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## INTRODUCTION

Any information related to a client's access to services at Family Resources is confidential. The boundaries of the confidentiality may vary from case to case depending on the nature of the client relationship and the governing legal authority. All client contacts are covered to some degree, however. The following general rules provide the framework within which programs develop their individual practices:

## GENERAL RULES OF CONFIDENTIALITY

- 1) Confidentiality rules apply to all aspects of the client relationship including, without limitation, the following:
  - a) Communications made by the client during interactions.
  - b) Any information obtained from the client or any other source in connection with the relationship.



- c) Any written or electronically recorded information concerning the client which is generated or obtained in connection with the relationship.
- 2) Rules of confidentiality prevent us from doing any of the following:
- a) Revealing any information about a client relationship which is sufficient to allow any person to determine the identity of the client.
  - b) Copy or allow to be copied or communicated without authorization any portion of a client record.
  - c) Responding to a subpoena, court order, summons, or other court process calling for the release of client information without first assuring the protection of client confidence.
  - d) Giving testimony in court containing client information under circumstances where the client is not represented, without first assuring the protection of client confidence.
- 3) Client confidentiality does not prevent:
- a) Release of information within the agency for administrative purposes, such as billing and payment or treatment team work.
  - b) Release of information which is required by mandatory reporter or duty to warn laws.
  - c) Release of information made pursuant to legally acceptable client authorization.
  - d) The giving of testimony when the client whose privacy is subject to protection is represented by counsel and able to object.
  - e) Administrative release of non identifying information relative to outcomes measures and management information functions.

## **CLIENT RECORDS**

Client records consist of any information which is recorded in any way, on paper or electronically, concerning the client relationship. The following guidelines govern the confidential handling of client records (For access, retention and security information please see manual section on documentation and client records):

- 1) Client files are kept in a secure, designated location from which they are not removed except as needed for present work and immediately returned. Client files are not removed from a Family Resources facility unless absolutely necessary, and then in accordance with accepted program standards.



- 2) The use of working papers, such as notes and copies, which relate to client files is restricted to that which is necessary only, and care is taken to preserve the same standard of protection as is required for client files. When the need for their use is past, working papers are placed in the client file or destroyed.
- 3) Care is taken to prevent the existence of any loose or extraneous material concerning a client. There should be no material which is not a formal "client file" or a "working paper".
- 4) Client records are preserved for the period required by the nature of the records after which they are shredded. The only exceptions to this are adoptions records which may be reduced to microfilm and kept permanently.

## **AUTHORIZED DISCLOSURE**

Under most circumstances, a client, or the client's legal representative has the legal right to authorize, in writing, the release of client information. The following guidelines apply to those situations:

- 1) The legal requirements for a release may vary depending upon the nature of the client relationship. The only release which may be accepted is one which is properly executed on a Family Resources form approved for the particular program. Any non standard or questioned release should be referred immediately to the legal office.
- 2) An issue concerning whether a release is knowingly or voluntarily executed by a client should be resolved by client contact. Questions should be reviewed with the legal office.
- 3) A release executed by a "legal representative" is subject to special scrutiny to determine whether the best interest of the client is served and whether the person has the legal authority to make the release. Any ambiguity should be reviewed with the legal department.
- 4) Material subject to release is carefully screened to prevent accidental release of information related to another client, such as a spouse or child involved in family counseling.
- 5) When information is released in accordance with an authorization, a record is kept in the client file which contains, at a minimum, the release authorization, a description of the material released, and the date the information was released. All information which is provided is accompanied by the required notice concerning dissemination.
- 6) Clients or their legal representatives may be allowed access to their files by appointment with staff subject to supervisory approval. All material concerning other individuals must be carefully protected in this process, and access may be limited when it is deemed to be in the best interests of the client to do so.

## **MANDATORY REPORTER, DUTY TO WARN, CIVIL COMMITMENT**

Situations arise which may require limited release of information which is otherwise protected. Those situations involve issues of safety of the client and or others and fall under the general categories of Mandatory Reporter obligations, duty to warn, and civil commitment proceedings. These guidelines will help to identify those situations and provide appropriate procedures:

### **1.) Mandatory Reporter:**

Social work professionals are mandatory reporters of child and dependent adult abuse and neglect under the laws of both Iowa and Illinois. Family Resources takes the position that it is consistent with our mission that all employees assume these responsibilities. Therefore, any member of the Family Resources staff who learns or has reason to suspect that a child or dependent adult has suffered physical, emotional harm as the result of abuse or neglect, or has been subjected to sexual abuse or has suffered any of the events enumerated in law (*see definition of 'reportable abuse' set forth in full in the Mandatory Reporting Chapter in this manual*) must make a report according to the procedures set forth in that manual.

### **2.) Duty to Warn**

Some client circumstances may give rise to a concern for the safety of others. If the concern raises the possibility that disclosure might be necessary to prevent serious, foreseeable, and imminent harm to an identifiable person or persons a duty to warn may arise under common law or under Standard 1.07 of the NASW Code of Ethics. Any such concern should be specifically reviewed with a supervisor and/or with corporate counsel.

### **3.) Civil Commitments**

Certain waivers exist with regard to the participation of a mental health professional in the civil commitment process. Those situations can be complex. Questions should be reviewed with a supervisor. The legal office is available for assistance.

## **SUBPOENAS, COURT ORDERS AND OTHER LEGAL PROCESS**

Frequently social workers face situations where a court appears to have ordered information to be shared in a way that seems to be in conflict with the interests of client confidentiality. The guidelines which follow seek to maintain balance between those competing interests:

- 1) Our obligation to protect client information is not suspended simply because a court is involved. A subpoena or other compulsory process which demands production of client information must still be accompanied by a proper release. If such a request or demand is received which is questioned, the following steps should be taken:
  - a) Review the situation with a supervisor.
  - b) Resolve any questions through consultation with the legal office.



- c) If it is determined that the request is improper, the legal office will attempt to resolve the difficulty.
  - d) If the situation is not resolved, the legal office will arrange for an outside attorney to protect the client confidence, the agency, and the employee named in the process.
- 2) Live testimony presents a unique situation that often does not allow time to process an issue. The legal office is available to all programs to provide training in preparation for testimony. Some circumstances cannot be anticipated, however, by general training. The following procedures will help:
- a) Any subpoena or anticipated request for testimony can be reviewed with the legal office. This review may include, in addition to a “legal” review of the issues, preparation meetings with the potential witness as desired.
  - b) If the issue may not be resolved by discussion with the parties and it is deemed necessary, and outside attorney will be retained.
  - c) If a particular question raises an unanticipated issue during the course of testimony, the following actions are appropriate:
    - i. If the client is represented by their own attorney, you may allow them to object or not as they choose and be guided by the decision of the court.
    - ii. If the client is not represented by their own attorney, you may politely decline to answer, state the reason and request the court for guidance.
    - iii. In the rare situation where the matter may not be resolved in this way, politely request the court for opportunity to consult with counsel. If granted, contact one of those individuals listed paragraph 3 of this section. If the request is not granted, the law requires you to answer the question.
- 3) Occasionally a demand or legal process will be made which appears to require immediate release of records or information. This can generate understandable anxiety. The law only rarely recognizes such a demand, however. If one is received the following steps should be taken:
- a) Only corporate counsel, a program director, vice president, or the president has the authority to authorize this kind of release. Advise the person serving the demand or process that you may not release the information but that you will immediately start to contact an authorized individual. Politely provide them the option of waiting



while you summon the right person, or leaving their contact information so that an appointment may be arranged.

- b) Obtain the original, or a copy of any documents offered in connection with the demand.
- c) Contact and advise one of the following in an order of priority based upon the first individual you can speak to:

Your Program Director  
Corporate counsel  
One of the agency Vice Presidents.  
The President/CEO

## **COSTS AND FEES**

While providing information concerning clients may be a regular part of the funding stream for a particular program, there are many situations where it is not. In those situations it is expected and appropriate that a reasonable charge be assessed for copying or producing information, and arrangements for payment made prior to release. Discretion is reserved to release information in the interests of the client without additional charge.

## **PROGRAM PROTOCOLS**

There are legal as well as ethical rules and principals which apply in the area of client confidentiality. While the ethical considerations remain much the same across the board, the legal rules, embodied in statutes and regulations, tend to differ in detail and emphasis from practice area to practice area. Each program in Family Resources will provide a detailed protocol for staff to follow in addressing confidentiality. These program protocols will provide the detailed application of the rules for the situations commonly encountered within that service area. Program level protocols may be more restrictive than the general rules set forth in this section. Under no circumstances, however, may they be less restrictive. In all cases of potentially overlapping protocols, the most restrictive applicable rules will be applied.

## **INFORMATION SHARING INSIDE THE AGENCY--SPECIAL ISSUES**

Sharing information within the agency for record keeping, billing and other administrative purposes is expected and allowed pursuant to a clients consent to receive services. Sharing information within the agency in some contexts, however, creates special issues which require special consideration. These considerations revolve around the context of who should or should not have access to information for a purpose legitimately related to the allowable administrative procedures of the agency or within the

contemplation of the client's consent to service. The following ground rules will help sort out those issues:

### **TREATMENT TEAM ISSUES**

Many of our clients receive service from more than one Family Resources staff members within a treatment team context. A child in residential placement with optional therapy services is a perfect example of that. Each such child is served by the program staff, the case management staff and staff from Behavioral Health Care. Those folks operate as a treatment team and freely share or have access to information concerning the child. Generally speaking, for example, each member of the treatment team would have access to client records in paper and/or electronic form. Within this context, however, each member of the team retains his or her professional judgment with regard to what should not be shared, or in what detail information should be shared. A therapist, for example, in therapy, may receive confidential communications the substance of which should not be shared with the team. What does need to be shared, however, is the important and implications of the therapy session and process necessary for coordinated service delivery by the whole team. Concerns or differences concerning the level of information or detail to be shared in this context are resolved through the clinical supervision system with the final determination being made by the Vice President for Professional Service.

### **CONCURRENT SERVICE ISSUES**

Very often we will find that our clients are being served concurrently in more than one program of Family Resources. A family being served by Family Centered Services, for example, may often have a member being served by domestic violence counseling. This situation is very different than the treatment team. Sharing of information between the two service programs or providers without the fully informed consent of the person served is no more proper than sharing information with another agency or an outsider.

### **STAFFING, CLINICAL SUPERVISION AND MULTI DISCIPLINARY REVIEW**

Providing staffing, clinical supervision and multi disciplinary review of cases will often involve individuals from the agency not directly involved in the service delivery for the client. These procedures are normal parts of the service delivery process, however, and the sharing of information for those purposes is permissible and in most cases, required.

### **NEED TO KNOW—SANCTION FOR VIOLATION**

In all cases of internal sharing of information, the real watch word is this: Do the individuals who have access to the information, or with whom it is shared, have a legitimate need to know that information for a purpose related to the appropriate delivery of service or the administration of the agency. If yes, they may have access to the information. If not, they should not. In all cases, however, the sharing of the information with these individuals should be within the informed contemplation or expectation of the person served.



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Intentionally or willfully obtaining access to client information outside the scope of need or authority as outlined in this procedure and/or any Family Resource client information access protocol may be cause for immediate dismissal from employment.