

SCAO Model Document

Documents: Multiple-Party Consent to Release Information

Program Type: Problem-Solving Courts

This model document is provided by the State Court Administrative Office (SCAO) as a resource and is for informational purposes only. It is intended only to assist courts with operating a problem-solving court and to comply with the problem-solving court statutes, and federal and state confidentiality laws. This model document is not intended (and cannot be construed) as legal advice.

Customize the sections that are in bold and highlighted in yellow. Once customized, the court should remove the brackets, bold, and highlighting. The parties listed in the model document do not include agencies that are likely a “Qualified Service Organization” (QSO) as defined in [42 CFR section 2.11](#). If there is an agency that the program would exchange confidential information with, and that agency is not a QSO¹ as defined in 42 CFR, you will need to add that agency as a party in this form.

As a model document, this is generic in nature and should be modified to fit your program.

Before developing your confidentiality documents please review the University of New Hampshire’s School of Law/Institute for Health Policy & Practice’s “Substance Use Disorder Treatment Confidentiality Boot Camp” guide located at <https://chhs.unh.edu/sites/default/files/substance-use-disorder-privacy-part-2-idn-workbook-unh-1017.pdf>.

¹ Page 56 of the “Substance Use Disorder Treatment Confidentiality Boot Camp” guide has an example of the written agreement required for a QSO.

[Name of problem-solving court]
Multiple-Party Consent for Release of Information

Participant's Full Name: _____ DOB: _____

I authorize the following parties:

1. **[Name of problem-solving court]**,
2. **[Name of county]** MDOC probation/parole department
3. **[Name of district court]** probation department
4. **[Name of county]** prosecutor's office
5. **[Name of treatment agency]**
6. **[Name of law enforcement agency]**
7. Michigan Secretary of State (Interlock Program) ²

To Communicate with and disclose to one another the following information:

INFORMATION TO BE SHARED

1. Name, address, and other personal identifying information of the participant.
2. **[Name of problem-solving court]** program assessments (GAIN, COMPAS, risk and needs, etc.).
3. **[Name of problem-solving court]** program behavior summaries and updates.
4. Treatment information, including assessments, attendance, progress and compliance reports, treatment plans, and discharge summaries.
5. Drug and alcohol screening, testing, confirmation results, and payment information.
6. Health information.
7. Reportable communicable disease information, including HIV, sexually transmitted infections, hepatitis, and tuberculosis.
8. Health plan or health benefits information.
9. Electronic monitoring information, including compliance and payment information.
10. Information required to obtain a restricted license through the ignition interlock program.³
11. Other (specify, if any): _____

Note: I authorize all of the preceding information to be shared unless I indicate here, by number, one or more categories of information not to be shared: _____

² This is not applicable to Mental Health Courts and should be removed from this form if being used for a mental health court

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PURPOSE AND USE OF DISCLOSURE

The purposes for the disclosures authorized by this form are:

1. To assess the participant's need for substance use, mental health, or developmental disabilities services and treatment.
2. To provide, manage, and coordinate [Name of problem-solving court] program and substance use, mental health, and developmental disabilities services and treatment for the participant.
3. To develop a person-centered plan, service plan, and/or treatment plan for the participant.
4. To make dispositional recommendations for a court-involved participant.
5. To monitor payment for services, and establish financial assistance if determined necessary.
6. To improve service and treatment outcomes for participants involved in the [Name of problem-solving court] program.
7. To monitor my participation in the [Name of problem-solving court] program and compliance with the program rules.
8. To provide information for evaluation of the [Name of problem-solving court] program
9. To disclose to the Michigan Secretary of State (Interlock Program) information required on Michigan form MC393 to obtain a restricted license through the ignition interlock program.⁴
10. Other (please specify): _____

REDISCLOSURE AND CONFIDENTIALITY

Once health care information is disclosed pursuant to this signed authorization, I understand that the federal health privacy law (45 CFR, Parts 160 and 164) protecting health information may not apply to the recipient of the information and, therefore, may not prohibit the recipient from re-disclosing information to others. However, substance-abuse treatment information protected by federal law (42 CFR, Part 2), shall remain confidential and must not be re-disclosed by the recipient except as authorized by those laws or this authorization⁵. The federal rules restrict any use of this information to criminally investigate or prosecute any alcohol or drug abuse patient.

CONSENT EXPIRATION

The date, event, or condition upon which consent expires must ensure that the consent will last no longer than reasonably necessary to serve the purpose for which it is given.

This consent for release of information shall expire upon my discharge from the [Name of problem-solving court] program.

⁴ This is not applicable to Mental Health Courts and should be removed from this form if being used for a mental health court

⁵ An individual within the criminal justice system who receives patient information under 42 CFR § 2.35 may re-disclose and use it only to carry out that individual's official duties with regard to the patient's conditional release or other action in connection with which the consent was given.

REVOCATION

I understand that I may revoke this consent, orally or in writing, at any time except to the extent that action has been taken in reliance on it. I also understand that I do not have to fill out this form. If I do not fill it out, I cannot participate in the **[Name of problem-solving court]** program, but can still get health insurance, treatment, and other medical benefits from a health care provider.

I also understand that if I refuse to consent to disclosure, or attempt to revoke my consent prior to the expiration of this consent such action is grounds for immediate termination from the **[Name of problem-solving court]** program.

CONFIDENTIALITY RIGHTS

Federal law protects the confidentiality of treatment records under 42 CFR, Section 2.1 through Section 2.67; and Section 290dd-2. This means that:

1. Treatment information is ordinarily kept confidential.
2. Review hearings are held in open and public courtrooms, and although the court attempts to minimize confidential information in court, it is possible that an observer could connect a participant's identity with the fact that he or she is in treatment as a condition of participation in the **[Name of problem-solving court]** program or that confidential information may be revealed. I specifically consent to a potential disclosure to third persons.
3. Staffing meetings, which are held before review hearings, are typically closed to the public. Confidential information may be discussed by the **[Name of problem-solving court]** team members at a staffing meeting. I understand that if a non-team member is invited to participate in a staffing meeting they must receive my consent prior to observation.
4. It is a crime to violate confidentiality requirements, and the participant may report such violations to Michigan's attorney general at 517-373-1110.
5. Notwithstanding this confidentiality requirement, covered information may be released under specified circumstances and may include communication with administration and qualified service organizations working with the **[name of problem-solving court]** program, outside auditors, central registries and researchers.
6. The restrictions on disclosure and use in the regulations in 42 CFR part 2 do not apply to:
 - i. Communication with law enforcement agencies or officials regarding a crime committed on program premises or against program personnel.
 - ii. The reporting under state law of incidents of suspected child abuse and neglect to the appropriate state or local authorities. However, the restrictions continue to apply to the original substance use disorder patient records maintained by the part 2 program including their disclosure and use for civil or criminal proceedings which may arise out of the report of suspected child abuse and neglect.
 - iii. Court orders signed pursuant to 42 CFR part 2 for release of specific information.
 - iv. Disclosure to medical personnel if there is a determination that a medical emergency exists, i.e., there is a situation that poses an immediate threat to the health of any individual and requires immediate medical intervention - Information disclosed to the

