

# Notice of Program Participant Rights to Confidentiality Best Practices

## Background

Washington Administrative Code [WAC\) 388-61A-0149](http://apps.leg.wa.gov/WAC/default.aspx?cite=388-61A-0149), (<http://apps.leg.wa.gov/WAC/default.aspx?cite=388-61A-0149>) effective March 9, 2007, requires that domestic violence emergency shelter programs funded by DSHS must provide program participants with a Notice of Program Participant Rights regarding confidentiality. The Notice of Rights must include:

- A description of the program participant's right to privacy and confidentiality of information shared with the domestic violence program;
- Any exceptions to maintaining confidentiality;
- Acknowledgement that if the program participant signs a written waiver of confidentiality that allows their information to be shared with others, the participant does not give up their right to have that information protected under other statutes, rules, or laws;
- That the program participant has the right to withdraw a written waiver of confidentiality at any time;
- That the domestic violence program will not condition the provision of services to the program participant based on a requirement that the participant sign a release (signing one is voluntary).

## Best practices and how this form may impact your rules, policies, and procedures

### Intake procedure

[WAC 388-61A-0149\(2\)](http://apps.leg.wa.gov/WAC/default.aspx?cite=388-61A-0149) (<http://apps.leg.wa.gov/WAC/default.aspx?cite=388-61A-0149>) requires that the Notice of Rights be provided to the program participant at the time of initial and any subsequent intake and when the participant is considering whether to sign a release of information. Best practice indicates that advocates should read this form with the participant to both highlight that this concept of maintaining confidentiality is important to the program as well as to help ensure comprehension. Advocates can frame and begin the conversation by reading the following paragraph. *"Reaching out for support and assistance in dealing with domestic violence is an important and courageous step in the healing process. We are glad that you are here. Our services are confidential which means that your identity and the information you choose to share with us are handled in a manner to ensure privacy. This form explains what that means."* Advocates should then read the form aloud with the participant and ask if they understand or have any questions.

Advocates should let program participants know that they can have a copy of the Notice of Rights.

Advocates may also want to take the opportunity of going over this form to describe how information is shared within the immediate program (for example: shelter vs. transitional housing) and with whom.

### Mandated reporting of child abuse/neglect

In keeping with survivor-centered empowerment and advocacy based counseling principles, best practice is to let program participants know, when possible, that you are going to call CPS or the police in advance of doing so. This can be done by calling CPS or law enforcement together with the participant, calling while she is sitting with you, or simply by letting her know your concerns and the fact that you need to call the authorities.

### Release of confidential information

The Notice of Rights form refers to the Release of Confidential Information form. Advocates may wish to take this opportunity to explain under what circumstances it may be helpful to release confidential information to outside agencies and programs. Note that the WAC requires that the written Notice of

Rights must also be explained/provided to the program participant at the time they are considering whether to sign a written Release of Confidential Information form.

#### Confidentiality is one of several program participants' rights

*Please note that this Notice of Your Right to Confidentiality form is not a complete "bill of rights".*

Historically, many programs have included all program participant rights, which included an explanation of their confidentiality protocol, into one form. Programs may wish to have another form (or add to this one) that addresses what program participants are entitled to from the agency. Refer to [WAC 388-61A-0160](http://apps.leg.wa.gov/WAC/default.aspx?cite=388-61A-0160) (<http://apps.leg.wa.gov/WAC/default.aspx?cite=388-61A-0160>) for a list of what written policies and procedures agencies must have. Below are some suggested best practice rights to consider.

- All staff members and volunteers will treat you with dignity and respect regardless of race, ethnicity, national origin, sexual orientation, immigration status, religion, and physical or cognitive ability.
- You can report concerns or problems without fear of services being denied or reduced as a result of your complaint and without fear of mistreatment.
- You are entitled to a copy of your records.

WSCADV has Model Protocols on confidentiality and record keeping that you may want to reference. You can download electronic copies for free at <http://www.wscadv.org/Resources/#mp>.

#### Ensuring comprehension

As with all forms, best practice suggests taking the time to adequately explain each form with the participant. If the participant is non-English or limited-English speaking it is important to have this form along with the Release of Confidential Information form translated. To address literacy issues, best practice is to read the form aloud along with the program participant to make sure they understand it. Advocates should have the program participant sign to acknowledge that they have received the form and understand it.

#### Participants who are physically unable to sign

It is possible for people who are physically unable to sign to still give permission. For ideas on how to do this, check out the appendix of the Model Protocol on Screening Practices for Domestic Violence Victims with Disabilities on pages 10-12 at [http://www.wscadv.org/Resources/protocol\\_disability\\_screening.pdf](http://www.wscadv.org/Resources/protocol_disability_screening.pdf) .