

§ 122C-53. Exceptions; client.

(a) A facility may disclose confidential information regarding a client if the client or the legally responsible person consents in writing to the release of the information which is subject to revocation by the consenting individual. A written release that contains the core elements for authorizations as set forth in Subpart E of Part 164 of Title 45 of the Code of Federal Regulations shall be valid for the purposes of this subsection.

(b) A facility may disclose (i) the fact of admission or discharge of a client and (ii) the time and location of admission or discharge to the client's next of kin whenever the responsible professional determines that the disclosure is in the best interest of the client.

(c) Upon request a client shall have access to confidential information in the client's record except information that would be injurious to the client's physical or mental well-being as determined by the attending physician or, if there is none, by the facility director or the facility director's designee. If the attending physician or, if there is none, the facility director or the facility director's designee has refused to provide confidential information to a client, the client may request that the information be sent to a physician or psychologist of the client's choice, and in this event the information shall be so provided.

(d) Except as provided by G.S. 90-21.4(b), upon request the legally responsible person of a client shall have access to confidential information in the client's record; except information that would be injurious to the client's physical or mental well-being as determined by the attending physician or, if there is none, by the facility director or the facility director's designee. If the attending physician or, if there is none, the facility director or the facility director's designee has refused to provide confidential information to the legally responsible person, the legally responsible person may request that the information be sent to a physician or psychologist of the legally responsible person's choice, and in this event the information shall be so provided.

(e) A client advocate's access to confidential information and the client's responsibility for safeguarding this information are as provided by subsection (g) of this section.

(f) As used in subsection (g) of this section, the following terms have the meanings specified:

- (1) "Internal client advocate" means a client advocate who is employed by the facility or has a written contractual agreement with the Department or with the facility to provide monitoring and advocacy services to clients in the facility in which the client is receiving services.
- (2) "External client advocate" means a client advocate acting on behalf of a particular client with the written consent and authorization under either of the following circumstances:
 - a. In the case of a client who is an adult and who has not been adjudicated incompetent under Chapter 35A or former Chapters 33 or 35 of the General Statutes, of the client.
 - b. In the case of any other client, of the client and the legally responsible person.

(g) An internal client advocate shall be granted, without the consent of the client or the legally responsible person, access to routine reports and other confidential information necessary to fulfill monitoring and advocacy functions. In this role, the internal client advocate may disclose confidential information received to the client involved, to the legally responsible person, to the director of the facility or the director's designee, to other individuals within the facility who are involved in the treatment or habilitation of the client, or to the Secretary in accordance with the rules of the Commission. Any further disclosure shall require the written consent of the client and the legally responsible person. An external client advocate shall have access to confidential information only upon the written consent of the client and his legally

responsible person. In this role, the external client advocate may use the information only as authorized by the client and his legally responsible person.

(h) In accordance with G.S. 122C-205, the facility shall notify the appropriate individuals upon the escape from and subsequent return of clients to a 24-hour facility.

(i) Upon the request of (i) a client who is an adult and who has not been adjudicated incompetent under Chapter 35A or former Chapters 33 or 35 of the General Statutes, or (ii) the legally responsible person for any other client, a facility shall disclose to an attorney confidential information relating to that client. (1973, c. 475, s. 1; c. 1436, ss. 2-5; 1985, c. 589, s. 2; 1989 (Reg. Sess., 1990), c. 1024, s. 26(d); 1995, c. 507, s. 23.4; 2018-33, s. 3; 2023-95, s. 1.)