3195 Neil Armstrong Blvd.
Eagan, MN 55121
651-686-0405

204 Mississippi Ave.
Red Wing, MN 55066
651-388-7108

224 Main Street
Zumbrota, MN 55992
507-732-7888

1202 Beaudry Blvd
Hudson, WI 54016
715-410-4216

792 Canterbury Rd S, Ste 132
Shakopee, MN 55379
952-403-7979

I. PURPOSE

The purpose of this policy is to establish guidelines that promote service recipient rights ensuring data privacy and record confidentiality of persons served.

II. POLICY

According to MN Statutes, section 245D.04, subdivision 3, persons served by the program have protection-related rights that include the rights to:

- Have personal, 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 person in accordance with applicable state and federal law, regulation, or rule.

Orientation to the person 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 Designated Manager and/or Designated Coordinator will document that this notification occurred and that a copy of this policy was provided.

ProAct 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. ProAct will also follow guidelines for data privacy as set forth in the Health Insurance Portability and Accountability Act (HIPAA) to the extent the company 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 President/CEO will exercise the responsibility and duties of the "responsible authority" for all program data, as defined in the Minnesota Data Practices, MN Statutes, 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

Access to records and recorded information and authorizations

A. The person served and/or legal representative have full access to their records and recorded information that is maintained, collected, stored, or disseminated by ProAct. Private data are records or recorded information that includes personal, financial, service, health, and medical information. However, information that is classified as confidential will not be released to the person served. The request must be made in written form to ProAct to ensure data privacy and accountability for the agency.

B. Access to private data in written or oral format is limited to authorized persons. The following ProAct personnel may have immediate access to persons' 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/IHP*:

1. Executive staff.
2. Administrative staff.
3. Financial staff.
4. Nursing staff including assigned or consulting nurses.
5. Management staff including the Designated Coordinator and/or Designated Manager.
6. Direct support staff.

C. The following entities also have access to persons' private data as authorized by applicable state or federal laws, regulations, or rules:

1. Case manager.
2. Child or adult foster care licensor, when services are also licensed as child or adult foster care.
3. Minnesota Department of Human Services and/or Minnesota Department of Health.
4. County of Financial Responsibility or the County of Residence's Social Services.
5. The Ombudsman for Mental Health or Developmental Disabilities.
6. US Department of Health and Human Services.
7. Social Security Administration.
8. State departments including Department of Employment and Economic Development (DEED), Department of Education, and Department of Revenue.
9. County, state, or federal auditors.
10. Adult or Child Protection units and investigators.
11. Law enforcement personnel or attorneys related to an investigation.
12. Various county or state agencies related to funding, support, or protection of the person.
13. Other entities or individuals authorized by law.

D. ProAct will obtain authorization to release information of persons served when consultants, sub-contractors, or volunteers are working with the company to the extent necessary to carry out the necessary duties.

E. Other entities or individuals not previously listed who have obtained written authorization from the person 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.

F. 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 person served or other individuals or persons. The Designated Coordinator and/or Designated Manager will ensure the documentation of the following:

1. The nature of the emergency.
2. The type of information disclosed.
3. To whom the information was disclosed.
4. How the information was used to respond to the emergency.
5. When and how the person served and/or legal representative was informed of the disclosed information.

G. All authorizations or written releases of information will be maintained in the person's service recipient record. In addition, all requests made to review data, have copies, or make alterations, as stated below, will be recorded in the person's record including:

1. Date and time of the activity.
2. Who accessed or reviewed the records.
3. If any copies were requested and provided.

Request for records or recorded information to be altered or copies

A. The person served and/or legal representative has the right to challenge the accuracy or completeness of records, to insert his/her explanation of anything objected to into the records and/or to request copies. There is a charge for copying records.

B. If the person served and/or legal representative objects to the accuracy of any information, staff will ask that they put their objections in writing with an explanation as to why the information is incorrect or incomplete.

1. The Designated Coordinator and/or Designated Manager will submit the written objections to the President/CEO who will make a decision in regards to any possible changes.

2. A copy of the written objection will be retained in the person's service recipient record.

3. If the objection is determined to be valid and approval for correction is obtained, the Designated Coordinator and/or Designated Manager will correct the information and notify the person served and/or legal representative and provide a copy of the correction.

4. If no changes are made and distribution of the disputed information is required, the Designated Coordinator and/or Designated Manager will ensure that the objection accompanies the information as distributed, either orally or in writing.

C. If the person served and/or legal representative disagrees with the resolution of the issue, they will be encouraged to follow the procedures outlined in the *Policy and Procedure on Grievances.*

Security of information

A. A record of current services provided to each person 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 company's program office. Files will not be removed from the program site without valid reasons and security of those files will be maintained at all times.

B. The Designated Coordinator and/or Designated Manager will ensure that all information for persons 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.

C. No person served and/or legal representative, staff, or anyone else may permanently remove or destroy any portion of the person's record.

D. ProAct and its staff will not disclose personally identifiable information about any other person when making a report to each person and case manager unless ProAct has the consent of the person. This also includes the use of other person's information in another person's record.

E. Written and verbal exchanges of information regarding persons served are considered to be private and will be done in a manner that preserves confidentiality, protects their data privacy, and respects their dignity.

F. All staff will receive training at orientation and annually thereafter on this policy and their responsibilities related to complying with data privacy practices.

ProAct Requests Information in order to:

- Determine eligibility for services
- Provide effective services
- Enable us to collect public funding
- Confirm license compliance
- Prepare statistical reports and evaluations and/or financial audits
- Account for wages paid

The Minnesota Provider Notice of Privacy Practices explains:

- What data is being collected
- How ProAct will use the data
- If the person served is legally required to supply the data- or if he/she may refuse to do so
- Consequences for supplying the data or not
- Identity of other authorized persons
- Failure to give the warning is a violation of the law and may be used as evidence that ProAct is not in compliance with licensing rules.

A Rule of Thumb: The Data Practices Act seeks to ensure that the public has access to all governmental data that is classified as ***Public a***nd very limited access to data that is classified as ***Private*** or ***Confidential.***

If the Person Served has Died:

1. Upon the death of a person served, all information about that person becomes ***Private.***
2. If the information was classified as ***Confidential,*** then it remains ***Confidential***.
3. All Data Practices Act rights conferred on the person served become conferred on their living representative.

Who is Responsible for Enforcement?

The staff member at ProAct who is required to perform the duties necessary to implement and administer the Data Practices Act is responsible for enforcement. This person is the Corporate Compliance Officer. However, staff members are responsible if they:

- Prepare procedures to assure access to the information
- Prepare an annual report to the public regarding the information
- Are responsible for limiting the amount of information collected
- Are responsible for storage (filing) of the data
- Are responsible for setting the procedures for collecting information.

During the intake meeting, each new individual entering ProAct will be informed and will sign off on the notice which describes how medical, health and related information may be used and disclosed and how access to this information can be obtained.

Minors have the right to request that private data be kept from parents. This request must be made in writing. The minor person must explain why this data should be withheld and what the consequences of this activity will be. If ProAct agrees that withholding the information from parents is in the minor person's best interests, it will not be shown to the parents.

- ProAct will share information only when program services require access.

OMBUDSMAN'S RIGHT TO ACCESS RECORDS

The ombudsman may examine, on behalf of a person served, records of an agency, facility, or program if the records relate to a matter that is within the scope of the ombudsman's authority. If the records are private and the person is capable of providing consent, the ombudsman shall first obtain the person's consent. The ombudsman is not required to obtain consent for access to private data on persons with mental retardation or a related condition. The ombudsman is not required to obtain consent for access to private data on decedents who were receiving services for mental illness, mental retardation or related conditions, or emotional disturbance.