**Section 270.275 Confidentiality and Disclosure**

a) The Adult Protective Services Act provides that the identity of any person making a report of alleged or suspected abuse, neglect, financial exploitation, or self-neglect may be disclosed only with that person's written consent or by court order.

b) *All records concerning reports of abuse, neglect, financial exploitation, or self-neglect and all records generated as a result of those reports*, including,but not limited to, referrals and intervention services, *shall be confidential and shall not be disclosed* or subject to subpoena *except as specifically authorized by the Act or other applicable law* and only after a case is closed [320 ILCS 20/8]*.*

c) These confidential records are exempt from inspection and copying under the Freedom of Information Act [5 ILCS 140/7.5(y)].

d) *Access to such records, but not access to the identity of the person or persons making a report of alleged abuse, neglect, financial exploitation, or self-neglect as contained in such records, shall be allowed to the following persons and for the following persons:*

1) *Department staff, APS provider agency staff, other aging network staff, and regional administrative agency staff in the furtherance of their responsibilities under the Act;*

2) *A representative of the public guardian acting in the course of investigating the appropriateness of guardianship for the eligible adult or while pursuing a petition for guardianship of the eligible adult pursuant to the Probate Act of 1975* [755 ILCS 5];

3) *A law enforcement agency or State*'*s Attorney*'*s office investigating a known or suspected case of abuse, neglect, financial exploitation, or self-neglect. When a provider agency has reason to believe that the death of an eligible adult may be the result of abuse or neglect, including any reports made after death, the agency shall immediately provide the appropriate law enforcement agency with all records pertaining to the eligible adult;*

4) *A law enforcement agency, fire department agency or fire protection*

*district having proper jurisdiction pursuant to a written agreement with an APS provider agency under which the agency may furnish to the law enforcement agency, fire department agency, or fire protection district a list of all eligible adults who may be at imminent risk of abuse, neglect, financial exploitation, or self-neglect;*

5) *A physician who has before him or her or who is involved in the treatment of an eligible adult whom he or she reasonably suspects may be abused, neglected, financially exploited or self-neglected or who has been referred to the Adult Protective Services Program;*

6) *An eligible adult reported to be abused, neglected, financially exploited or self-neglected* who completes an authorization for release of records *or to that adult's legal guardian or agent* who has current authority to act on behalf of the eligible adult *when access* to those *records is relevant to representing the interests of the eligible adult,* and a complete authorization for release of records is submitted, *unless the guardian or agent is the* substantiated *abuser or is the alleged abuser* in an open case*;*

7) *An executor or administrator of the estate of an eligible adult who is deceased* when relevant to administration of the estate and a complete authorization for release of records is submitted*;*

8) *A court or a guardian ad litem, upon its or his or her* written *finding that access to such records may be necessary for the determination of an issue before the court. However, such access shall be limited to an in camera inspection of the records,* unless the court determines, following the in camera inspection, *that disclosure of the information contained* in the records *is necessary for the resolution of an issue then pending before it;*

9) *In cases regarding self-neglect, a guardian ad litem*;

10) *A grand jury, upon its determination that access to such records is necessary for conduct of its official business;*

11) *Any person authorized by the Director, in writing, for audit,* program monitoring *or bona fide research purposes;*

12) *A coroner or medical examiner who has reason to believe that an eligible adult has died as the result of abuse, neglect, financial exploitation, or self-neglect. The APS provider agency shall immediately provide the coroner or medical examiner with all records pertaining to the eligible adult;*

13) *A coroner or medical examiner having proper jurisdiction, pursuant to a written agreement between an APS provider agency and the coroner or medical examiner, under which the APS provider agency may furnish to the office of the coroner or medical examiner a list of all eligible adults who may be at imminent risk of death as a result of abuse, neglect, financial exploitation or self-neglect;*

14) *Department of* Financial and *Professional Regulation staff and members of the Illinois Medical Disciplinary Board or the Social Work Examining and Disciplinary Board in the course of investigating alleged violations of the Clinical Social Work and Social Work Practice Act* [225 ILCS 20] *by APS provider agency staff or other licensing bodies at the discretion of the Director of the Department on Aging*;

15) *Department of Healthcare and Family Services staff* and its vendors *when that Department is funding services to the eligible adult, including* being given *access to the identity of the eligible adult;*

16) *Department of Human Services staff* and its vendors *when that Department is funding services to the eligible adult or is providing reimbursement for services provided by the abuser or alleged abuser, including* being given *access to the identity of the eligible adult;*

17) *Hearing officers in the course of conducting an administrative hearing under* the *Act;*

18) A caregiver who challenges placement on the Adult Protective Services Registry shall be given the statement of allegation in the abuse report and the substantiation decision in the final investigative report; and

19) *The Illinois Guardianship and Advocacy Commission and the agency designated by the Governor under Section 1 of the Protection and Advocacy for Persons with Developmental Disabilities Act* [405 ILCS 40] *shall have access, through the Department, to records, including the findings, pertaining to a completed or closed investigation of a report of suspected abuse, neglect, financial exploitation or self-neglect of an eligible adult.* [320 ILCS 20/8]

e) An authorization for release of records by the Department or the APS provider agencies must be legally sufficient and include:

1) supporting documentation of the agency or guardianship evidencing current authority and the extent of the authority to act on behalf of the eligible adult or his or her estate; and

2) a sworn statement as to the purpose of the request and its relevance to representing the interests of the eligible adult or his or her estate.

f) The release of records may be refused if evident that it is not in the best interest of the eligible adult.

g) All records must be maintained as confidential and stored in a designated and secure area within the APS provider agency offices.

(Source: Amended at 42 Ill. Reg. 9226, effective July 1, 2018)