

VIBS Family Violence and Rape Crisis Center Confidentiality Policy

Policy:

VIBS values the restoration of power and control to the survivor, the preservation of her safety to the extent possible, and the establishment of trust between herself and VIBS. It also values transparency with every survivor regarding instances when information must be shared, as required of the organization by state and federal laws. Therefore, all staff will communicate their limitations around preserving confidentiality up front. In those situations in which staff are not compelled to share information, they will preserve confidentiality and not share information without the express, written permission of the client.

Purpose:

To make VIBS' position on client confidentiality clear and transparent, and to guide the staff in best confidentiality practices in their daily functions in support of survivors.

I. VIBS Confidentiality Procedures

All clients will be verbally informed at the onset of services and throughout service delivery that VIBS services are confidential and that any information that the client shares with staff will be kept confidential to the greatest extent possible. Reasons that would warrant staff to break a client's confidentiality is if and when a client discloses and/or staff has reasonable suspicion of child abuse, suicidal intent, or homicidal intent (see mandatory reporting policy for reporting guidelines). As such, VIBS staff is expected to follow the procedures outlined below.

1. Upon initial contact with VIBS, staff will discuss with the client that all services provided by VIBS are confidential and that any information that the client shares with VIBS will be kept confidential to the greatest extent possible.
 - a.) Staff will inform the client that any information that is requested to be shared with an external entity **cannot** be shared **unless** the client gives VIBS prior permission to do so.
 - i. A client will provide consent for VIBS to share information with an external entity by way of signing a written release of information consent form (see information sharing procedures found on page xx of employee manual).
 - ii. Oral permission is acceptable regarding **certain** circumstances and requires thorough documentation by the staff to clarify VIBS actions and the clients' wishes. These certain circumstances are
 - If the client has endured a temporary physical condition that would render her incapable of physically signing a consent form (in instances of a broken hand, finger, wrist, etc.)
 - If the client has endured a medical emergency and information needs to be released in an immediate fashion on behalf of the client.
 - If the client has an immediate court date or legal proceeding scheduled and information needs to be released in a timely fashion on her / his behalf.
 - b.) Staff will inform the client that disclosures and reasonable suspicion of child abuse, suicidal intent, and homicidal intent (see mandatory reporting policy for reporting guidelines found on page xx of employee manual) are instances when information can be shared **without** the client's consent.
 - No written release of information consent form is required.
2. Staff is required to provide written information (see attached handout) pertaining to VIBS confidentiality policy during group orientation, initial crisis appointment, and/or initial individual or group counseling session.
 - a.) Staff will verbally review the written informational handout with client.
 - Staff will provide time in order for the client to fully understand and ask questions about the written form being reviewed.
 - b. Once the client fully understands the handout, staff will have the client sign and date the handout to acknowledge that they have read and understood the information discussed.
 - c. The signed handout will be placed in the clients file and a copy will be given to the client.

- d. Staff will discuss with the client the safety risks and concerns in bringing this written material home and / or in sharing this information with their abusive partner.
 - i.) Safety risks and concerns include:
 - Potentially placing the client at additional risk if abusive partner should find out the information discussed at VIBS
 - If the abusive partner does not have knowledge that the client is receiving services at VIBS, written handout may reveal that client is receiving assistance
 - Abusive partner may become more strategic as to how he can victimize client further without enduring legal entanglements based on knowledge of client seeking services
3. Staff will ensure that all agency consultants or sub-contractors who may have access to confidential client information while conducting their business will sign a written VIBS confidentiality agreement (see attached).

Providing Private, Confidential VIBS Services on VIBS Premise

When VIBS services are facilitated and/or offered at VIBS facility, staff is expected to follow the below procedures as a way to provide the most confidential services to clients:

1. Staff is required to have confidential conversations regarding or with a client(s) in a private office location that is not in the presence of or in close proximity of other individuals not involved in group or individual session.
 - a.) Staff should facilitate phone conversations regarding or with a client in a private office.
 - b.) Staff should facilitate in person appointments with clients in a private office behind closed doors.
 - If a client is uncomfortable with having the door closed, staff will follow the client's request and will inform the client that confidentiality may be compromised whereby other staff and / or clients may overhear this information.
 - c.) Clients engaging in group process facilitated by a VIBS staff member will be asked to respect the confidentiality of all the group members by not speaking about the group content and members outside of group.
2. Sound machines should be utilized when meeting with or sharing information about a client.
3. Staff members will not utilize the last names of clients in the presence of others or in non-confidential areas.
4. Staff will share only minimal and necessary client information on a "need to know" basis with other VIBS staff in order to facilitate the most responsive delivery of services for the client while still preserving confidentiality.
 - a.) Client names should not be used unless there is a safety issue or an in-house service referral involved.
5. If a guest speaker is invited to speak with a VIBS client who is not a VIBS staff member or who is not a fellow group client, staff will ensure that this guest speaker:

- Is informed of VIBS confidentiality policy regarding the clients served
- Is advised that they must abide by VIBS confidentiality guidelines
- Is required to sign and agree to VIBS confidentiality agreement prior to having contact with any VIBS client(s).

Providing Private, Confidential VIBS Services at Other Locations

When VIBS services are facilitated and/or offered at another location off site such as at court, home visit, and/or at a partnership site, staff is expected to follow the below procedures as a way to provide the most confidential services to clients:

1. VIBS staff will schedule to meet a client at an alternative location due to the following circumstances:
 - a.) Client needs court advocacy accompaniment due to scheduled court date or need for order of protection
 - b.) Elderly clients who are unable to drive or who lack transportation
 - c.) Individuals with disabilities who lack accessible transportation
 - d.) Clients who are receiving services at another organization in which VIBS is in partnership with and a prior agreement contract is in place
2. Staff will only schedule an in person appointment with a client at an alternative location if:
 - a.) the location is deemed safe for both the staff member and the client
 - i.) If the client requests for staff to arrange for a home visit, staff is to inquire
 - whether the abuser also resides there
 - if the abuser has knowledge of known address
 - if the abuser is aware that client is receiving services from VIBS
 - ii.) If the abuser resides at the same residences as client, staff will inform the client that a home visit is not safe and other arrangements will need to be made.
 - iii.) If the abuser has knowledge of known address, staff will explore safety risks associated with staff scheduling a home visit including
 - risk that abuser may find out client is receiving services from VIBS
 - increased danger for both staff member and client if abuser witnesses an unfamiliar individual visiting client at home
 - b.) the client and staff both agree that services would be best offered at the specified alternative location rather than at VIBS facility
 - c.) a qualified individual request a reasonable accommodations which would consist of arranging services at an alternative location
3. Staff will discuss with the client how their confidentiality may be compromised as a result of meeting in a public setting. Clients will be informed that:
 - a.) many public settings do not provide a confidential meeting area in which staff and client can speak privately
 - b.) many public settings do not provide the safeguards of preventing the abuser or others from occupying the same space or facility.

- c.) a VIBS' staff member's presence with the client at an outside agency may indicate to others that the client is receiving VIBS services.
4. In the event that a VIBS staff member needs or is requested to speak on behalf of the client while accompanying her/him to any outside services, the VIBS staff member will only do so if the client provides express permission and willingly signs a release as this could also compromise her/his confidentiality and safety.
5. VIBS staff will not acknowledge the presence of any clients seen in public settings.
 - Staff will encourage clients to do likewise in order to preserve each other's confidentiality.

Access and Accommodations

1. Staff will inform clients prior to their initial in-person appointment at VIBS' facility that surveillance cameras are in use for security reasons. Signage is also posted at the reception window which indicates the same.
2. If a Primary Care Aide (PCA) transports / accompanies a client to VIBS' for services, staff will request that the PCA wait in the waiting room unless the client requests that the PCA be present during services.
 - a.) If the client wishes to have the PCA present during services, staff will obtain a written release of information consent form and have the client sign it providing VIBS permission to facilitate services in the presence of the PCA.
 - Signed written release of information consent form will be kept in the client's file.
3. If an interpreter is needed for the delivery of services, the interpreter is required to sign a confidentiality agreement before services begin.
 - This signed form will be kept in the client's file.
4. If a client's guardian is to be present during service delivery and / or is to be involved in decision making regarding services, the client will be asked what her / his wishes are regarding having the guardian involved (see Guardianship Procedures for additional guidance).
5. Staff is required to follow the forgoing procedures with former clients.

II. Information Sharing Procedures

When VIBS' is requested to or wishes to share information about a client with an external entity, VIBS is required to inform the client upon any requests and obtain the clients written consent prior to VIBS disclosing **any** information regarding the client. **Both** VIBS **and** the external source obtaining / releasing the information will need to attain a signed release of information consent form from the client. As such, VIBS staff is expected to follow the procedures outlined below.

1. When a request to share information is received, staff will discuss the request with the VIBS client.
 - a.) When staff informs a client that a request to share information was made by or will be with an external entity, staff will discuss with the client:
 - i.) The potential benefits of sharing information:

- Increased coordinated response efforts
 - Additional support networks / referrals
 - Demonstrates clients interest and participation in service delivery
- ii.) The potential risks of sharing information:
- Risks in the transmission of privileged information via phone, email, and fax
 - How the information shared by VIBS will be utilized by the receiving external entity
2. Prior to having the client share information, staff will ensure that the client is aware of the following:
 - a.) staff will attempt to share information regarding a client in-person verbally when possible rather than by way of letter, email, or written form.
 - b.) faxes sent that include client information will be accompanied by a confidential cover sheet.
 - c.) all e-mails sent from VIBS' will have a confidential footer.
 - d.) client's name will not appear in any internal e-mail communication.
 - e.) staff will confirm the identity of a client prior to beginning an e-mail communication with her/him. This will be done via the phone or a password system.
 3. After the client is clear and understands both the benefits and potential risks, staff will inquire whether the client is willing to grant VIBS permission for VIBS to share information about the client with the specified external entity.
 4. If the client decides that she / he would like to have VIBS share information about her /himself to the external entity, than staff will review client's file to see if there is a valid, up-to-date written release of information consent form signed by the client for that specified external entity.
 5. If there is no up-to-date written release of information consent form on file for the external entity with whom the information will be shared with, than staff is required to complete one and have client sign it for the client's record.
 - a.) Staff will obtain a blank release of information consent form located either in
 - the counselors file room in the file cabinet labeled counseling forms
 - the advocacy file room in the file cabinet labeled advocacy forms
 - in the front reception file cabinet labeled agency forms
 - computer system in the shared drive
 - b.) The release of information consent form will be filled out by the staff member with the full participation of the client.
 - c.) Staff is required to clearly document and read the entire consent form to the client which includes:
 - the date that the consent form will expire (15 – 30 days from date enacted) or upon clients immediate demand
 - the specific individual (name, organization, phone number) to whom the information can be shared with.

- details of which the client agrees for VIBS to share with person named on release
- d.) Time and space should be provided in order for the client to fully understand and ask questions about the information written on the consent form.
 - e.) Staff should ensure that the client has understood what
 - f.) Once the consent form is filled out and completed, staff will have the client sign it.
 - Staff will accept the clients mark in place of a signature if the client is unable to sign their name.
 - g.) VIBS staff should then encourage client to ensure that any external entity with whom they are sharing information also have a written release of information consent form.
6. Separate release of information consent forms are required if a different external entity or different person from the same agency in which the original consent form is designated for is requesting to share information regarding the client.
 - a.) Staff should follow the same process listed above for all requests for information from any external entity.
 7. When possible, staff should ensure that any contact made regarding the exchange of information pertaining to the client be made with the client present.
 8. If a signed release of information consent form is faxed or emailed by the client, staff is required to speak with the client by phone prior to sharing client information to ensure that the release is indeed from the client and not from a perpetrator impersonating the client.
 9. In instances when a court has appointed an individual with disabilities with a legal guardian and the court has legally adjudicated an individual with a disability as being unable to sign legal documents, the client's legal guardian may sign a release of information on behalf of the client.
 10. The only time a legal, court appointed guardian **cannot** sign a release of information on behalf of the client is when the guardian is identified as the abuser.

Clients Granting VIBS Oral Permission to Share Information Who Are Unable to Sign a Release

There may be instances when a client is unable to sign a release of information consent form and requests that VIBS share information with an external source regarding the client's involvement with VIBS services. Very few exceptions will be granted that would enable VIBS staff to accept a client's oral request to release information without having them sign a release of information consent form prior to sharing client information with an external source.

1. Staff, **only** under certain circumstances and with the appropriate supervisory approval, can accept oral consent by a client for VIBS to share information with an external entity about the client when the client is unable to sign a release of information consent form prior to releasing information to an external source.
 - a. The few instances when oral permission can be accepted are
 - i. If the client has endured a temporary physical condition that would render her physically incapable of signing a consent form (in instances of a broken hand, finger, wrist, etc.)

- ii. If the client has endured a medical emergency and information needs to be released in an immediate fashion on behalf of the client.
 - iii. If the client has an immediate court date or legal proceeding scheduled and information needs to be released in a timely fashion on her / his behalf.
2. If the individual is someone who contacts VIBS for the first time or if they are not an active client of VIBS and they request or wish to have their information shared by VIBS with an external entity, staff will offer three-way calling to facilitate information sharing with another professional or organization, during which time the client will provide all the personally identifying information her/himself.
3. If the client does not wish to engage in three-way calling, staff will obtain a blank release of information consent form and fill out the necessary information on the consent form as dictated by the caller.
4. Staff will read the completed consent form to the client to assure her/his intent and accuracy.
5. Staff will clearly document on the consent form that the client provided this information orally and was not present in person to sign on this date.
6. Staff will sign and date the consent form to verify and confirm that the information written on the form is correct.
7. Staff is required to have the client sign the above form at the next face to face opportunity.
8. The above applies for a client's oral request to withdraw consent.

Storage and Expiration of Consent Forms

1. All completed and signed consent forms are to be placed in the clients' file.
2. Clients will be informed that staff will honor and abide by a client requests to withdraw releases of information consent forms at any given time throughout their duration of receiving VIBS services.
3. Staff will inform clients that upon termination of services, any releases of information on file will no longer be effective.

Clients Who Do Not Wish to Grant VIBS Permission to Share Information

1. If the client declines to give written and/or oral permission for VIBS' staff to share information about the client with the external entity, than VIBS **will not** share any information with the external entity.
2. Staff will respond to requests from external entities regarding the client by stating "VIBS cannot affirm or deny if the client is a client of VIBS but if the client is and if she / he is willing to sign a release of information, than VIBS will contact the external entity back".
3. Staff will encourage the client to contact the external entity and provide the information her / himself.

Exceptions Pertaining to Sharing Client Information

Written and/or oral consent by the client is required prior to VIBS sharing any information **EXCEPT** in instances of legal plenary guardianship and NYS and professional mandatory reporting requirements, medical emergencies, and court subpoenas.

Guardianship

When working with a client with a disability who has a court-appointed guardian with plenary rights over the client, staff should:

1. Request court appointed documentation of guardianship
2. Ask the client if she / he would like for the guardian to be present during service appointment
 - a.) If the client decides that she / he would like for the guardian to attend the service appointment with her / him than staff will abide by client's wishes.
 - b.) If the client states that she / he does not wish to not have the guardian attend service appointment with client **and** if the guardian exercises her / his right as legal plenary guardian to be involved in service delivery with client than staff will:
 - Offer the guardian a separate appointment from the client which will address the effects of domestic / sexual violence on the client
 - Discuss ways in which the guardian can be helpful to the client in the clients recovery process
 - c.) If the court appointed legal guardian is identified as the abuser, that person should NOT sign a release of information on behalf of the client. In these cases, staff should:
 - discuss with the client concerns pertaining to client having a court appointed guardian who is identified as the abuser.
 - discuss with supervisory staff regarding a possible referral to APS.
 - provide the client with the phone number to APS if an APS referral is warranted. The client may choose to contact APS for assistance independently or in the presence of a VIBS staff member.
 - caution client on the safety concerns that persist in having her / his abuser accompany client to VIBS.

Mandatory Reporting

1. Staff is legally required to share information pertaining to a client, with or **without** a written and/or oral consent by the client in cases of child abuse, suicidal intent / plans, and homicidal intent / plans (see Mandatory Reporting Policy).
2. If staff ascertains that a client with disabilities is receiving services through the NYS Office for People with Developmental Disabilities (OPWDD) and the client wishes to have information about her/his participation at VIBS to be shared with a disabilities service provider, staff will inform the client this exchange of information will result in a mandated report by the disability service provider to OPWDD.

Medical Emergencies

1. In the event of a client medical emergency, VIBS staff will inform conscious and alert clients that VIBS will be contacting 911 for medical assistance.
 - a.) Staff will call 911 and report the nature of the client's medical emergency.
 - b.) Information provided by staff should **not** include any details pertaining to the client's services at VIBS.
 - c.) Staff will inform the front desk staff and administration that 911 have been contacted and that medical assistance is expected to arrive momentarily.
 - d.) Front desk staff will ensure that the lobby area is clear of obstructions and other clients in preserving the confidentiality of the injured individual.
 - e.) When EMS (emergency medical staff) responder(s) arrive, staff will lead them to the injured client.
 - f.) If the EMS responder asks personally identifying information about an unconscious or non-responsive client, staff may provide an "I don't know" answer or give non-identifying information such as "around 45 years old" instead of actual birth date. Conscious and alert clients will provide information themselves.
 - g.) Staff will fill out an incident report and discuss the nature of this incident with their supervisor and administration.

Legal Subpoenas

1. If VIBS staff is subpoenaed to disclose confidential information pertaining to a client and there is no signed written release of information consent form, staff will:
 - a.) Inform the client of this inquiry.
 - b.) Explain VIBS policy of making every effort to protect client confidentiality and safety by quashing the subpoena request.
 - c.) Explain the limitations of VIBS ability to quash a request
 - d.) Explain that if the subpoena request is unsuccessfully quashed; than information pertaining to the client will be shared with specified external entity as a result of subpoena (please refer to VIBS subpoena policy).

III. Client Contact Restrictions / Preferences Procedures:

VIBS staff is to maintain and update accurate client records regarding contact restrictions and preferences in order to ensure a safe way for staff to contact the client. As such, VIBS staff is expected to follow the procedures outlined below.

1. Staff is required to ask all clients seeking VIBS services for any contact information when and if staff should need to contact them outside of VIBS.
2. Staff will inform the client that VIBS business telephone number comes up as private on caller ID, **unless** the party being contacted does not accept private numbers.
3. VIBS staff will inquire if the number they provided is a safe way to connect with the client.
 - a.) If the phone number that the client offers is not a safe way to connect with the client, staff will discuss with the client the potential risks regarding such.
 - i.) Potential risks

- Abusive partner may find out that client contacted VIBS or is receiving services at VIBS if abusive partner should receive phone call
 - Abusive partner may not inform client that VIBS has contacted her and/or give her message left from VIBS.
4. If the client states there are no restrictions in contacting the client with the phone number or through the method provided, staff will clearly document N/ R after the contact number given.
 - a.) N/R means No Restrictions and staff can identify themselves as calling from VIBS or when leaving a message.
 5. If the client states that there are restrictions in contacting the client at the phone number or through the method provided, staff is to
 - a.) Inquire whether there is a safer, alternative way that staff can contact client.
 - i. Another phone number can be utilized (employment, other family members, neighbors, etc.)
 - ii. An e-mail address is an option and if they have safe access to one
 - b.) If no other contact number can be provided, than staff will inquire what the restrictions are.
 - c.) All restrictions should be clearly documented in the clients file and in SYSTA (VIBS computerized client database).
 - i. Writing the specific times and days when contact is permissible.
 - ii. Specify whether staff can say they are calling from VIBS or should just leave a first name, etc.
 - iii. Specify whether or not staff can leave a voice message and if so what information they can leave.
 6. If a client declines to give VIBS **any** contact information s/he is still eligible to receive services however the client will be informed:
 - a. That s/he will assume the responsibility of contacting VIBS' to confirm, cancel, or schedule appointments.
 - b. That s/he will assume the responsibility of contacting VIBS' for any other concerns or issues regarding services.
 7. Periodic review of these restrictions will occur with the client, particularly if there is a change in the client's living situation and contact information.

IV. Confidential Record Keeping Procedures:

VIBS is required to keep all client records confidential which include documentation with personally identifying information pertaining to the client and her / his services. VIBS staff is expected to follow the procedures outlined below.

1. Staff can locate client files in:
 - a. In the assigned client locked file cabinet in the counseling file storage room if it is a counseling client.
 - b. In the assigned client locked file cabinet in the advocacy file storage room if it is an advocacy client.

2. The counseling staff that is assigned to the client in addition to their supervisor may have access to their record by:
 - a. Obtaining the key to the locked file cabinet located in the counseling file storage room from the Director of Counseling Services, the Senior Counselor or the Hotline Coordinator
3. The advocacy staff that is assigned to the client in addition to their supervisor may have access to their record by:
 - a. Obtaining the key to the locked file cabinet located in the advocacy file storage room from the Director of Advocacy or the Senior Advocate
4. Staff will ensure that the file cabinet is shut and locked after removing the client's file from the cabinet.
5. When client records are being utilized, staff should:
 - a. Always have it in their immediate possession
 - b. Never leave it open and unattended in non-confidential spaces
 - c. Not share the client record with other staff members not assigned to the client
 - d. Never remove client records from VIBS' premises for any reason
6. Staff will store confidential client records for VIBS' clients at collaborative organizations in a locked file cabinet within a locked room dedicated to VIBS' services.