

§7703. Records; disclosure

1. Records. Except as otherwise provided by law and this section, any records that are made, acquired or retained by the department in connection with its responsibilities under this subtitle shall be available to the public.

[PL 1983, c. 691, §2 (NEW).]

2. Confidential information. Except as provided in subsections 3 and 4, confidential information may not be released without a court order or a written release from the person about whom the confidential information has been requested. The following information is confidential:

A. Information that identifies, directly or indirectly, a recipient of services of the facility, a client of the facility or the client's family or custodian, except when the family member or custodian is an owner or operator of the facility; [PL 2007, c. 324, §6 (AMD).]

B. Notwithstanding sections 3474 and 4008, any information gathered in the course of an investigation of neglect or abuse, except a statement indicating whether or not a report of abuse or neglect has been received, the nature of the alleged abuse or neglect and the conclusion reached by the department, if any; [PL 1983, c. 691, §2 (NEW).]

C. Information that identifies, directly or indirectly, a reference, complainant or reporter of suspected abuse or neglect; [PL 2007, c. 324, §6 (AMD).]

D. Information pertaining to the adoption of an individual; [PL 2007, c. 324, §6 (AMD).]

E. Information about the private life of a person, other than an owner, operator or employee of a facility, in which there is no legitimate public interest and that would be offensive to a reasonable person, if disclosed, except as provided in paragraph F; [PL 2007, c. 324, §6 (AMD).]

F. Information about the private life of a person who has applied for a license or approval or is or has been licensed or approved as an adult foster home, licensed pursuant to chapter 1663, and family foster home as defined in section 8101, subsection 3, in which there is no legitimate public interest and that would be offensive to a reasonable person, if disclosed; and [PL 2007, c. 324, §6 (AMD).]

G. Information that identifies, directly or indirectly, a reference, complainant or reporter of suspected licensing violations. [PL 2007, c. 324, §6 (NEW).]

Within the department, confidential information must be available to and used by appropriate departmental personnel and legal counsel in carrying out their various functions. Nothing in this section may prevent the release of statistical information regarding the population of the facility by diagnosis or other classification, as long as it does not directly or indirectly identify the clients or recipients of services of the facility.

[PL 2007, c. 324, §6 (AMD).]

3. Optional disclosure of confidential information. Relevant information made confidential by subsection 2 may be released to the following:

A. An agency investigating a report of child or adult abuse or neglect when the investigation is authorized by law or by an agreement with the department; [PL 1983, c. 691, §2 (NEW).]

B. A physician treating a child or adult whom he reasonably suspects may be abused or neglected; [PL 1983, c. 691, §2 (NEW).]

C. A person, the parent or guardian of a minor, or the guardian of an incapacitated adult named in a record, provided that the identity of any reference, complainant, reporter of suspected abuse or neglect or other person is protected when appropriate; [PL 1983, c. 691, §2 (NEW).]

D. A person having the legal responsibility or authorization to educate, care for, evaluate, treat or supervise a client or recipient of services of the facility. This shall include a member of a treatment team or group convened to plan for or treat a person named in a record, provided that the identity of any reference, complainant, reporter of suspected abuse or neglect or other person is protected, when appropriate; [PL 1983, c. 691, §2 (NEW).]

E. Any person engaged in bona fide research, provided that no personally identifying information is made available, unless it is essential to the research and the commissioner or his designee gives prior approval. If the researcher desires to contact a subject of a record, the subject's consent shall be obtained by the department prior to the contact; [PL 1983, c. 691, §2 (NEW).]

F. Any agency involved in approving homes for the placement of children, provided that the identity of any reference, complainant, reporter of suspected abuse or neglect or other person is protected, when appropriate; [PL 1983, c. 691, §2 (NEW).]

G. An individual seeking to place a child or adult in a particular facility with protection for the identity of any reference, complainant, reporter of suspected abuse or neglect or other person, when appropriate; [PL 1987, c. 714, §8 (AMD).]

H. An owner or operator of a facility which is the subject of a record, provided that the identity of any reference, complainant, reporter of suspected abuse or neglect or other person is protected, when appropriate; or [PL 1987, c. 714, §8 (AMD).]

I. Persons and organizations pursuant to Title 5, section 9057, subsection 6, and pursuant to chapter 857. [PL 1987, c. 714, §9 (NEW).]

[PL 1987, c. 714, §§8, 9 (AMD).]

4. Mandatory disclosure of confidential information. The department shall disclose relevant information in the records made confidential by subsection 2 to the following persons:

A. The guardian ad litem of a child or adult named in a record who is reported to be abused or neglected; [PL 1983, c. 691, §2 (NEW).]

B. A law enforcement agency investigating a report of child or adult abuse or neglect or the commission of a crime by an owner, operator or employee of a facility against a client or recipient of services of the facility; [PL 1985, c. 437, §4 (AMD).]

C. A court on its finding that access to those records may be necessary for the determination of any issue before the court. Access shall be limited to in camera inspection, unless the court determines that public disclosure of the information is necessary for the resolution of an issue pending before it; [PL 1983, c. 691, §2 (NEW).]

D. A grand jury on its determination that access to those records is necessary in the conduct of its official business; [PL 1983, c. 691, §2 (NEW).]

E. An appropriate state executive or legislative official with responsibility for adult or child protection services in carrying out his official functions, provided that no personally identifying information may be made available unless necessary to his functions; [PL 1983, c. 691, §2 (NEW).]

F. The Protection and Advocacy Agency for the Developmentally Disabled in Maine in connection with investigations conducted in accordance with Title 5, chapter 511. The determination of what information and records are relevant to the investigation must be made by agreement between the department and the agency; and [PL 2005, c. 683, Pt. B, §18 (AMD).]

G. The Commissioner of Education, when the information concerns teachers and other professional personnel issued certificates under Title 20-A. [PL 1989, c. 700, Pt. A, §94 (AMD).]

[PL 2005, c. 683, Pt. B, §18 (AMD).]

5. Dissemination of confidential information. Information released pursuant to subsections 3 and 4 shall be used solely for the purpose for which it was provided and shall not be further disseminated.

[PL 1983, c. 691, §2 (NEW).]

6. Rules. The department may adopt rules necessary to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2007, c. 324, §7 (NEW).]

SECTION HISTORY

PL 1983, c. 691, §2 (NEW). PL 1985, c. 437, §4 (AMD). PL 1987, c. 714, §§8,9 (AMD). PL 1989, c. 502, §A81 (AMD). PL 1989, c. 700, §A94 (AMD). PL 2001, c. 596, §B11 (AMD). PL 2001, c. 596, §B25 (AFF). PL 2005, c. 683, §B18 (AMD). PL 2007, c. 324, §§6, 7 (AMD).

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