

ST. CLAIR COUNTY COMMUNITY MENTAL HEALTH AUTHORITY

ADMINISTRATIVE PROCEDURE

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I. APPLICATION:

- SCCCMHA Board
- SCCCMHA Providers & Subcontractors
- Direct-Operated Programs
- Community Agency Contractors
- Residential Programs
- Specialized Foster Care

II. PURPOSE STATEMENT:

St. Clair County Community Mental Health Authority (SCCCMHA) shall ensure its providers to fully support US and international copyright law to fulfill moral and legal obligations with respect to use of the copyright protected materials of others.

III. DEFINITIONS:

- A. Copyright: The purpose of copyright law is to provide authors and other creators (and those who obtain rights through such persons) with an incentive to create and share creative works by granting them exclusive rights to control how their works may be used. Among the exclusive rights granted to those authors are the rights to reproduce, distribute, publicly perform and publicly display a work. These rights provide copyright holders control over the use of their creations, and an ability to benefit, monetarily and otherwise, from the exploitation of their works. Copyright also protects the right to “make a derivative work,” such as publishing an article in a book or journal. For non-copyright holders, permission must be obtained prior to re-using or reproducing someone else’s copyrighted work.
- B. Copyright Protection: The rights granted under the U.S. Copyright Act (embodied in Title 17 of the U.S. Code) are intended to benefit “authors” of “original works of authorship,” including literary, dramatic, musical, architectural, cartographic, choreographic, pantomimic, pictorial, graphic, sculptural and audiovisual creations. This means that virtually any creative work in readable or viewable format, including books, magazines, journals, newsletters, maps, charts, photographs, graphic materials; unpublished materials, such as analysts' reports and consultants' advice; and non-print materials, including Web sites, computer programs and other software, databases, sound recordings, motion pictures, video files, sculptures and other artistic works are almost certainly protected by copyright. However, not everything is protected by copyright. Some things may, be protected under other areas of law, such as patent or trademark law, or by contract. It is important to be sure that no other form of protection restricts the use of such materials before using them.

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- C. Duration of Copyright: In the U.S., a work created on or after January 1, 1978 is ordinarily protected for a term equal to the author's life plus 70 years after the author's death. This is called the "life-plus-70" rule. Works created by companies or other types of organizations have a copyright term of 95 years. For works created before 1978, the duration of protection depends on a number of factors and will vary.
- D. Fair Use of Copyright: Fair use is a defense under U.S. law that may be raised by the defendant in a copyright infringement case. Fair use recognizes that certain types of use of other people's copyright protected works do not require the copyright holder's authorization. The fair use doctrine is codified in Section 107 of the U.S. Copyright Act. See: www.copyright.gov/title17/. Fair use may be applicable for a few purposes: criticism, comment, news reporting, teaching, scholarship or academic research. Fair use requires an appropriate risk assessment as to whether re-use under certain circumstances may be considered fair use.

IV. STANDARDS:

- A. SCCCMHA acknowledges that copyright infringement is a violation of the law and civil and or criminal liability may be imposed on the individual infringer, as well as on the infringer's employer. Therefore, every employee is required to comply with copyright law and adhere to this copyright administrative procedure. Failure to do so may result in disciplinary action.
- B. Copyright infringement through inappropriate copying or distribution of copyrighted content is a personal as well as a company liability. This would also include altering language, format or reproduction of modifications made by an individual or corporation that does not hold the copyright with the intent of utilization of the copyrighted material in its altered format.
- C. Non-digital content that is protected by copyright is also protected in a digital form. Material found on a website may or may not be protected; it is always important to review and understand the terms of use for the site because those terms will indicate if the materials can be used without permission.
- D. Employees may not reproduce any copyrighted work in print, video or digital form in violation of the law. Works are considered protected even if they are not registered with the U.S. Copyright Office and employees must assume that most materials used are copyrighted until proven otherwise.
- E. If an employee wants to use material that is not covered by copyright, he or she should confirm that the material is not protected by any other area of law, such as trademark or trade secret law. If it has been created by an employee of the company, the material can be used subject to the guidelines set forth by SCCCMHA.
- F. When a work is copyrighted, written permission must be received from the copyright holder or a license must be obtained to acquire the right to reuse the copyrighted work in order to avoid an infringement of copyright, unless it is determined in consultation with legal counsel that the use would constitute a Fair Use.

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- G. **Requesting Permission:** Permission to use copyright-protected materials should be obtained prior to using those materials. It is best to obtain permission in writing, which may be by e-mail, and to ensure that the administrator/legal counsel of SCCCMHA has a copy of each permission form or letter. The time needed to obtain permission may vary. When possible, it is recommended to start the permission procedure well in advance of the time that the materials are needed. The copyright owner, his/her representative and/or the licensing intermediary that represents the kind of permission sought, will require certain specific information in order to provide the permission. Each permission request should include the following information:
1. Title of the material
 2. Creator/author of the material
 3. Description of material
 4. ISBN or ISSN, if applicable (standard numbers used on most published text material)
 5. Date of publication, if applicable
 6. Purpose for which you wish to reproduce the item (research, commercial, educational, etc.)
 7. How the material is to be reproduced (e.g., photocopied, digitized)
 8. Where the reproduced material will appear (including internal vs. external use) and for how long
- H. SCCCMHA has negotiated licenses or obtained written permission for some materials that allows employees to use and share materials. These licenses have restrictions and specific terms of use. As a result, it is critical that an employee investigate what the permitted uses are before copying or sharing any copyrighted materials.
- I. Whenever an employee of SCCCMHA creates written or other creative material (such as a Web presentation or audiovisual piece), that material is presumptively protected by copyright. Works created within the scope of or related to specific jobs are automatically owned by SCCCMHA as “works made for hire” under the U.S. Copyright Act. When works are to be created by contractors or consultants to SCCCMHA the contract with such contractor or consultant should specify that all works created under that contract are deemed to be “works for hire” and that if such works do not become the property of SCCCMHA as a matter of law, the contractor or consultant thereby assigns all of his/her/its rights in such works to SCCCMHA.
- J. When using any company-created copyrighted materials, a proper copyright notice should be posted on any materials that will be distributed outside SCCCMHA.
- K. If there is any doubt whether a work is covered by copyright it is best to be cautious and to follow the procedures established for the use of copyrighted works.
- L. SCCCMHA reserves the right to monitor its computer systems (including desktop, lap top and handheld devices) and any content stored on the agencies computer system. SCCCMHA also reserves the right to remove, delete, modify or otherwise disable access to any materials found to be infringing of copyright.
- M. Any shareware or software to be used on SCCCMHA’s computers should be licensed if they are to be used by an employee, consultant or contractor. For the security and safety of network systems,

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software should also be installed with the permission and assistance of information technology staff.

- N. SCCCMHA expects its employees to be responsible consumers of copyright-protected materials. Employees are encouraged to educate their peers on copyright compliance. If any employee witnesses a potential copyright infringement, it should be brought to administration's attention.

V. PROCEDURES:

Quality Improvement Staff

1. Begins and documents the process of collecting permission and if permission is not granted, indicate reason, date of refusal and specific material that cannot be copied, scanned or otherwise reproduced on the Scanned Document Guide - Copyright (Reference A).
2. Saves written permission documentation and store as an electronic version in the policy file and as a hardcopy under the discretion of the administrative director.
3. Documents copyrighted material that written permission is granted or a license is obtained and assessment or material can be scanned or otherwise reproduced – see Reference A.

Records Staff

4. Verifies if written permission has been granted (verify by checking the Scanned Document Guide – Copyrights, Reference A) then document, form, protocol or score sheet is scanned into electronic health record (OASIS).
5. Prepares for filing, if the document, form, protocol or score sheet is NOT granted permission to be scanned/uploaded into the EHR. The copyrighted item will be filed (alphabetical order) in a designated location within the applicable program. These assessment originals are to be kept for a period of 7 years (Administrative procedure #03-002-0060 Record Retention and Disposal – Administrative and Case Records).

Clinical Staff

6. Incorporates assessments and/or results that are not able to be scanned due to copyright infringement, into other clinical documentation as appropriate (Biopsychosocial, Clinical Assessment, etc.) so the scores and other relevant information is analyzed and accessible to staff that need information related to specific cases. Sends original assessment (if necessary) to records staff for filing in designated location.
7. Notifies “Assigned Staff” of the intent to utilize a specific assessment tool, so that permission to scan can be obtained in advance, otherwise the assessment will need to be stored as a hard copy and information/scores from the assessment tool(s) will need to be documented appropriately.
8. Refers to list of assessments tools that can be scanned into EHR, which will be updated as permissions are granted or denied. Questions should be directed to quality improvement staff.

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VI. REFERENCES:

- A. Scanned Document Guide – Copyrights
- B. U.S. Copyright Act
- C. Copyright Clearance Center
- D. Black’s Law Dictionary

VII. EXHIBITS:

None Available

VIII. REVISION HISTORY:

Dates issued 05/14, 05/15, 05/16, 05/17, 05/18, 05/19, 07/20, 05/22, 05/23.