



Confidentiality of Records

Department Name Quality Management		
CHAPTER:	SUBJECT: Confidentiality of Client Records	POLICY NUMBER: QM-020
APPROVAL:	EFFECTIVE DATE: July 24, 2006 Revised: March 30, 2007	REPLACES (policy # and date): HRSOP 175-26

- I. **PURPOSE:** This policy defines the way files must be handled and under what circumstances people can have access to them.

- I. **REVIEW HISTORY:** Revised February 27, 2007

- II. **CONTACT:** Director of Quality Management

- III. **PERSONS AFFECTED:** All children either in the custody of the Department of Children and Families/Children's Network of Southwest Florida or under the supervision of the Children's Network of Southwest Florida. It also affects staff of the Children's Network of Southwest Florida and its subcontracted case management organizations.

- IV. **POLICY:** This policy is applicable to all client case records of the Children's Network of Southwest Florida and its subcontracted providers who provide case management services to dependent children and their families.

- V. **RATIONALE:** The confidentiality of the case files must be protected when providing information from files to people who are entitled to see the information.

- VII. **CROSS REFERENCES:**
 - a. Sections 39.202(2) and (8), and 39.205(3), Florida Statutes (F.S.).
 - b. Section 39.0132(3), F.S.
 - c. Sections 39.2021 and 415.1071, F.S.
 - d. Section 39.3035, F.S.
 - e. Section 63.162, F.S.

Children's Network of Southwest Florida
Confidentiality of Client Records

- f. Section 381.004(3), F.S.
- g. Sections 384.29 and .34, F.S.
- h. Section 394.459(9), F.S.
- i. Section 397.501(7), F.S.
- j. Sections 395.3025 and 456.057, F.S.

VIII. DEFINITIONS:

A. Case management organization: A subcontracted agency of the Children's Network of Southwest Florida which provides case management services to dependent children and their families.

B. Child Welfare Legal Services (CWLS): Attorneys employed by the Department of Children and Families who provide legal representation in dependency matters.

X. PROCEDURES:

A. Process

1. Information in case records generated as a result of child abuse and neglect investigations is confidential and may be released only under specific circumstances which are outlined in the referenced Florida Statutes. Children's Network of Southwest Florida staff should become familiar with these statutes and should consult with the District Legal Counsel or Child Welfare Legal Services (CWLS) attorney prior to responding to requests for information.

2. The name of and any identifying information about the person reporting abuse or neglect is strictly confidential and must not be released (without the written consent of the person reporting) to any person other than employees of the department responsible for child protective services including protective investigation, the abuse hotline, or the appropriate state attorney. But see, HRS v. Lopez, 694 So. 2d 2 (4th D.C.A. 1992) (circuit court in criminal prosecution entitled to conduct in camera inspection of child abuse records, including name of reporter, to ensure against a Brady violation).

3. Since community based care organizations are not entitled to see the reporter's name, that information must not be contained in the case files maintained by the Children's Network of Southwest Florida and its subcontracted case management organizations. Reports made public after petitioning the court pursuant to section 39.2021, F.S., must have all names and identifying information removed or blacked out prior to release. This redaction process should be reviewed by the District Legal Counsel or CWLS attorney prior to releasing the information.

Children's Network of Southwest Florida
Confidentiality of Client Records

4. Any information in the case record that pertains to the adoption of a child or a child's sibling must not be released without first consulting with the District Legal Counsel or the CWLS attorney. Access to adoption records is governed by the provisions of section 63.162, F.S., and usually requires a court order.

5. If a case record contains non-agency procured or funded medical, psychological, or psychiatric reports, school records, or information about clients received from domestic violence centers, which the case management organization has obtained through consent of the subject, the information must not be released without written authorization of that subject. The person requesting access to the record should be told of the existence of any such report and referred to the generating source. These reports are confidential and are not available to share without the consent of the subject.

6. All records and reports of the child protection team (CPT) are confidential and exempt from the provisions of sections 119.07(1) and 456.057, F.S., and, pursuant to section 39.202(6), F.S, shall not be disclosed, except, upon request, to the state attorney, law enforcement, the department, and necessary professionals in furtherance of the treatment or additional evaluative needs of the child, or by order of the court, or to health plan payors limited to that information used for insurance reimbursement purposes.

7. Anyone to whom copies of an abuse report and related case material is given is subject to the same requirements to maintain confidentiality as is the employee releasing the information. For this reason, recipients of case material, other than authorized case management organization and lead agency staff and the guardian ad litem representing the child, are asked to sign an affidavit that they understand their responsibility to maintain confidentiality and the penalty for violations.

B. Access to Records

1. Section 39.202, Florida Statutes, details who has access to department/ Children's Network of Southwest Florida records of child abuse, neglect or abandonment. If a request is received, the case manager may contact Child Welfare Legal Services for help in determining if the requestor has access and which records should be provided.

2. Pursuant to section 39.202 (3), F.S , The Children's Network of Southwest Florida may release to professional persons such information as is necessary for the diagnosis and treatment of the child or the person perpetrating the abuse.

C. HIV/AIDS Records: The following procedures shall apply to HIV/AIDS records and information access:

1. Case files will not contain any reference to the child's HIV infection or AIDS status.

2. The Children's Network of Southwest Florida shall disclose to adopting or substitute care parents the medical condition, but not the name, of an HIV/AIDS positive child prior to the decision to adopt or accept the child into the substitute care home has been made by the parents. Only after the parents have

Children's Network of Southwest Florida
Confidentiality of Client Records

made the commitment to adopt or accept the child into the home shall the name of the child be provided.

3. The substitute care parents shall be provided with documentation of the complete medical history and condition of a child placed in their care, including HIV/AIDS status. This documentation must be maintained by the substitute care parents and held as confidential information with access strictly limited to the child's physician(s) and other providers of medical and dental care when treatment is required.

4. Medical documentation needed for school enrollment, day care or similar purpose must be provided separately by the physician and may not contain any reference to the child's HIV/AIDS status.

5. With the exception of the child's medical records provided to substitute care parents (and to the child's birth parents or other legal guardian), case material which discloses that the child has HIV infection or AIDS will be kept within the file in a "Confidential Information" envelope used to safeguard sensitive case information.

6. The child's case records will not be segregated or flagged in any way which would permit their identification as case records of HIV infected children.

D. Penalties

1. A person who knowingly and willfully makes public or discloses to any unauthorized person any confidential information contained in the central abuse hotline or in the records of any child abuse, abandonment, or neglect case is subject to the penalty provisions of 39.205, Florida Statutes.

2. A person who unlawfully discloses HIV/AIDS information is subject to the penalty provisions of section 384.34, F.S.

E. Training Requirements

1. The Child Welfare Pre-Service Training curriculum shall include training on confidentiality of child welfare case records. This training shall include current revisions to confidentiality laws and shall be available on an ongoing basis.