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| Policy Title: Data Privacy Maintenance of Private Confidential Information | Effective Date | 1-1-14 |
| | Revision Date | |
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| | Approval | TH |
| | File | Policies |

I. Purpose

To provide general guidelines and principles for safeguarding the individual’s right to confidentiality, to afford access to personal records and ensure data privacy according to the Minnesota Government Data Practices Act and the federal Health Insurance Portability and Accountability Act (HIPPA).

II. Revision History

| Date | Rev. No. | Change | Reference Section(s) |
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III. Persons Affected

This policy applies to all PAI direct support staff, volunteers and persons or agencies under contract with of PAI (paid or unpaid).

IV. Definitions

Data – All information relating to persons who received services from PAI
 CSSP - Coordinated Service and Support Plan

V. Policy

- A. All employees are required to safeguard an individual’s right to confidentiality and ensure only persons released by the individual or their legal representatives obtain access to their information and private data.
- B. Private Data is
 - 1. Data collected within the welfare system about individuals are considered “welfare data”. “Welfare data” is private data on individuals; including medical and/or health data. Agencies in the welfare system include, but is not limited to: the Department of Human services; local social services, e.g., county welfare services, human services boards; The Ombudsman for Mental Health and Developmental Disabilities and persons and entities under contract with any of the above agencies; including PAI and other licensed caregivers jointly providing services to the same person.
 - a. Once informed consent is obtained from the person or their legal representative, there is no prohibition against sharing “welfare data” with other entities within the welfare system to plan, develop, coordinate and implement needed services.
 - b. An acceptable informed consent must:
 - i. be written in understandable language
 - ii. be dated
 - iii. designate the agencies or person(s) who will get the information;

- iv. specify the information that will be released
 - v. specify who will receive the information
 - c. When informed consent is being obtained the person and if applicable their legal representative must be told:
 - i. the purpose and intended use of the requested data within the collecting government entity;
 - ii. whether the individual may refuse or is legally required to supply the requested data;
 - iii. any known consequence arising from supplying or refusing to supply private or confidential data; and (d)
 - iv. the identity of other persons or entities authorized by state or federal law to receive the data.
 - v. The classification of the data being maintained about them and how the individual can see and get copies of the data.
 - 2. All information on persons that is gathered by PAI or received from other sources for program purposes contained in an individual record including their status at PAI.
 - 3. Data is private if it is about individuals and is classified as private by state or federal law. Only the following persons are permitted access to private data.
 - 4. Persons allowed access to private data:
 - a. The individual who is the subject of the data or their legal representative
 - b. Anyone to whom the individual gives signed consent to view the data.
 - c. Employees of the welfare system whose work assignments reasonably require access to the data including PAI staff.
 - d. Anyone the law states as having access.
 - 5. Data created prior to the death of a person retains the same legal classification it had after their death.
- C. Responsibilities
1. Within five service days of service initiation, PAI will inform service recipients and their legal representative (if applicable) of Data Privacy Requirements and provide access to copies of PAI's Data Privacy Policy.
 - a. The Administrative staff shall ensure compliance with this policy and that all staff receive training on Data Privacy Policy within 60 days of hire and annually thereafter.
 2. The Program Director and Coordinator are responsible for ensuring that program operations follow data privacy policies, including:
 - a. Ensuring that the following persons have access to recipient records in accordance with state and federal rules, regulation and laws:
 - i. the individual, their legal representative, any properly authorized person
 - ii. the person's case manager
 - iii. staff providing services to the person unless the information is not relevant to carrying out the coordinated service and support plan (CSSP) or the CSSP addendum
 - b. Obtaining proper authorization via a signed Release of Information prior to the release of private data.
 - c. Ensuring all staff are trained in the data privacy policy.
 - d. Taking responsibility for making sure private information in the program areas is kept private and that any exchange is done in such a way as to preserve confidentiality, protect data privacy, and respect the dignity of the person whose private data is being shared.

- e. The Program Director, Coordinator, Instructor and service designate are responsible for ensuring program charts and med books are stored in the designated secure area.
3. Service Recipient Access to Private Data
 - a. A staff person will be present during any authorized review of private data
 - b. Individuals may request copies of pages in their record.
 - c. The date, time, the person/s involved in the review and a list of any copies provided by PAI will be documented in the individual's file.
 - d. A service recipient or their representative may challenge the accuracy or completeness of the information contained in the record by notifying staff.
 - i. Staff will note the concern and inquire if they would like to pursue a formal grievance and refer them to the Grievance Policy if requested.
 - e. No person may remove or destroy any portion of a service recipient file.
 4. Requesting a release for obtaining data from other providers or sharing pictures, video for media releases.
 - a. Prior to the release of private data PAI will procure a signed release of information (informed consent) from each individual or their legal representative.
 - i. The PAI Release of Information Form will be updated annually or when notified by the person or their legal representative of a desired change.
 - b. Requests to release or receive data or identifiable specific media from other entities must be in writing and indicate the purpose and the intended use.
 - ii. No information or private data will be released until a signed informed consent is obtained.
 - iii. The individual and/or their legal representative will be informed of the specifics of the request and asked if they are willing to give their informed consent.
 - iv. The requested information will be released upon receipt of a signed informed consent.
 - i. All consent documents will be filed in the individual's Program Record.
- D. Data maintenance plan in the event of an anticipated program closure.
1. PAI will work with the Department of Human Services and respective Counties of Responsibility to develop transition plans for the private and confidential exchange of each individual's data.
 2. All stored program data will be maintained securely until the agreed upon transition plan is enacted and completed.
 3. Notice of closure will be given to affected service recipients and their extended support teams at least 25 days prior to the anticipated transfer date. The notice will include:
 - a. Information on how they can access their records.
 - b. The plan for the transfer of open cases and records.
 - c. The specific arrangements that have been established for transfers to another provider or county agency for the continuation of services.
 - d. How the records will be transferred with the individual.
 - i. How closed records will be transferred to the respective county of responsibility and the documentation obtained authorizing the transfer.

VI. Forms
 Release of Information Informed Consent