Part 2 - Confidentiality of Substance Use Disorder Patient Records - 1975</u> <i>(In combination with MI Mental Health Code as it relates to SUD)</i>
To share PHI of adult containing any identifying information of current or past SUD with a covered entity. This includes mention of any diagnoses, medications, names of clinicians, or facilities that can be associated with SUD treatment.					

* Michigan Mental Health Code, as it relates to SUD, appears to be more protective than Title 42 CFR Part 2 **in these instances**, therefore individual consent is necessary to share SUD PHI.

**Reason Category:
ADULT VICTIM**

LEGISLATION









































REASON FOR REQUEST	<u>Michigan Mental Health Code Act 258 of 1974</u> <i>(Behavioral Health PHI not including SUD)</i>	<u>Michigan Public Health Code Act 368 of 1978</u>	<u>Michigan Medical Records Access Act 47 of 2004</u>	<u>Health Insurance Portability and Accountability Act (HIPAA) of 1996. Expanded to include electronic PHI in 2009.</u>	<u>Title 42 Code of Federal Regulations (CFR) Part 2 - Confidentiality of Substance Use Disorder Patient Records - 1975</u> <i>(In combination with MI Mental Health Code as it relates to SUD)</i>
Sharing PHI with a covered entity regarding individuals who have experienced elder abuse, domestic violence, sexual assault, stalking, or other crimes.					
For a covered entity reporting elder abuse, domestic violence, sexual assault, stalking, or other violent crime committed against a individual to law enforcement based on Michigan mandatory reporting laws.					

* Michigan Mental Health Code, as it relates to SUD, appears to be more protective than Title 42 CFR Part 2 **in these instances**, therefore individual consent is necessary to share SUD PHI.

Reason Category: MINORS

(SUD, Public Health, Behavioral Health, Abuse)

LEGISLATION

REASON FOR REQUEST	<u>Michigan Mental Health Code Act 258 of 1974</u> <i>(Behavioral Health PHI not including SUD)</i>	<u>Michigan Public Health Code Act 368 of 1978</u>	<u>Michigan Medical Records Access Act 47 of 2004</u>	<u>Health Insurance Portability and Accountability Act (HIPAA) of 1996.</u> <u>Expanded to include electronic PHI in 2009.</u>	<u>Title 42 Code of Federal Regulations (CFR) Part 2 - Confidentiality of Substance Use Disorder Patient Records - 1975</u> <i>(In combination with MI Mental Health Code as it relates to SUD)</i>
To share PHI of a minor containing any mention of current or past SUD with a covered entity. This includes mention of any diagnoses, medications, names of clinicians, or facilities that can be associated with SUD treatment.					
For personal representative or spouse of minor individual to access PHI from a covered entity regarding sexually transmitted infections (STI) / HIV when services are provided by clinicians not funded by Title X.					
For personal representative or spouse of a minor individual to access PHI from a covered entity regarding sexually transmitted infections (STI) / HIV when services are provided by clinicians funded by Title X.					
For personal representative of a minor individual to access PHI from a covered entity about general medical care (not including SUD).					
For personal representative of a minor individual to access PHI from a covered entity about in individual behavioral health care (not including SUD).					
For personal representative of a minor individual to access PHI from a covered entity about outpatient behavioral health care (not including SUD).					
School nurse requesting PHI regarding treatment for asthma, ADHD, or immunization.					
For a covered entity's mandatory reporters to report child abuse.					

Reason Category: MINORS

(Reproductive Health)











LEGISLATION

REASON FOR REQUEST	Michigan Mental Health Code Act 258 of 1974 <i>(Behavioral Health PHI not including SUD)</i>	Michigan Public Health Code Act 368 of 1978	Michigan Medical Records Access Act 47 of 2004	Health Insurance Portability and Accountability Act (HIPAA) of 1996. Expanded to include electronic PHI in 2009.	Title 42 Code of Federal Regulations (CFR) Part 2 - Confidentiality of Substance Use Disorder Patient Records - 1975 <i>(In combination with MI Mental Health Code as it relates to SUD)</i>
For personal representative of a minor individual to access PHI from a covered entity regarding contraceptive services provided by clinicians not funded by Title X or Title XIX.					
For personal representative of a minor individual to access PHI from a covered entity regarding contraceptive services provided by clinicians funded by Title X or Title XIX.					
For personal representative of a minor individual to access PHI from a covered entity regarding abortion services when court has issued parental consent waiver.					
For personal representative of a minor individual to access PHI from a covered entity regarding abortion services when parental consent has been given.					
For personal representative of a minor individual to access PHI from a covered entity regarding prenatal and pregnancy-related health care services provided by clinicians not funded by Title X.					
For personal representative of a minor individual to access PHI from a covered entity regarding prenatal and pregnancy-related health care services provided by clinicians funded by Title X.					

Reason Category: EMERGENCY

(Adults and Minors)

LEGISLATION
















REASON FOR REQUEST	<u>Michigan Mental Health Code Act 258 of 1974</u> <i>(Behavioral Health PHI not including SUD)</i>	<u>Michigan Public Health Code Act 368 of 1978</u>	<u>Michigan Medical Records Access Act 47 of 2004</u>	<u>Health Insurance Portability and Accountability Act (HIPAA) of 1996.</u> <u>Expanded to include electronic PHI in 2009.</u>	<u>Title 42 Code of Federal Regulations (CFR) Part 2 - Confidentiality of Substance Use Disorder Patient Records - 1975</u> <i>(In combination with MI Mental Health Code as it relates to SUD)</i>
For covered entities to provide information on individuals that are in the individual's best interest as determined by the covered health care clinician, in the exercise of personal judgment, during severe disaster (hurricanes, fires, earthquakes, etc.) or national public health emergency.					
Spouse, family, and/or friends that are involved in the care of an individual are seeking information because the individual has overdosed and/or the individual is incapacitated.					

* Michigan Mental Health Code, as it relates to SUD, appears to be more protective than Title 42 CFR Part 2 in these instances, therefore individual consent is necessary to share SUD PHI.

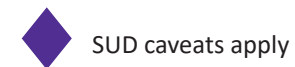
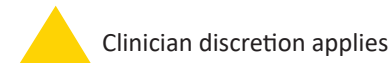
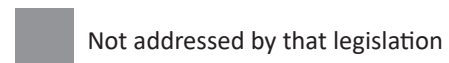
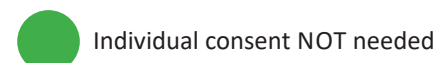
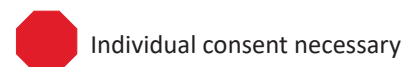
Reason Category: LEGAL

(Adults and Minors)

LEGISLATION

REASON FOR REQUEST	<u>Michigan Mental Health Code Act 258 of 1974</u> <i>(Behavioral Health PHI not including SUD)</i>	<u>Michigan Public Health Code Act 368 of 1978</u>	<u>Michigan Medical Records Access Act 47 of 2004</u>	<u>Health Insurance Portability and Accountability Act (HIPAA) of 1996.</u> <u>Expanded to include electronic PHI in 2009.</u>	<u>Title 42 Code of Federal Regulations (CFR) Part 2 - Confidentiality of Substance Use Disorder Patient Records - 1975</u> <i>(In combination with MI Mental Health Code as it relates to SUD)</i>
A covered entity receives a request under an order, a subpoena of a court of record, or a subpoena of the legislature.					
A covered entity feels that there is an immediate threat to health and/or safety of individual and/or someone individual has mentioned so they contact law enforcement.					
A covered entity receives a request for PHI as a result of a legal issue without subpoena or court ordered request.					

* Michigan Mental Health Code, as it relates to SUD, appears to be more protective than Title 42 CFR Part 2 in these instances, therefore individual consent is necessary to share SUD PHI.



Special Requirements Pertaining to Family Violence, Victims of Crime, and Violence Against Women Legislation

If you receive federal funding under the Family Violence Prevention and Services Act (FVPSA), the Victims of Crime Act (VOCA), and/or the Violence Against Women Act (VAWA), and you have provided someone with services for domestic abuse, sexual assault, stalking, or other crimes, do not use Patient Authorization Form MDHHS-5515 to obtain that person's consent to release information about behavioral or mental health services, or referrals or treatment for SUD. Instead, use a specialized form designed to address the heightened safety and privacy concerns that this person may have. The National Network to End Domestic Violence has developed a [sample Client Limited Release of Information form](#) for federal grantees that you may adapt (available in English and Spanish).

If you do not receive federal funding under FVPSA, VOCA, and/or VAWA, and you have provided someone with services for domestic abuse, sexual assault, stalking, or other crimes, use of [Patient Authorization Form MDHHS-5515](#) is neither prohibited nor required. Your decision whether to use this form should be informed by a discussion about the potential risks and benefits of information-sharing with the person you are serving, keeping in mind that this form may not address the heightened safety and privacy concerns the person may have.

If you are seeking health information about a person who has received services for domestic abuse, sexual assault, stalking, or other crimes from another provider, you should discuss the potential risks of information-sharing with that person before asking him or her to complete [Patient Authorization Form MDHHS-5515](#) or another consent form. As a best practice, it is preferable to have the other provider obtain the person's consent, regardless of that provider's source of funding. The other provider is likely better able to develop a written consent form that addresses the person's safety and privacy concerns, based on that provider's knowledge of the person's situation.

Information sharing poses important safety risks for individuals who have experienced domestic abuse, domestic violence, sexual assault, or stalking. Crime perpetrators may use identifying and sensitive information to locate or harm victims, and victims who fear the release of this information may not seek support or services for treatment.

If you or your organization receives funding under FVPSA, VOCA, or VAWA, you **may not**:

- Disclose, reveal, or release any personally identifying information or individual information collected in connection with services requested, utilized, or denied through grantees' and subgrantees' programs, regardless of whether the information has been encoded, encrypted, hashed, or otherwise protected; or
- Disclose, reveal, or release individual client information without the informed, written, reasonably time-limited consent of the person (or in the case of an unemancipated minor, the minor and the parent or guardian or in the case of legal incapacity, a court-appointed guardian) about whom information is sought, whether for this program or any other federal, State, tribal, or territorial grant program.

If the release of information is required by statutory or court mandate,

- You must make reasonable attempts to provide notice to victims affected by the release of the information; and
- You must take steps necessary to protect the privacy and safety of the persons affected by the release of the information.

When obtaining consent:
















- You must use specialized consent forms tailored to reduce the risk of revealing personally identifying information to abuse or crime perpetrators.
- If a minor or a person with a legally appointed guardian is permitted by law to receive services without the parent's or guardian's consent, the minor or person with a guardian may authorize release of that information without additional consent.
- Consent for release may not be given by the abuser of the minor, incapacitated person, or the abuser of the other parent of the minor.

Learn more information about sharing the PHI of people who have experienced domestic abuse, sexual assault, stalking, or another crime with this [MDHHS FAQ for Providers](#).

FVPSA, VOCA, VAWA

Reason Categories when NO individual consent is needed

LEGISLATION

REASON FOR REQUEST	<u>Family Violence Prevention and Services Act (FVPSA) - 1984/2018</u>	<u>Victims of Crime Act (VOCA) - 1984/2002</u>	<u>Violence Against Women Act (VAWA) - 1994/2019</u>
For a covered entity to provide de-identified information for scientific study or research purposes.			
For a covered entity reporting domestic violence, sexual assault, stalking, or other violent crime committed against a individual to law enforcement based on Michigan mandatory reporting laws.			
For a covered entity's mandatory reporters to report child abuse.			
A covered entity receives a request under an order, a subpoena of a court of record, or a subpoena of the legislature.			
A covered entity feels that there is an immediate threat to health and/or safety of individual and/or someone individual has mentioned so they contact law enforcement.			

The FVPSA, VOCA, and VAWA grid that follows summarizes the situations when you may share the information **without** obtaining consent. **For all other scenarios, you must obtain individual consent, and extreme caution must be taken to ensure the privacy and safety of adult, youth, and child victims of domestic violence, dating violence, sexual assault, or stalking, and their families.**

More Examples of How to Use the Grids

Example #2

Mrs. Smith, an independent, competent, diabetic adult individual of your primary care practice, not a victim of DV, or other crime, asks for a copy of her most recent lab work so she can track her HbA1c for diabetes control.

1. There are two versions of the Grid: one that references DV, stalking etc., and a Grid that references all other requests for PHI. For this example, you would use the Grid on page 8 with Reason Category ALL.
2. Find the description that matches this example. This request is from an individual about her own records – it is the first Reason listed in the left column.

Reason Category: **ALL**
 (Self, Continuity of Care, Personal Representative, Friends/Family, Health Care Claim Payment, Facility Operations, Research, Marketing, Psychotherapy Notes)

LEGISLATION

REASON FOR REQUEST	Michigan Mental Health Code Act 258 of 1974 <i>(Behavioral Health PHI not including SUD)</i>	Michigan Public Health Code Act 368 of 1978	Michigan Medical Records Access Act, Act 47 of 2004	Health Insurance Portability and Accountability Act (HIPAA) of 1996. Expanded to include electronic PHI in 2009.	Title 42 Code of Federal Regulations (CFR) Part 2 - Confidentiality of Substance Use Disorder Patient Records -1975 <i>(In combination with MI Mental Health Code as it relates to SUD)</i>
The individual asks a covered entity for some or all of their own health record.	▲ 1	▲ 2	▲ 2	▲ 2	●
Every individual's care team to be able to provide continuity of	●	●	■	●	▲

3. Mrs. Smith is a competent adult who does not have a guardian, the information requested is regarding her diabetes control (not anything behavioral health related), and she does not have a SUD, so you would consult the Michigan Public Health Code and HIPAA columns on this Grid.
4. Both of these columns show a yellow triangle with #2 next to it, denoting a Caveat.
5. Go to the Caveats, which start on page 24 of the full PHI Consent Tool, and find Caveat #2.
6. As Mrs. Smith is a competent adult and sharing her HbA1c result will not harm her, proceed with giving Mrs. Smith a copy of her HbA1c report. Remember to follow your facility's process in documenting that she was given a copy of her record.

Example #3


























The wife of an adult individual in your orthopedic practice, Mr. Doe, would like a copy of the MRI he had on his knee.

1. You look in Mr. Doe’s medical record and note the knee injury is related to a motor vehicle accident and not due to domestic or family violence, so you do not use the Grid that addresses the DV legislations. You instead reference the Grid on page 8 with Reason Category ALL.

Reason Category: ALL

(Self, Continuity of Care, Personal Representative, Friends/Family, Health Care Claim Payment, Facility Operations, Research, Marketing, Psychotherapy Notes)

LEGISLATION

REASON FOR REQUEST	Michigan Mental Health Code Act 258 of 1974 <i>(Behavioral Health PHI not including SUD)</i>	Michigan Public Health Code Act 368 of 1978	Michigan Medical Records Access Act, Act 47 of 2004	Health Insurance Portability and Accountability Act (HIPAA) of 1996. Expanded to include electronic PHI in 2009.	Title 42 Code of Federal Regulations (CFR) Part 2 - Confidentiality of Substance Use Disorder Patient Records -1975 <i>(In combination with MI Mental Health Code as it relates to SUD)</i>
The individual asks a covered entity for some or all of their own health records.	 1	 2	 2	 2	
For any individual's care team to be able to provide continuity of care for medical and/or behavioral health issues.					 3
For a covered entity to inform a individual's personal representative about their care.	 4	 4	 2	 4	 5
For a covered entity to inform a spouse, family member, or friend about an individual's care.		 6		 6	 *
To assist a covered entity in determining medical insurance eligibility, performing medical billing and collections activities, determining medical necessity, for utilization review (activities related to getting					

2. This request is from a spouse, and in the Reasons list you find: “For a covered entity to inform a spouse, family member, or friend about an individual’s care.”
3. Since the information being requested does not contain BH or SUD information, Caveat #6 would need to be consulted. Caveat #6 states that, since a knee MRI is not a life or death event where one might need to release PHI urgently without permission, an individual’s permission is required.
4. If you have already obtained consent from Mr. Doe stating it is acceptable to release information to his spouse (he has listed her as a personal representative and has signed a form stating what you are allowed to release to her), proceed with your facility’s process in releasing PHI. If you do not have a current consent on file from him stating you may release his PHI to his spouse, you must obtain consent from him before giving his wife the MRI result.