**Section 431.100 Disclosure of Mental Health and Developmental Disabilities Information**

Release of and access to clinical, social work, psychological, psychiatric or other information of a mental health nature shall be governed by Section 4 of the Mental Health and Developmental Disabilities Confidentiality Act. Significant portions of that Act are as follows:

a) *The following persons shall be entitled, upon request, to inspect and copy a recipient's record or any part thereof:*

1) *the parent or guardian of a recipient who is under 12 years of age;*

2) *the recipient if he* or she *is 12 years of age or older;*

3) *the parent or guardian of a recipient who is at least 12 but under 18 years, if the recipient is informed and does not object or if the therapist does not find that there are compelling reasons for denying such access. The parent or guardian who is denied access by either the recipient or the therapist may petition a court for access to the record;*

4) *the guardian of a recipient who is 18 years or older; or*

5) *an attorney or guardian ad litem who represents a minor 12 years of age or older in any judicial or administrative proceeding, provided that the court or administrative hearing officer has entered an order granting the attorney this right.* [740 ILCS 110/4]

b) Except as otherwise provided in the Mental Health and Developmental Disabilities Confidentiality Act, records and communications as defined in that Act may be disclosed only with the written consent of the persons identified in subsection (a).

c) Information disclosed with the written consent of those described in subsection (a) may not be redisclosed to any other person without the express written consent of those described in subsection (a). Those persons authorized to give consent may revoke their consent at any time.

d) When the Department has legal guardianship of a child under 12 years, the Department may deny access of the biological parents to information pertaining to the child's mental health only if two professional social workers (Master of Social Work degree) employed by the Department certify in writing that denial of access is in the best interests of the child and/or parents.

e) Mental health information can be shared within the Department and purchase of service providers, with traditional and home of relative foster parents, and adoptive parents, when relevant to the Department's discharge of its duties under the Child and Family Services Act, Adoption Act [750 ILCS 50] or ANCRA.

f) Mental health information can be shared with a juvenile court judge, guardian ad litem or State's Attorney in an abuse or neglect temporary custody hearing, adjudicatory hearing, dispositional hearing or termination of parental rights hearing when the information is relevant to the juvenile court proceeding.

g) During a child abuse and neglect investigation, mental health and developmental disabilities records can be released to the Department pursuant to the Illinois Mental Health and Developmental Disabilities Confidentiality Act.

h) Mental health records can be released to the Department's Inspector General when:

1) *the recipient was either*:

A) *a parent, foster parent or caretaker who is an alleged perpetrator of abuse or neglect or the subject of a dependency investigation; or*

B) *a non-ward victim of alleged abuse or neglect; and*

2) *available information demonstrates that the mental health of the recipient was or should have been an issue to the safety of the child.* [740 ILCS 110/9(5)]

i) The parent or guardian of a recipient who is at least 12 but under 18 years can request and receive, consistent with Section 4 of the Consent by Minors to Medical Procedures Act [410 ILCS 210], the following information: current physical and mental condition, diagnosis, treatment needs, services provided, and services needed, including medication, if any.

j) Consistent with Section 4 of the Consent by Minors to Medical Procedures Act, the therapist of a minor age 12-18 can release the records if he or she believes it to be in the best interest of the minor. The therapist must notify the minor that the information was released.

k) Anyone receiving a mental health record or information from a mental health record does not have the legal authority to disclose the information unless the re-release of information is specifically consented to by the client or otherwise permitted by this Section. Sharing of information between divisions of the Department or between the Department and purchase of service providers or between purchase of service providers as required for case management is a transfer and not a disclosure of information.

l) Persons are entitled to review their own mental health records. Any competent adult recipient may consent to release of mental health records on the prescribed written form.

(Source: Amended at 39 Ill. Reg. 7253, effective May 7, 2015)