

## DATA PRIVACY POLICY AND PROCEDURE

### I. PURPOSE

The purpose of this policy is to establish guidelines that promote the rights of the individual served ensuring data privacy and record confidentiality of individuals served.

### II. POLICY

According to MN Statutes, section [245D.04](#), subdivision 3, individuals served by the program have protection-related rights and access to their records under section [245D.095](#) subdivision 4, that include the rights to:

- Have individual, financial, service, health, and medical information kept private, and be advised of disclosure of this information by the company.
- Access records and recorded information about the individual in accordance with applicable state and federal law, regulation, or rule.

Orientation to the individual served and/or legal representative will be completed at service initiation and as needed thereafter. This orientation will include an explanation of this policy and their rights regarding data privacy. Upon explanation, the Program Resource Coordinator/Program Supervisor (PRC/PS) and/or the Operations Manager (OA) will document that this notification occurred and that a copy of this policy was provided.

According to Minnesota Statute [245D.11](#), subdivision 3, Homeward Bound, Inc. (HBI) encourages data privacy in all areas of practice and will implement measures to ensure that data privacy is upheld according to MN Government Data Practices Act, section 13.46. HBI will also follow guidelines for data privacy as set forth in the Health Insurance Portability and Accountability Act (HIPAA) to the extent HBI performs a function or activity involving the use of protected health information and HIPAA's implementing regulations, Code of Federal Regulations, title 45, parts 160-164, and all applicable requirements. The Program Administrator of Quality Assurance (QA) will exercise the responsibility and duties of the "responsible authority" for all program data, as defined in the Minnesota Data Practices, MN Statutes, and chapter 13. Data privacy will hold to the standard of "minimum necessary" which entails limiting protected health information to the minimum necessary to accomplish the intended purpose of the use, disclosure, or request.

### III. PROCEDURE

#### A. Private Data

1. Homeward Bound, Inc. (HBI) staff will not disclose identifiable information about another individual served when making a report to an individual and/or case manager unless HBI has the consent of the individual to disclose information.
2. The individual served and/or legal representative and anyone properly authorized by the individual have full access to their records and recorded information that is maintained, collected, stored, or disseminated by HBI. Private data are records or recorded information that includes individual, financial, service, health, and medical information.

## **B. Staff Access to Private Data**

1. Access to private data in written or oral format is limited to authorized individuals. The following HBI personnel may have immediate access to individuals' private data only for the relevant and necessary purposes to carry out their duties as directed by the *Coordinated Service and Support Plan* and/or *Coordinated Service and Support Plan Addendum*:
  - Executive staff
  - Administrative staff
  - Financial staff
  - Nursing staff, including assigned or consulting nurses Management staff including the Program Resource Coordinator/Program Supervisor (PRC/PS) and/or the Operations Manager (OA)
  - Direct Support Staff
2. Staff persons do not automatically have access to private data about the individual served by this program or about other staff or agency personnel. Staff persons must have a specific work function need for the information. Private data about individuals are available only to those program employees whose work assignments reasonably require access to the data; or who are authorized by law to have access to the data.
3. Any written or verbal exchanges about private information on individuals served by staff with other staff or any other persons will be done in such a ways as to preserve confidentiality, protect data privacy, and respect the dignity of the individual whose private data is being shared.
4. Doubts about the correctness of sharing information should be referred to the OA.

## **C. Case manager access to private data**

The case manager and the foster care licenser of the individual served have access to the records of individual's served by the program under section 245D.095, subdivision 4.

## **D. Other authorized entities access to private data**

1. Data is private if it is about individuals and is classified as private by state or federal law. Only the following have access to private data authorized by applicable state or federal laws, regulations, or rules:
  - County of Financial Responsibility or the County of Residence's Social Services.
  - The Ombudsman for Mental Health or Developmental Disabilities.
  - US Department of Health and Human Services.
  - Social Security Administration.
  - State departments including Department of Employment and Economic Development (DEED), Department of Education, and Department of Revenue.
  - County, state, or federal auditors.
  - Adult or Child Protection units and investigators.
  - Law enforcement personnel or attorneys related to an investigation.
  - Various county or state agencies related to funding, support, or protection of the individual.
  - Other entities or individuals authorized by law.
2. PRC/PS and/or OA will obtain authorization to release information of an individual served when consultants, sub-contractors, or volunteers are working with HBI to the extent necessary to carry out the necessary duties.
3. Other entities or individuals not previously listed who have obtained written authorization from the individual served and/or legal representative have access to written and oral

- information as detailed within that authorization. This includes other licensed caregivers or health care providers as directed by the release of information.
4. Information will be disclosed to appropriate parties in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the individual(s) served. The PRC/PS and/or the OA will ensure the documentation of the following:
    - The nature of the emergency.
    - The type of information disclosed.
    - To whom the information was disclosed.
    - How the information was used to respond to the emergency.
    - When and how the individual served and/or legal representative was informed of the disclosed information.
  5. All Release of Information forms will be maintained in the record of the individual served.

**E. Request for records or recorded information to be altered or copies**

1. The individual served and/or legal representative has the right to request that their records or recorded information and documentation be altered and/or to request copies. Requests made to review data, receive copies of records, or make alterations, will be recorded in the record of the individual service including:
  - Date and time of the alteration
  - Who accessed or reviewed the records
  - If copies were requested and provided
2. If the individual served and/or legal representative objects to the accuracy of any information, the PRC/PS and/or OA will ask that objections are requested in writing with an explanation as to why the information is incorrect or incomplete.
  - The PRC/PS and/or OA will submit the written objections to the Program Administrator of Quality Assurance (QA)/Privacy Officer, who will make a decision in regards to any possible changes.
  - A copy of the written objection will be retained in the record of the individual served.
  - If the objection is determined to be valid and approval for correction is obtained, the PRC/PS and/or OA will correct the information and notify the individual served and/or legal representative and provide a copy of the correction.
  - If no changes are made and distribution of the disputed information is required, the PRC/PS and/or OA will ensure that the objection accompanies the information as distributed, either orally or in writing.
3. If the individual served and/or legal representative disagrees with the resolution of the issue, they will be encouraged file a complaint following the procedures outlined in the *Grievance Policy*.

**F. Security of information**

1. A record of current services provided to each individual served will be maintained on the premises of where the services are provided or coordinated. When the services are provided in a licensed facility, the records will be maintained at the facility; otherwise, records will be maintained at the HBI's corporate office. Files will not be removed from the program site without valid reasons and security of those files will be maintained at all times.
2. The PRC/PS and/or OA will ensure that all information for individuals served are secure and protected from loss, tampering, or unauthorized disclosures. This includes information stored by computer for which a unique password and user identification is required.
3. No individual served and/or legal representative, staff, or anyone else may permanently

- remove or destroy any portion of the individual's record.
4. Written and verbal exchanges of information regarding individuals served are considered to be private and will be done in a manner that preserves confidentiality, protects their data privacy, and respects their dignity.
  5. All staff receive training on this policy during orientation and annually thereafter along with their responsibilities related to complying with data privacy practices.
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*I have read this policy explaining my privacy rights. I understand the purposes, the consequences of sharing private information, and who is authorized to use it. I understand that these rights will extend to all future contacts with Homeward Bound, Inc., whether those contacts are in person, over the phone, mail or electronic communications.*

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**Signature of Individual Served**

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**Date**

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**Signature of Guardian/Legal Representative**

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**Date**

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**Signature of Homeward Bound, Inc. Representative**

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**Date**

Legal Authority: MS § [245D.11](#), subd. 3