



Data Privacy Policy

Policy

Functional Industries recognizes the right of each person receiving services in this program to confidentiality and data privacy. This policy provides general guidelines and principles for safeguarding service recipient rights to data privacy under section 245.D.04, subdivision 3(a) and access to their records under section 245D.095, subdivision 4, of the 245D Home and Community-based Service Standards.

Procedures

A. Private Data

1. Private Data includes all information on persons that has been gathered by Functional Industries or from other sources for program purposes as contained in an individual data file, including their presence and status at Functional Industries.
2. Data is private if it is about individuals and is classified as private by state or federal law. Only the following persons are permitted to access private data:
 - a. The individual who is the subject of the data or a legal representative
 - b. Anyone to whom the individual or legal representative gives consent to view the data
 - c. Employees of the welfare system whose work assignments reasonably require access to the data. This includes Functional Industries staff.
 - d. Anyone the law says can view the data.
 - e. 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 are not limited to: Department of Human Services; local social services agencies, including a person's case manager; county welfare agencies; human service boards' entities under contract with any of the above agencies; this includes Functional Industries and other licensed caregivers jointly providing services to the same person.
 - f. Once informed consent has been obtained from the person or the legal representative there is no prohibition against sharing welfare data with other persons or entities within the welfare system for the purposes of planning, developing, coordinating and implementing needed services.
3. Data created prior to the death of a person retains the same legal classification (public, private, confidential) after the person's death that it had before the death.

B. Providing Notice

At the time of service initiation, the person and his/her legal representative, if any, will be notified of Functional Industries' Data Privacy Policy. Staff will document that this information was provided to the individual and /or their legal representative in the individual record.

C. Obtaining Informed Consent or Authorization for Release of Information

1. At the time informed consent is being obtained, staff must tell the person or the legal representative the following:
 - a. Why the data is being collected;
 - b. How the agency intends to use the information;
 - c. Whether the individual may refuse or is legally required to furnish the information;
 - d. What known consequences may result from either providing or refusing to disclose the information;



- e. With whom the collecting agency is authorized by law to share the data;
 - f. What the individual can do if they believe the information is incorrect or incomplete;
 - g. How the individual can see and get copies of the data collected about them;
 - h. Any other rights that the individuals may have regarding the specific type of information collected.
2. A proper informed consent or authorization for the release of information for must include these factors (unless otherwise prescribed by the HIPAA Standards of Privacy of Individually Identifiable Health Information 45 C.F.R. section 164):
- a. Be written in plain language;
 - b. Be dated;
 - c. Designate the particular agencies or person(s) who will get the information;
 - d. Specify the information which will be released;
 - e. Indicate the specific agencies or person who will release the information;
 - f. Specify the purposes for which the information will be used immediately and in the future;
 - g. Contain a reasonable expiration date of no more than one year; and
 - h. Specify the consequences for the person by signing the consent form, including:
"Consequences: I know that state and federal privacy laws protect my record. I know:
 - Why I am being asked to release this information.
 - I do not have to consent to the release of information.
 - If I do not consent, the information will not be released unless the law otherwise allows it.
 - I may stop this consent with a written notice at any time, but this written notice will not affect information this program has already released.
 - The person(s) or agency (ies) who get my information may be able to pass it on to others.
 - If my information is passed on to others by Functional Industries, it may no longer be protected by this authorization.
 - The consent will end one year from the date I sign it, unless the law allows for a longer period."
 - i. Maintain all informed consent documents in the individual's record.

D. Staff Access to Private Data

1. This policy applies to all program staff, volunteers, and persons or agencies under contract with Functional Industries (paid or unpaid).
2. Staff persons do not automatically have access to private data about the persons served by Functional Industries or about other staff or agency personnel. Staff persons must have a specific work function need for the information. Private data about persons are available only to those Functional Industries 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 a person's private information by staff or any other persons will be 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.
4. As a general rule, doubts about the correctness of sharing information should be referred to the supervisor.

E. Individual Access to Private Data

Individuals or their legal representatives have a right to access and review the individual record.

1. A staff person will be present during the review and make an entry in the person's progress notes as to the person who accessed the record, date and time of review, and list any copies made from the record.
2. An individual may challenge the accuracy or completeness of information contained in the record. Staff will refer the individual to the grievance policy for lodging a complaint.



3. Individuals may request copies of pages in their record.
 4. No individual, legal representative, staff person, or anyone else may permanently remove or destroy any portion of the person's record.
- F. Case Managers Access to Private Data
A person's case manager and the foster care licensor have access to the records of persons served by the program under section 245D.095, subd. 4.
- G. Requesting Information from Other Licensed Caregivers or Primary Health Providers
1. Complete the attached release of information form. Carefully list all the consults, reports, or assessments needed, giving specific dates when possible. Also, identify the purpose for the request.
 2. Clearly identify the recipient of information. If information is to be sent to Functional Industries' health care consultant or other staff at Functional Industries, include Attention: (name of person to receive the information), and the name and address of Functional Industries.
 3. Assure informed consent to share the requested private data with the person or entity has been obtained from the person or the legal representative.
 4. Keep the document in the person's record.

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