

# Statement of Confidentiality



children's home + aid  
celebrating 130 years of service

Recognition of the confidential nature of communications between you and the staff of Children's Home + Aid has been a basic principle throughout the Agency's history. Information obtained through the provision of services to you and your family is protected in accordance with the Illinois Mental Health and Developmental Disabilities Confidentiality Act, Illinois Administrative Rule 431, Confidentiality of Personal Information of Persons Served by the Illinois Department of Children and Family Services, the Health Information for Technology for Economic and Clinical Health Act (HITECH), and the Health Insurance Portability and Accountability Act (HIPAA). In addition to professional ethical codes, federal and state laws protect your confidentiality. It is your right and expectation that your information will be respected and safeguarded by the Agency and all its personnel.

Access to your confidential information is limited to you, your parent or legal guardian (if you are a minor), authorized Children's Home + Aid personnel, and auditing, contracting, licensing, legal, or accreditation personnel as outlined in this policy/procedure.

This policy covers all employees, contractual staff, foster parents, day care providers and volunteers of Children's Home + Aid, as well as auditing, contracting, licensing, legal or accreditation personnel.

## POLICY AND PROCEDURE REGARDING CONFIDENTIALITY

### 1. ACCESS TO RECORDS

**The following people have the right to see and copy your record:**

- You - If you're 12 years of age or older.
- Your parent or guardian - If you are under 12 years of age.
- Your parent or guardian - If you are at least 12 and under 18 years of age and you do not object.
- Your legally appointed guardian – If you are 18 years of age or older.
- Your attorney or guardian ad litem – If you are 12 years of age or older and there is a court order granting the attorney this right.
- An individual appointed under your power of attorney – When the power of attorney authorizes the access.

- a. Requests to access or copy your client record must be provided in writing.
- b. If you are at least 12 and under 18 years of age, we must have your permission to allow your parent or guardian to have access to your entire record. However, as a minor, your parent or guardian always has the right to know about some information, including your current physical and mental condition, your mental health diagnosis, your treatment and service needs, the services provided and any medication you might be taking.
- c. If your record contains information that does not pertain exclusively to you and/or the person requesting access, Children's Home + Aid is required, within a reasonable time, to review the record and remove information that would disclose confidential communications about other individuals served. If you request access to your records, Children's Home + Aid will request that you review your record in the company of a qualified professional who will be available to interpret, clarify, or explain information in the record. This service will be provided at no cost to you.

- d. If you disagree with any information in your record, you have the right to request that we change the record and/or you can insert a written statement into the record. If the staff person wishes to add an addendum (addition) to your statement, the staff addendum will be added to the record and shared with you.

## **2. CONSENT TO RELEASE CONFIDENTIAL INFORMATION**

**Except as provided in Section 2 of this policy/procedure, records and information about you cannot be released to anyone other than those individuals listed in section 1.1 (above) without your express, informed, written consent.**

- If you are 18 years of age or older, your consent is required in order to release your confidential information.
  - If you are the parent or legal guardian of a child under 18 years of age, your consent is required in order to release his or her confidential information.
  - If you are between 12 and 18 years of age, your consent is required in order to release your confidential mental health information; for other types of information, your parent or guardian may consent as long as you do not object to the information being released or as long as your primary worker does not find there are compelling reasons for denying release of the confidential information.
  - If you are 18 or older and have a court appointed legal guardian, your guardian may consent to release your confidential information.
- a. Children's Home + Aid staff are only allowed to release information relevant to the purpose for which disclosure is sought. This means that when you consent to for us to release your confidential information, you must tell us specifically what we can and cannot release. Blanket consent to disclose unspecified information will not be valid.
  - b. You can revoke (cancel) your consent at any time. Any time you revoke your consent, it must be in writing, signed by the individual(s) who gave the original consent. The revocation of consent is only effective once we have received the signed document.
  - c. Children's Home + Aid is prohibited from releasing your information to third parties without your consent. When you provide consent for Children's Home + Aid to obtain additional information from other individuals or agencies that have worked with you, Children's Home + Aid cannot re-release that information to anyone else without your consent for re-disclosure
  - d. When you have given consent for your records to be released to a third party, your records will include the following statement: "Any person or agency to whom information is disclosed by Children's Home + Aid shall not re-disclose disclosed information except as provided in the Illinois Mental Health and Developmental Disabilities Confidentiality Act".

## **3. USE OF TWO-WAY MIRRORS**

Several Children's Home + Aid sites are equipped with two-way mirrors, also referred to as one-way mirrors or one-way glass. This equipment is beneficial to our work with children and families in that it allows a less intrusive, but clear view of the interactions occurring in another room. What we observe can inform subsequent interventions and planning with our clients. Two-way mirrors may be used to supervise family visits, parent-child interactions, and sibling visits. They may also be used to observe interactions between clients and staff. Two-way mirrors will not be used without your written consent.

#### 4. EXCEPTIONS

There are certain situations when information about you may be released without your consent:

- a. Children's Home + Aid is, under Illinois law, a mandated reporter. The Abused and Neglected Child Reporting Act of 1975 requires, when evidence of child abuse or neglect exists, agency personnel to report the information to the Illinois Department of Children and Family Services. This means that if a Children's Home + Aid staff member has serious reason to believe that you or your child has been abused and/or neglected, Children's Home + Aid may report that information to the Department of Children and Family Services with or without your consent.
  - The hotline number for reporting information is: 1-800-252-2873 (1-800-25-ABUSE).
  - The Abused and Neglected Child Reporting Act provides Children's Home + Aid employees with immunity from legal liability when reporting child abuse or neglect.
- b. In accordance with court orders.
- c. If you are an adoptive parent, you may receive known, non-identifying information on the adoptive child before or at the time of placement including information on the biological parents, medical and mental health histories of the child and biological family and actual date and place of birth of the child.
- d. If you are an adoptee 18 years or older you may receive known, non-identifying information as noted in item c above.
- e. Your primary worker may disclose information to his or her supervisor, members of a staff team participating in the provision of services, or a person acting under the supervision of your worker (e.g., outreach worker, intern).
- f. The Inspector General of the Department of Children and Family Services, when your record is relevant to a pending investigation.
- g. An attorney consulted by the agency which provides services concerning the agency's legal rights or duties in relation to you and the services being provided to you.
- h. Records and information may be disclosed when necessary for billing purposes to collect payment for services provided. Disclosure will be limited to information needed to collect payment.
- i. If you have applied for benefits (e.g., Social Security), and in order to assist you in receiving benefits if you qualify, disclosure may be made without consent when, despite every reasonable effort, consent could not be obtained. The information disclosed without consent under this section may include only your identifying information, the identity of your primary worker, and a description of the nature, purpose, quantity and date of the services provided.
- j. Information may be disclosed, without consent, to the Institute for Juvenile Research and the Institute for the Study of Developmental Disabilities for the purposes of research, education and treatment.
- k. When Children's Home + Aid determines that disclosure is necessary to protect your welfare or the welfare of others.
  - If a Children's Home + Aid worker discovers information that indicates that you are a danger to yourself or to someone else, the worker is obligated to inform his or her supervisor about the actions,

communications, behavior or other reasons that led the worker to such conclusions. In instances where there is imminent risk of harm to you or by you, the worker must immediately contact their Supervisor and Program Director to determine whether emergency personnel or authorities will be contacted. Under the guidance of the Supervisor and Program Director, the worker shall file an Unusual Incident Report and take any necessary actions to protect the child or person(s) endangered. The Unusual Incident Report will be forwarded to the Illinois Department of Children and Family Services if the person is a ward of the State of Illinois. In all cases where there is risk of harm to you or by you, the Unusual Incident Report will be forwarded to the Program Director who will decide, in consultation with the appropriate Vice President or the President, whether to inform other authorities such as law enforcement personnel or a potential victim about the possible danger.

- Additionally, if possible, the Program Director will, at the direction of the Regional Vice President, seek legal counsel when there is a decision to inform third parties of a risk that you may harm yourself or someone else.
  - If your behavior poses serious risk, psychiatric hospitalization, including involuntary commitment, may be considered.
  - When the Program Director is involved in the decision to inform, the incident will be administratively reviewed by the Regional Vice President - to whom the Program Director reports - within two business days.
- l. The Illinois Elder Abuse and Neglect Act protects persons 60 years of age or older. If you or a member of your family is 60 years of age or older, and a Children's Home + Aid employee becomes aware, when acting in their professional capacity, that you or a family member have been neglected, abused or financially exploited within the last 12 months and because of dysfunction, you are unable to seek assistance for yourself, the staff person shall notify their Supervisor and Program Director. A staffing will be conducted to determine whether a report should be made to the Elder Abuse Hotline.
- The hotline number for reporting information is: 1-800-252-8966 or, on weekends and holidays, 1-800-279-0400.
  - If the hotline worker accepts the report for investigation, you will be informed and the Children's Home + Aid employee will, within the first working day, prepare an Elder Abuse Report and place it in your file. Copies will be given to the Supervisor and Program Director.
- m. If there is an occurrence or alleged occurrence of child abuse or neglect or elder abuse or neglect involving you or your child(ren) AND the alleged perpetrator is a Children's Home + Aid employee, volunteer, foster parent, another caregiver, or another person served by Children's Home + Aid, a report, with identifying information removed (redacted), will be sent to the Council on Accreditation (COA) if:
- There is an admission by the alleged perpetrator (employee, volunteer, foster parent, caregiver, etc);
  - There is a termination of the employee, discontinued use of the foster care parent, caregiver or volunteer as a result of the allegations; OR
  - There is an indictment or other legal proceeding against the alleged perpetrator.
- n. Auditing, contracting, licensing or accreditation personnel will have access to your records in accordance with the procedures outlined in this policy/procedure. External reviewers are required to protect the confidentiality of your information and when possible, to remove (redact) any identifying information in your record prior to review.
- o. Agency staff that serve as peer reviewers of case files shall sign a confidentiality statement prior to serving as a peer reviewer. This statement requires the staff person to respect your confidentiality as it relates to the materials reviewed.

- p. DCFS, as part of licensing, requires that records be periodically reviewed. Cases are reviewed by the Illinois Department of Mental Health and Developmental Disabilities and the Illinois Department of Children and Family Services as part of fiscal audits and for Medicaid re-certification. Additionally, the Illinois Mental Health and Developmental Disabilities Confidentiality Act provides for disclosure in certain other circumstances such as guardianship proceedings, homicide investigations, fitness to stand trial, and for certain public safety circumstances.
- q. Children's Home + Aid recognizes that research, teaching and training is critical for the expansion of any professional knowledge base. If records are disclosed for these purposes, Children's Home + Aid will remove (redact) identifying information from your record, when possible.
- r. Except as otherwise stated in this policy/procedure, records and information will remain confidential after the death of a client and will not be disclosed unless the client's representative, as defined in the Probate Act of 1975 and the agency consent to such disclosure OR unless disclosure is authorized by court order.

## **5. SUBPOENAS AND COURT ORDERS**

- a. In order to protect your interests and/or the interests of your child(ren), Children's Home + Aid will assert its privilege not to testify when it deems appropriate. Subpoenas for records (subpoena duces tecum) will not be honored by the Agency without a court order authorizing the issuance of the subpoena and disclosure of specific records. When a Children's Home + Aid employee receives a subpoena or court order requesting your records, the appropriate Vice President will contact the Agency's attorney to determine whether the request complies with the Illinois Mental Health and Developmental Disabilities Confidentiality Act and to advise the Agency regarding the response to the request.
- b. Before responding to a request, Children's Home + Aid will seek legal counsel when special or unusual information about you is sought by the courts, public officials, investigative units, or law enforcement bodies.