Policy/Procedure Number: CMP-41		Lead Department: Administration
Policy/Procedure Title: Wellness and Recovery Program Records		☒ **External Policy** ☒ **Internal Policy**
Original Date: 01/16/2020	**Next Review Date: 09/03/2027** **Last Review Date: 09/03/2026**	
Applies to: ☒ **Medi-Cal**	☐ **Healthy Kids**	☐ **Employees**

PARTNERSHIP HEALTHPLAN OF CALIFORNIA

POLICY/ PROCEDURE

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Reviewing Entities:	☐ **IQI**	☐ **P & T**	☐ **QUAC**	
	☐ **OPERATIONS**	☐ **EXECUTIVE**	☐ **COMPLIANCE**	☐ **DEPARTMENT**
Approving Entities:	☐ **BOARD**	☒ **COMPLIANCE**	☐ **FINANCE**	☐ **PAC**
	☐ **CEO** ☐ **COO**	☐ **CREDENTIALING**	☐ **DEPT. DIRECTOR/OFFICER**	
Approval Signature: *Sonja Bjork, CEO*			**Approval Date: 09/03/2026**	

I. RELATED POLICIES:

1. CMP-10: Confidentiality
2. CMP-13: Minimum Use Necessary or Disclosure of Member Information
3. CMP-18: Reporting Privacy Incidents
4. CMP-23: External PHI Release
5. CMP-26: Verification of Caller Identity and Release of Information
6. CMP-30: Records Retention and Access Requirements
7. IT-051: Inbound and Outbound Data Governance
8. MPQP1008: Conflict of Interest for QI Activities

II. IMPACTED DEPTS:

1. All

III. DEFINITIONS:

1. ASAM: means the American Society of Addiction Medicine criteria screening tool that evaluates the level of care and guidelines for placement for individuals with substance use disorder needs.
2. CalOMS: means California Outcome Measures System, the DHCS statewide data collection and reporting system for substance use disorder treatment services.
3. Covered Information: means any information, whether recorded or not, created by, received, or acquired by a Covered Program relating to a Covered Patient (e.g., Diagnosis, Treatment and referral for Treatment information, billing information, emails, voice mails, and texts). For the purpose of this Policy, Covered Information includes both paper and electronic records. Covered Information includes, without limitation, medical records maintained by a Covered Program or obtained from a Covered Program identifying an individual as a Covered Patient.
4. Covered Patient(s): means any individual who has applied for or been given Diagnosis, Treatment, or referral for Treatment for a Substance Use Disorder at a Covered Program. This definition includes both current and former patients. The special restrictions apply to the use and disclosure of information

identifying an individual as a Covered Patient.

5. Covered Program: means and includes: (a) an individual or entity (other than a general medical facility) who holds itself out as providing, and provides, Substance Use Disorder Diagnosis, Treatment, or referral for Treatment; or (b) an identified unit within a general medical facility that holds itself out as providing, and provides, Substance Use Disorder Diagnosis, Treatment, or referral for Treatment; or (c) medical personnel or other staff in a general medical facility whose primary function is the provision of Substance Use Disorder Diagnosis, Treatment, or referral for Treatment and who are identified as such providers. Covered Programs include, but are not limited to, those Treatment or rehabilitation programs, employee assistance programs, programs within general hospitals, and private practitioners who hold themselves out as providing, and provide Substance Use Disorder Diagnosis, Treatment, or referral for Treatment who are treated as receiving direct or indirect federal assistance through Medicare participation, tax-exemption or other criteria as set forth in 42 CFR § 2.12.
6. DATAR: means the Drug and Alcohol Treatment Access Report (DATAR) that the Department of Health Care Services (DHCS) requires providers to submit monthly regarding their capacity and waitlists.
7. Governing Agency: means agencies that have oversight and enforcement responsibility for the Medicaid/Medi-Cal program, this includes Medi-Cal authorities such as the U.S. Department of Health and Human Services, United States Attorney's Office, Office of Civil Rights and the California Department of Health Care Services (DHCS).
8. Lawful Holder: means a recipient of Covered Information pursuant to a fully executed Covered Patient consent.
9. Special Audit and Evaluation Personnel: means person(s) who: (a) perform an audit or evaluation on behalf of: (i) any federal, state or local government agency which provides financial assistance to the Covered Program or is authorized by law to regulate its activities; or (ii) any individual or entity who provides financial assistance to the Covered Program, which is a third party payer covering patients in the Covered Program, or which is a quality improvement organization performing a utilization or quality control review.
10. Substance Use Disorder: means a cluster of cognitive, behavioral, and physiological symptoms indicating that the individual continues using the substance despite significant substance-related problems such as impaired control, social impairment, risky use, and pharmacological tolerance and withdrawal. For the purposes of this Policy, Substance Use Disorder does not include tobacco or caffeine use.
11. Third-Party Payer: means an individual or entity like Partnership who pays and/or agrees to pay for diagnosis or treatment furnished to a patient on the basis of a contractual relationship or on the basis of the patient's eligibility for federal, state, or local governmental benefits.
12. Treatment: means the care of a patient suffering from a Substance Use Disorder, a condition which is identified as having been caused by the Substance Use Disorder, or both, in order to reduce or eliminate the adverse effects upon the patient.
13. Wellness & Recovery Program: means Partnership's regional Drug Medi-Cal Organized Delivery System waivered program in seven counties within Partnership's service area.

IV. ATTACHMENTS:

1. N/A

V. PURPOSE:

To describe the applicable privacy rules and contractual requirements specific to the provision of substance use disorder (SUD) services, provided through Partnership's Wellness and Recovery (W&R) Program, by which Partnership HealthPlan of California (Partnership) staff and Covered Programs must comply. These requirements may be in addition to all privacy and security rules that apply to Partnership and its staff and

Covered Programs.

VI. POLICY / PROCEDURE:

1. W&R Covered Program Obligations
   A. Governance: As contracted providers with Partnership's W&R Program, providers are considered

      Covered Programs and as such, shall comply with the following applicable privacy requirements:
      i. 42 CFR Part 2 restrictions and reporting requirements for maintaining Covered Information including state law pursuant to CA Health & Safety Code §11845.5.
      ii. HIPAA Privacy Rules found in 45 CFR Parts 160 and 164.
      iii. DHCS contractual reporting requirements contained in Exhibit G of the DHCS COHS managed care plan contract and consistent with Partnership policy and procedure CMP-10 Confidentiality and CMP-18 Reporting Privacy Incidents.
      iv. Section 3221 of the CARES Act, aligning with the HIPAA Privacy Rules and modifying 42 CFR Part 2 as mentioned above.
   B. Reporting responsibilities: Covered Programs shall report suspected or actual privacy incidents as follows:
      i. *Reporting to* Partnership: Pursuant to Partnership policy and procedure CMP-18 Reporting Privacy Incidents
      ii. *Reporting to other agencies*: Partnership shall maintain processes for receiving and responding to complaints regarding compliance with 42 CFR Part 2 and shall comply with applicable federal and state reporting, audit, investigation, and oversight requirements..
      iii. Patients have the right to an accounting of disclosures and to request restrictions on certain disclosures, similar to HIPAA rights. 42 CFR § 2.25.
      iv. HIPAA breach notification rule requirements apply to SUD record breaches. Which means notification requirements to notify HHS and affected patients in case of a breach of SUD records. (42 CFR § 2.22)
   C. Oversight of Covered Programs: Compliance with applicable privacy rules and reporting responsibilities will remain the obligation of governing agencies.
2. Partnership Disclosures of Covered Information
   A. Pursuant to confidentiality restrictions and safeguards described under 42 CFR Part 2 §2.13, member records or Covered Information, related to substance use disorder treatment/services shall not be disclosed in any civil, criminal, or administrative matters unless otherwise allowable pursuant to conditions described under Part 2. Partnership may be in receipt of Covered Information and in these instances is considered a Lawful Holder of Covered Information and subject to confidentiality restrictions of Part 2.
   B. If a patient of a Covered Program executes a valid release of information, the Covered Information may be released consistent with HIPAA regulations for Treatment, Payment and Healthcare Operations (TPO) pursuant to § 3221(b). However, substance use treatment counseling notes are not covered by a general release of information. A separate and distinct release of information must be executed in order for the release of substance use counseling notes pursuant to §2.31 and 87 FR 74216.
      i. Patients may provide a one-time consent for all future uses and disclosures of SUD records for treatment, payment, and healthcare operations., consistent with applicable 42 CFR § 2.31(a)(4)(i)
         a. This one-time consent may be revoked at any time by the member. Except as described below, Partnership will not redisclose this Covered Information.

A. Claims
   i. Partnership will be in receipt of claims Covered Information from Covered Programs who

obtain consent from the W&R Covered Patient.

ii. Partnership will only redisclose W&R Claims to DHCS, other applicable governmental agencies, or Business Associates for payment and financial reporting obligations of the Medi-Cal program and in compliance with 42 CFR Part 2 §2.31.

B. Treatment Authorization Requests (TARs) and American Society of Addiction Medicine (ASAM)

i. Partnership will only use information received through TARs from residential Wellness & Recovery Covered Programs to determine eligibility for services and payment.

ii. Partnership will only use information received through ASAM screening tools from Covered Programs for the purposes of determining eligibility for services and payment.

C. Case Management and Care Coordination Pursuant to 42 CFR Part 2 §2.33 (b) & CA WIC 14184.102(j)

i. Although disclosures for case management and care coordination may be permissible under the HIPAA Privacy Rules, such disclosures are only permissible in a limited manner pursuant to 42 CFR Part 2 § 2.33 (b) for care coordination and case management and shall only include the minimum necessary information to carry out these activities. Specifically, as a lawful holder, Partnership may redisclose Part 2 information for care coordination and case management purposes only to Partnership contracted entities. These contracted entities may include contracted providers, subcontractors and other contracted entities. If Partnership is providing case management/care coordination related to substance use disorder treatment services that necessitates redisclosure of Covered Information to a non-contracted entity, Partnership must execute a member release of information form separate and distinct from the consent form by and between the Covered Patient and the Covered Program. Disclosure of SUD records to public health authorities is allowed without member consent only if records are de-identified per HIPAA standards.

A. Quality Improvement Pursuant to 42 CFR Part 2 §2.53

ii. Partnership is required by the Medi-Cal program to conduct Facility Site Reviews (FSRs) and Medical Record Reviews (MRRs) of contracted providers, including Covered Programs. In conducting these reviews, Partnership staff will encounter Covered Information. This information may only be redisclosed back to the originating Covered Program or to Medi-Cal regulatory bodies necessary to oversee the program.

iii. Covered Information from Covered Programs may be disclosed to satisfy reporting responsibilities for HEDIS and other regulatory quality measures as applicable.

iv. Covered Information may be disclosed for purposes of investigations related to potential quality issues.

v. Partnership's Substance Use Internal Quality Improvement Committee (SUIQI) may use Covered Information only to the extent necessary to ensure compliance with the provisions of the Wellness and Recovery Program, including the counties' monitoring of Partnership's obligations pursuant to the County/Partnership Master Agreement. In compliance with Partnership policy and procedure CMP-10 Confidentiality and MPQP1008 Conflict of Interest for QI Activities, all Committee participants will attest to following all applicable privacy rules including Part 2 requirements.

vi. CalOMS & DATAR

a. Covered Programs will submit monthly electronic CalOMS treatment data to Partnership as required by contract and pursuant to Drug Medi-Cal requirements.

b. Partnership will aggregate CalOMS data and submit this data to DHCS each month.

B. Audits & Evaluation

i. Partnership as a Medi-Cal Managed Care Plan and a delegate, shall ensure compliance with the Drug Medi-Cal Organized Delivery System. As such, Partnership is subject to audits,

evaluations, and investigations from governing agencies and their Special Audit and Evaluation Personnel and shall only redisclose Covered Information to these entities consistent with the audit and evaluation disclosure exception found in 42 CFR Part 2 §2.53.

ii.

C. Other Allowable Disclosures

i. Court Orders – Covered Information may be disclosed if authorized by an appropriate order of a court of competent jurisdiction granted after application showing good cause. Covered Information may not be disclosed based upon a subpoena alone. Where a subpoena is received that would otherwise require disclosure identifying an individual as a Covered Patient, Partnership will provide a timely written response by referring the relevant party to 42 CFR Part 2, and providing any other records that may be lawfully provided without violation of 42 CFR Part 2.

ii. Child Abuse – Pursuant to 42 CFR Part 2 §2.63, Covered Information may be disclosed to report suspected child abuse and neglect cases. However, 42 CFR Part 2 restrictions still apply and use of Covered Information in civil or criminal proceedings, which may arise out of the report of suspected child abuse, or neglect must follow the process in responding to subpoenas found in F(i) above.

iii. Medical Emergency – Pursuant to 42 CFR Part 2 §2.51, Covered Information may be disclosed to medical personnel to the extent necessary to meet a bona fide medical emergency.

iv. Research Purposes – Pursuant to 42 CFR Part 2 §2.52, Covered Information may be disclosed to qualified personnel conducting scientific research and is bound by all applicable privacy rules and requirements, inter alia.

v. Crime on the Premises – In the event of a crime or threat to commit a crime onsite or against personnel, Covered Information may be disclosed to law enforcement to the extent the information is directly related to the crime or threat of.

D. Requests for Disclosures

i. Requests for disclosures not allowable pursuant to this policy shall be referred to the Partnership Privacy Officer and Legal Affairs for review and consideration.

3. Safeguarding Covered Information

A. Records created by Partnership shall not be considered Covered Information, but shall be subject to the same safeguard provisions of applicable privacy rules. Partnership shall safeguard and maintain Covered Information consistent with all applicable privacy rules and contractual requirements including assurance of staff access consistent with Partnership policy and procedure CMP 13 Minimum Necessary Use or Disclosure of Member Information. Additionally Partnership will:

i. Exclude W&R Claims information from any Health Information Exchange (HIE) activities unless disclosure is otherwise permitted under applicable state or federal law, including 42 CFR Part 2.

ii. Maintain W&R TARs, ASAMs and any additional documents received from Covered Programs to determine eligibility for services along with any Covered Patients Covered Information separately from non-SUD records; and

iii. Maintain a secure electronic CalOMS database.

4. Privacy Reporting

A. Partnership staff are mandated to maintain confidentiality and report suspected privacy incidents pursuant to Partnership policy and procedure CMP-10 Confidentiality and CMP-18 Privacy Incident Reporting. Partnership will include Covered Information requirements in the annual Compliance and Privacy trainings provided to staff and contractors.

VII. REFERENCES:

. CMP41 Wellness and Recovery Program Records.

A. Confidentiality of Substance Use Disorder Patient Records, 42 CFR Part 2
B. Confidentiality of Substance Use Disorder Patient Records; Final Rule (89 FR 12472), implementing CARES Act amendments to 42 CFR Part 2.

C. Health Insurance Portability and Accountability Act (HIPAA), 45 CFR Parts 160 and 164
D. CA Health & Safety Code §11845.5
E. CA Welfare & Institutions Code § 14184.102 (j) (AB 133 State Law Applicability Provision)

VIII. DISTRIBUTION:
A. PowerDMS
B. Directors

IX. DEPARTMENT(S) RESPONSIBLE FOR IMPLEMENTING PROCEDURE: Regulatory Affairs & Compliance

X. REVISION DATES:

Medi-Cal 1/16/20, 08/19/2021, 8/18/2022, 8/17/2023, 08/15/2024 ,08/18/2025, 09/03/2026

PREVIOUSLY APPLIED TO:

N/A