

§3474. Records; confidentiality, disclosure

1. Confidentiality of adult protective records. All department records which contain personally identifying information and are created or obtained in connection with the department's adult protective activities and activities related to an adult while under the jurisdiction of the department are confidential and subject to release only under the conditions of subsections 2 and 3. Within the department, the records shall be available only to and used by authorized departmental personnel and legal counsel for the department in carrying out their functions.

[PL 1981, c. 527, §2 (NEW).]

2. Optional disclosure of records. The department may disclose relevant information in the records to the following persons, with protection for the identity of reporters and other persons when appropriate:

A. An agency responsible for investigating a report of adult abuse, neglect or exploitation when the investigation is authorized by statute or by an agreement with the department; [PL 2003, c. 653, §6 (AMD).]

B. An advocacy agency conducting an investigation under chapter 961, United States Public Law 88-164, Title I, Part C or United States Public Law 99-319, except as provided in subsection 3, paragraph D; [PL 1989, c. 7, Pt. N, §1 (AMD).]

C. A physician treating an incapacitated or dependent adult who the physician reasonably suspects may be abused, neglected or exploited; [PL 2003, c. 653, §6 (AMD).]

D. The caretaker, guardian or conservator of an incapacitated or dependent adult named in a record who is reported to be abused, neglected or exploited; [PL 2023, c. 151, §2 (AMD).]

E. A person having the legal responsibility or authorization to care for, evaluate, treat or supervise an incapacitated or dependent adult; [PL 1987, c. 714, §3 (AMD).]

F. 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 the commissioner's designee gives prior approval. If the researcher desires to contact a subject of a record, the subject's consent must be obtained by the department prior to the contact; [PL 1989, c. 858, §6 (AMD).]

G. Persons and organizations pursuant to Title 5, section 9057, subsection 6, and pursuant to chapter 857; [PL 2003, c. 653, §6 (AMD).]

H. A relative by blood, marriage or adoption of an incapacitated or dependent adult named in a record; [PL 2007, c. 140, §1 (AMD).]

I. A member of a panel appointed by the department or the Office of the Attorney General to review the death or serious injury of an incapacitated or dependent adult or a child; [PL 2017, c. 55, §1 (AMD).]

J. The local animal control officer or the animal welfare program of the Department of Agriculture, Conservation and Forestry established pursuant to Title 7, section 3902 when there is a reasonable suspicion of animal cruelty, abuse or neglect. For purposes of this paragraph, "cruelty, abuse or neglect" has the same meaning as provided in Title 34-B, section 1901, subsection 1, paragraph B; and [PL 2017, c. 55, §2 (AMD).]

K. The personal representative of the estate of an incapacitated or dependent adult who dies while under public guardianship or public conservatorship. [PL 2017, c. 55, §3 (NEW).]

[PL 2023, c. 151, §2 (AMD).]

3. Mandatory disclosure of records. The department shall disclose relevant information in the records to the following persons:

A. The guardian ad litem of an incapacitated or dependent adult named in a record who is reported to be abused, neglected or exploited; [PL 1981, c. 527, §2 (NEW).]

B. A court on its finding that access to those records may be necessary for the determination of any issue before the court. Access must be limited to in camera inspection unless the court determines that disclosure of the information is necessary for the resolution of an issue pending before it; [PL 2003, c. 653, §7 (AMD).]

C. A grand jury on its determination that access to those records is necessary in the conduct of its official business; [PL 2021, c. 686, §1 (AMD).]

D. An advocacy agency conducting an investigation under chapter 961, United States Public Law 88-164, Title I, Part C or United States Public Law 99-319, regarding a developmentally disabled person or mentally ill person who is or who, within the last 90 days, was residing in a facility rendering care or treatment, when a complaint has been received by the agency or there is probable cause to believe that that individual has been subject to abuse or neglect, and that person does not have a legal guardian or the person is under public guardianship. The determination of which information and records are relevant to the investigation is made by agreement between the department and the agency; [PL 2023, c. 151, §3 (AMD).]

E. The Maine Developmental Services Oversight and Advisory Board established in Title 5, section 12004-J, subsection 15. Access is limited to aggregate data regarding investigations under this chapter relating to persons receiving adult developmental services as defined in Title 34-B, section 1001, subsection 1-A. Data must be provided at least quarterly. The determination of aggregate data to be provided is made by agreement between the department and the Maine Developmental Services Oversight and Advisory Board; and [PL 2023, c. 151, §4 (AMD).]

F. The adult who is the subject of the record and the adult's attorney, with protection for identity of reporters and other persons when appropriate. Nothing in this paragraph requires the department to disclose information to a guardian or conservator of the adult who is the subject of the record. [PL 2023, c. 151, §5 (NEW).]

[PL 2023, c. 151, §§3-5 (AMD).]

SECTION HISTORY

PL 1981, c. 527, §2 (NEW). PL 1985, c. 644, §§1-3 (AMD). PL 1987, c. 714, §§3,4 (AMD). PL 1989, c. 7, §§N1,N2 (AMD). PL 1989, c. 858, §§6-10 (AMD). RR 1991, c. 2, §§80,81 (COR). PL 2003, c. 653, §§6,7 (AMD). PL 2007, c. 140, §§1-3 (AMD). PL 2011, c. 657, Pt. W, §5 (REV). PL 2017, c. 55, §§1-3 (AMD). PL 2021, c. 686, §§1-3 (AMD). PL 2023, c. 151, §§2-5 (AMD).

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