COPPER COUNTRY MENTAL HEALTH SERVICES BOARD

POLICY AND PROCEDURE

DATE: July 25, 2012 Privileged Communication.P1

RESCINDS: August 28, 1991

CATEGORY: Client Services

SUBJECT: Privileged Communication

POLICY: It is the policy of Copper Country Mental Health Services Board that privileged communication shall be honored according to Section 750 of Act No.258 of the Public Acts of 1974.

PURPOSE: With respect for the right of the person served to privileged communication, disclosure of such information is given only in the circumstances and under the conditions set forth in this procedure.

PROCEDURE: Taken from Section 750 of Act No.258 of Public Acts of 1974:

1. "Privileged Communication" means a communication made to a psychiatrist or psychologist in connection with the examination, diagnosis, or treatment of a patient, or to other person while the other person is participating in the examination, diagnosis, or treatment.

2. Privileged communications shall not be disclosed in civil, criminal, legislative, or administrative cases or proceedings, or in proceedings preliminary to such cases or proceedings, unless the patient has waived the privilege, except in the circumstances set forth in this section.

3. Privileged communications shall be disclosed upon request, under one or more of the following circumstances:

a. If the privileged communication is relevant to a physical or mental condition of the patient that the patient has introduced as an element of the patient’s claim or defense in a civil or administrative case or proceeding or that, after the death of the patient, has been introduced as an element of the patient’s claim or defense by a party to a civil or administrative case or proceeding.

POLICY & PROCEDURE: Privileged Communication Page 2

b. If the privileged communication is relevant to a matter under consideration in a proceeding governed by this act, but only if the patient was informed that any communications could be used in the proceeding.

c. If the privileged communication is relevant to a matter under consideration in a proceeding to determine the legal competence of the patient or the patient’s need for a guardian but only if the patient was informed that any communication made could be used in such a proceeding.

d. In a civil action by or on behalf of the patient or a criminal action arising from the treatment of the patient against the mental health professional for malpractice.

e. If the communications were made during an examination ordered by a court, prior to which the patient was informed that a communication made would not be privileged, but only with respect to the particular purpose for which the examination was ordered.

f. When the communications were made during treatment that the patient was ordered to undergo to render the patient competent to stand trial on a criminal charge, but only with respect to issues to be determined in proceedings concerned with the competence of the patient to stand trial.

4. In a proceeding in which subsections (2) and (3) prohibit disclosure of a communication made to a psychiatrist or psychologist in connection with the examination, diagnosis, or treatment of a patient, the fact that the patient has been examined or treated or undergone a diagnosis also shall not be disclosed unless that fact is relevant to a determination by a health care insurer, health care corporation, non-profit dental care corporation, or health maintenance organization of its rights and liabilities under a policy, contract, or certificate of insurance or health care benefits.

5. Privileged communication may be disclosed pursuant to Section 946 of the Mental Health Code to comply with the duty set forth in that section. "

APPLICATION: All programs

CROSS REFERENCE:

CCMHS Policy – Confidentiality and Confidentiality Appendix 1

CCMHS Policy – Use and Release of Protected Health Information