

HUMAN RESOURCE POLICIES  
**CLIENT RECORDS POLICY\***

**Approval Date:** July 2006

**Approved by:** Chief Operating Officer

**Revision Dates:** September 2010, March 1, 2018, August 22, 2019, March 24, 2025

**CCA Accreditation Standards:** ORG-PS-2.3, ORG-PSA-2.4, ORG-INFO-1.1, CYMH-PROC-2.1, CYMH-PROC-2.2

**Cross Reference:** *Client Privacy & Confidentiality Policy, Child Abuse Reporting Policy, Recognizing and Responding to Suicidality Policy, Subpoena Policy*

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## POLICY

Boost CYAC adheres to the *Personal Health Information Protection Act* (PHIPA) which sets out rules for the collection, use and disclosure of personal health information. These rules will apply to all health information custodians operating within the province of Ontario and to individuals and organizations that receive personal health information from health information custodians. Under PHIPA, Boost CYAC is a health information custodian.

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## CLIENT RECORDS

A compilation of all recorded information that, regardless of the physical form or characteristics, is under the control of Boost CYAC and is in connection with the provision of present, planned and past services to a specific client.

The primary purpose of the client record is to help in the provision of quality service to a client.

All client records are the property of Boost CYAC, in whatever form the records are maintained (e.g., paper, electronic file, video/audio recording).

Client records will only contain information that is necessary to provide service.

All client records may contain the following information:

- a. identifying information with respect to the client;
- b. the name of, or other identifying information, with respect to the referral source;
- c. the nature of any presenting problem(s), or the reason(s) for service;
- d. information collected at the time of intake;
- e. all signed consent forms related to the provision of service and the release of sharing of information;
- f. copies of all psychological, psychiatric, medical, psychosocial or other reports collected from other service providers to help make a service decision;
- g. all correspondence related to the client, both sent and received;
- h. any court orders related to the service being provided;
- i. the plan of service/treatment;
- j. contact notes from the point of intake through to termination of service;

\*Formerly the *Code of Procedures for Client Records Policy*

- k. a record of services provided or arranged by Boost CYAC;
- l. a copy of any incident reports related to the client
- m. a closing note/summary that includes any recommendation(s) being made for after care, follow up, and/or future services.

Records created by partner agency staff (i.e. Toronto Police, CAST, CCAS, Hospital for Sick Kids, Radius Child & Family Services, Native Child & Family Services, Jewish Family & Child) are not considered Boost CYAC client records.

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## CONSENT

A client or other individual's consent or revocation of consent is valid if, at the time the consent is given or revoked, the person:

- a) has capacity;
- b) is informed as to the nature and the consequences of consent and any alternative(s) to it;
- c) gives or revokes the consent voluntarily, without coercion or undue influence or under influence; and
- d) has had an opportunity to obtain independent advice.

Boost CYAC needs to obtain an individual's consent to collect, use and disclose personal health information, unless PHIPA allows the collection, use or disclosure without consent. An individual's consent may be expressed or implied.

Express consent to the collection, use or disclosure of personal health information by a custodian is consent that has been clearly and unmistakably given. Express consent may be explicitly provided, either orally or in writing.

Implied consent to the collection, use or disclosure of personal health information is consent that a custodian concludes has been given based on an individual's action or inaction in particular factual circumstances.

Under PHIPA, regardless of whether it is express or implied, consent must be:

- informed
- voluntary (not obtained through deception or coercion),
- related to the information in question and
- given by the individual.

Informed consent means that it is reasonable in the circumstances to believe that an individual knows why Boost CYAC collects, uses and discloses their personal health information and that they may give or withhold this consent.

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## CAPACITY

The capacity to understand and appreciate the nature of a consent and the consequences of giving, withholding or revoking the consent.

Under the Personal Health Information Protection Act (PHIPA), individuals are presumed to be capable of making their own decisions regarding the collection, use or disclosure of their personal health information.

Individuals are capable of consent if they are able to understand information relevant to deciding whether to consent to the collection, use or disclosure of their personal health information, and to appreciate the reasonably foreseeable consequences of giving, not giving, withholding or withdrawing their consent.

If a custodian believes that an individual is incapable of providing consent, PHIPA permits a substitute decision-maker, such as a relative, spouse, child's parent, or the Public Guardian and Trustee, to make a decision on an individual's behalf.

A custodian may obtain consent for the collection, use and disclosure of personal health information from a capable child, regardless of age, if they are able to understand information relevant to deciding whether to consent to the collection, use or disclosure of their personal health information, and to appreciate the reasonably foreseeable consequences of giving, not giving, withholding or withdrawing their consent.

If a child is less than 16 years old, a parent of the child or a children's aid society or other person who is lawfully entitled to give or refuse consent in the place of the parent may also give, withhold or withdraw consent. However, this does not apply in the context of information that relates to treatment within the meaning of the *Health Care Consent Act*, about which children have made a decision on their own, or counselling in which children have participated on their own under the *Child, Youth and Family Services Act*. A parent does not include a parent who has only a right of access to the child. If there is a conflict between a capable child who is less than 16 years old, and the person who is entitled to act as the child's substitute decision-maker, the decision of the capable child regarding giving, withholding or withdrawing consent prevails.

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## SERVICE PROVIDER

Boost CYAC is a service provider within the meaning of the *Child, Youth and Family Services Act*. Boost CYAC may provide a service to a client who is 12 years of age or older with the client's consent, and no other person's consent is required, but if the client is less than 16 years of age, the service provider will discuss with the client at the earliest appropriate opportunity, the desirability of involving the client's parent or legal guardian.

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## DISCLOSURE OF RECORDS

Under PHIPA, the term "disclose" in relation to personal health information in the custody or under the control of Boost CYAC is defined as making the personal health information available or to release it to another health information custodian or authorized person. It does not include providing personal health information back to the person who provided it or disclosed it in the first place.

Boost CYAC or an employee, contractor, student or volunteer of Boost CYAC will not disclose a client's record except as follows.

- a. With the client's informed consent:
  - For clients under twelve (12) years of age or younger, Boost CYAC must have informed consent of the client's parent(s) or legal guardian(s) to disclose the client's record.
  - A client 12 years of age or older, must give their informed consent for their parent, lawful custodians or anyone else to access information in their client record.
- b. Without the client's consent:
  - legal duty to report suspicions of child abuse
  - documents that are subpoenaed by the court
  - if there is a risk to the person's safety or the safety of someone else

If Boost CYAC discloses a client's record without the client's consent pursuant to Section 4(b), Boost CYAC will promptly give notice of the disclosure to the person whose record was disclosed.

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## RIGHT OF ACCESS AND WITHHOLDING AND REFUSAL

Under PHIPA, an individual (or someone legally authorized to act on their behalf) has the right to request access to and correction of their record of personal health information.

Boost CYAC must ensure that persons requesting access to information in a client record have a legal right to have access to the information, including requiring proof that they have legal authority to make decisions on behalf of the client (i.e., custodial parent or guardian).

To receive access to a client record, a written request must be made to the client's primary worker or Clinical Intake Worker and approved by Boost CYAC's Privacy Officer (President & CEO). To ensure clients' best interests are upheld, Boost CYAC assesses requests to access client records on a case-by-case basis.

To validate the identification of the person requesting records, they must present their photo identification in person at the Boost CYAC office. In exceptional circumstances, photo ID may be verified in a virtual meeting.

Boost CYAC will provide clients full access to their entire client file (e.g., case notes, consent forms reports, emails, texts,) upon request, unless a legal exception applies (e.g. if access could result in harm to any person). Boost CYAC may consult with legal counsel.

If the record is not primarily about the individual, the right of access extends only to the portion of the record that is about the individual. Where there is a group record kept, each member of the group may have access only to portions specific to them.

A child does not have the right to information about their parent.

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## PROCEDURES

### 1. Request for Access

Where a client makes a request to access their record(s), Boost CYAC will respond to the client within thirty (30) business days of receiving the request.

Upon review of the request, including legal consultation if required, Boost CYAC may:

- a. provide the client with access to the record;
- b. notify the client that Boost CYAC refuses to give access to part of the record, stating the reasons for the refusal, and give them access to the rest of the record;
- c. notify the client that Boost CYAC refuses to give them access to the entire record, stating the reasons for the refusal; or
- d. notify the client that this right of access does not apply to the record or that the record does not exist, if that is the case.

The notice of refusal of access, as mentioned above, will contain a statement of the person's right to request a review of this refusal.

Every disclosure of all or part of a client's record will be noted on and forms part of the record. This does not apply to routine use of a person's record by Boost CYAC and its employees, students, contractors and volunteers.

## **2. Request to Correct a Client Record**

A client who has a right to access a record also has a right to have errors or omissions in the record corrected within thirty (30) days of receiving the request. All requests are approved or refused by Boost CYAC's Privacy Officer. Where a client requests that Boost CYAC correct an error or omission, within thirty (30) days of receiving the request, Boost CYAC may:

- a. make the correction as requested, and file notice of the correction to every person to whom Boost CYAC has disclosed the record; or
- b. notify the person that Boost CYAC refuses to make the correction as requested stating the reasons for the refusal, and note the request and response to the record; or
- c. notify the person that this right of correction does not apply to the record or that the record does not exist, if that is the case.

A notice of a refusal to make a correction will contain a statement of the person's right to request a review of the matter and outline the steps required.

Every correction, or request for correction, to a person's record will be noted on and forms part of the record. This does not apply to routine use of a person's record by Boost CYAC and its employees, students, contractors and volunteers.

Boost CYAC must ensure that persons requesting access to information in a client record have a legal right to have access to the information, including requiring proof that they have legal authority to make decisions on behalf of the client (i.e., custodial parent or guardian).