

Confidentiality and Limits to Confidentiality

Confidentiality is a legal and ethical concern for everyone. The Aging and Disability Resource Center is committed to maintaining confidentiality for all consumers who receive its services. All Aging and Disability Resource Center staff/students/volunteers shall respect the rights of consumers, colleagues, and other professionals, and shall safeguard consumer confidences within the constraints of the law. Consumers who are assured of confidentiality will be more likely to share the critical details of their problems and concerns. Assuring confidentiality is an important step in developing the rapport needed to further assist our consumers.

Aging and Disability Resource Center receives standards and guidance regarding confidentiality from several places:

1. The law
 - a. The Older American's Act-Chapter 45
 - b. Confidentiality of Treatment Records-Chapter HFS 92
 - c. Exchange of information between County Departments and subunits-Wisconsin Act 64
2. Aging and Disability Resource Center Policy

In addition, if you hold a current certification for social work practice:

1. Social Work Code of Ethics-NASW
2. Various state/federal statutes that apply to direct social work practice with different populations.

Chapter HFS 92 states: *"All treatment records or spoken information which in any way identifies a patient are considered confidential and privileged to the subject individual"*. Aging and Disability Resource Center staff/students/volunteers will not share any identifying information to outside agencies without the verbal or written consent of the consumer. Internal sharing of information is handled on a "need to know" basis with other staff, students, in-home workers, or volunteers registered with the agency.

Consumer information stored on computer is subject to all rules, regulation and laws on confidentiality. Everyone is responsible for safeguarding the confidentiality of any consumer identities or information which they have access to in the performance of their duties and this includes computerized consumer information. The confidentiality guidelines remain in effect even after you are no longer employed by or affiliated with the Aging and Disability Resource Center of Brown County.

Limits to Confidentiality

These laws and standards require that confidentiality be maintained and that consumers be informed about what confidentiality is and what it is not. There are limits to confidentiality that should be clearly discussed with consumers, when feasible, before disclosure begins. Aging and Disability Resource Center staff/student/volunteer should explain to the caller or to the group the situations where information may need to be shared:

1. Caller or consumer expresses an intent to hurt themselves
2. Caller or consumer expresses an intent to hurt others
3. Caller or consumer discloses a situation where a child may be exposed to any form of abuse
4. A "need to know" situation with another contract agency or County service
5. When consultation for purposes of service coordination exists on a "need to know" basis within the agency itself.

Aging and Disability Resource Center staff/students/volunteers have contact with older adults and other adults with disabilities and their families in group or individual situations. The limits to confidentiality need to be discussed in both circumstances. In a group setting, these limits should be shared with the group before the sharing of consumer personal information. Individually, staff/student/volunteer should disclose these limits if the consumer begins expressing any of the concerns during the course of the contact.

Employee/Student/Volunteer Confidentiality Statement

Consumer identities and information shall be considered confidential and may only be disclosed to authorized persons with the expressed, written, informed consent of the consumer or through statutory regulation as specified in the Wisconsin Statutes Chapters 92, 64, and Chapter 45 of the Older American's Act.

I may only discuss consumer identities and consumer information with other qualified staff on a need to know basis. "Qualified staff" means only those board or department staff that requires confidential information for a valid reason connected with their assignment in the administration of services provided by the Aging and Disability Resource Center of Brown County. Clerical, supervisory, administrative, student, or volunteer personnel may have access to this information as needed in the performance of their duties.

If consumer identities or information are disclosed to an unauthorized person, the consumer, his/her family or guardian, has the right to sue you for breach of confidentiality. Violations of confidentiality rules and regulations are subject to federal and state fines (\$500 for the first offense; \$5,000 for the second offense). Violations of confidentiality may also constitute grounds for dismissal from your duties. Also, if the consumer has had an HIV test, has AIDS or an AIDS related disease and the confidentiality of this information is breached, there is a fine of \$10,000 and/or 9 months in jail. The knowledge that a consumer has had an HIV test or has AIDS may not be discussed.

Consumer information stored on computers is subject to all rules, regulations and laws on confidentiality.

Conflict of Interest Policy

Purpose:

To ensure conflicts of interest are prevented, recognized, and promptly addressed so that the Aging and Disability Resource Center (ADRC) can provide customers with objective and unbiased information about a broad range of programs and services.

Objective:

This policy has been established to ensure that options counseling, enrollment and disenrollment counseling, advocacy, benefits counseling, dementia services, and information and assistance services performed by ADRC staff, are free from bias and conflict of interest. ADRC representatives, employees, volunteers and ADRC Governing Board members shall be sensitive to their own personal potential for conflicts of interest, vigilant about the existence of conflicts of interest elsewhere, and take steps to limit, mitigate, or eliminate conflicts of interest when they are known.

Policy:

Representatives of the ADRC will be mindful of the mission to represent the interests of the public as related to long-term care and therefore not represent the interest of any one group or agency. The function of the Aging and Disability Resource Center is to represent the interest of the customer at all times.

ADRC representatives will avoid potential conflicts of interest as described in this policy and procedure in order to provide impartial information and assistance, options counseling, enrollment and disenrollment counseling, benefits counseling, dementia services and advocacy. ADRC staff shall not counsel or otherwise attempt to influence customers for financial gain or other self-interests. ADRC staff shall not counsel or otherwise attempt to influence customers in the interest of any provider, Managed Care Organization (MCO), IRIS Consultant Agency (ICA) or any other organization.

Definitions

- **Conflict of Interest.** A situation, which interferes with an ADRC employee's ability to provide objective information or act in the best interest of the customer. Avoiding conflict of interest is important to the reputation of the ADRC and to the public's trust in the ADRC as a place where people can get unbiased, professional advice.
- **Aging and Disability Resource Center Representative.** Representatives include, but are not limited to, all limited-term or permanent employees of the ADRC (contracted or otherwise), volunteers, and ADRC Governing Board Members.
- **Potential Conflicts of Interest.** Conflicts of interest are not limited to financial relationships. Some examples of situations which have the potential to result in a conflict of interest:
 - An employee who provides ADRC services has familial ties to a community resource to which a customer could be referred.
 - An employee who provides ADRC services has familial ties to the customer who has called or who is the subject of a call.
 - An employee who provides ADRC services has a non-familial, yet close relationship to a customer who has called or who is the subject of a call.
 - The agency and/or governing board that oversees ADRC services also provides or contracts for the provision of case management services to the Managed Care Organization(s).
 - Department administrators, staff or governing board members who work closely with or are members of governing boards of community organizations to which a customer may be referred.
 - The organization or governing board that oversees ADRC services also owns, operates or is employed by an agency or provider to which a customer may be referred.
 - An ADRC employee who owns operates or is employed by an agency or provider for which a customer may be referred.
 - An ADRC employee whose conviction to personal religious or other beliefs may lead to influencing the options presented to customers. Conflicts that result from shared staff positions (such as APS, DBS, EBS), joint supervision, co-location, and the financial interest of the larger organization in which the ADRC is located.

Responsibilities:

Recognizing that the existence of a perceived or potential conflict of interest does not mean that there is misconduct on the part of the ADRC representative. It is a situation that could lead a representative to put other interests ahead of those of the customer. Mitigation measures are needed to ensure that perceived or potential conflicts of interest do not turn into actual conflicts of interest or misconduct.

Management/Director Responsibilities: The ADRC Director or designee shall be aware of, determine whether to address, and when required, assist the ADRC representative in terminating or minimizing a conflict of interest.

ADRC Representative Responsibilities: The ADRC Representative shall be aware of, exercise sound judgment, provide full disclosure, and report instances of potential or present personal conflicts of interest. In addition, ADRC representatives are prohibited from accepting gifts, loans or favors from individuals or providers who stand to benefit from referrals made by the ADRC or benefits from the ADRC in any other way. Further, ADRC Representatives cannot have a financial relationship with any MCO or ICA. This would include participating with the MCO or ICA as a contracted provider, volunteer, or board member.

Procedure:

- **Training.** All ADRC representatives will receive training on the ADRC's Conflict of Interest Policy prior to having contact with customers. ADRC Governing Board members will receive training before serving on the ADRC Governing Board. This policy will be reviewed with ADRC representatives annually.
- **Assurances.** Each ADRC representative will acknowledge, by signature, the receipt of training and the obligation to be objective, customer-centered and independent of the MCO, ICA or other providers or services to which customers could be referred.
- **Reporting.** ADRC representatives shall identify and report potential or present conflict(s) of interest to the ADRC Director (or designee) upon hire or whenever a conflict is identified. All potential conflict(s) of interest are treated as if a conflict exists until a determination is made and the potential conflict has been resolved.
- **Response.** The ADRC Director (or designee) will receive reports of possible conflicts of interest from ADRC representatives, employees, volunteers and ADRC Board Members. The ADRC Director (or designee) will then make a determination as to whether the situation is in fact a conflict of interest.
- **Resolution.** The ADRC Director (or designee) and the ADRC representative involved shall take immediate steps to terminate or minimize the conflict of interest. This may involve finding an alternate ADRC representative, source of service, or the termination of the relationship that has resulted in a conflict of interest.
- **Advocacy.** The ADRC representative must assure that customers receive appropriate advocacy, representation and information, especially in regard to a customer's choice of or eligibility for program benefits or services.