

74-5515. Access to certain records by developmental disabilities protection and advocacy agency; confidentiality of records; "records" defined. (a) The agency designated as the developmental disabilities protection and advocacy agency pursuant to P.L. 94-103, as amended, and P.L. 99-319, as amended, shall have access to records of:

(1) Any developmentally disabled or mentally ill person who is a client of the agency and has authorized access or if such person's legal guardian, conservator or other legal representative has authorized such access.

(2) Any developmentally disabled or mentally ill person, including a person who has died or whose whereabouts is unknown, whose physical or mental condition will not allow such person to grant the agency authorization to access if:

(A) A complaint has been received by the agency from or on behalf of such person or there is probable cause to believe, as a result of monitoring or other activities, that such person has been subject to abuse or neglect; and

(B) such person does not have a legal guardian, conservator or other legal representative, or the state or a designee of the state is the legal guardian of such person.

(3) Any person with a developmental disability who has a legal guardian, conservator or other legal representative with respect to whom a complaint has been received by the agency or with respect to whom there is probable cause to believe the health or safety of the individual is in serious and immediate jeopardy whenever:

(A) Such representative has been contacted by the agency upon receipt of the name and address of such representative;

(B) the agency has offered assistance to such representative to resolve the situation; and

(C) such representative has failed or refused to act on behalf of the person.

(b) The agency shall maintain the confidentiality of any records it obtains under this section to the same extent as is required by the facility, agency, person or other entity from which such records are obtained.

(c) As used in this section, "records" include reports prepared by any staff of a facility rendering care and treatment or reports prepared by an agency charged with investigating reports of incidents of abuse, neglect, injury or death occurring at such facility that describe incidents of abuse, neglect, injury or death occurring at such facility, and the steps taken to investigate such incidents, and discharge planning records.

History: L. 1985, ch. 269, § 2; L. 1988, ch. 305, § 2; L. 1991, ch. 240, § 1; July 1.