

2021 Kansas Statutes

76-12b11. Records of institution; limitations on disclosure; application of other statutes to records. (a)

The records of any proposed resident, resident or former resident of a state institution for people with intellectual disability that are in the possession of the institution shall be privileged and shall not be disclosed except under any of the following conditions:

(1) Upon the written consent of: (A) The proposed resident, resident or former resident, if an adult who has no guardian; (B) the proposed resident's, resident's or former resident's guardian, if any; or (C) a parent, if the proposed resident, resident or former resident is under 18 years of age. The superintendent of the institution which has the records may refuse to disclose portions of such records if the superintendent states, in writing, that the disclosure will be injurious to the welfare of the proposed resident, resident or former resident.

(2) Upon the sole consent of the superintendent of the institution which has the records after a written statement by the superintendent that the disclosure is necessary for the care, training or treatment of the proposed resident, resident or former resident. The superintendent may make the disclosure to the proposed resident, resident or former resident, the person's next of kin, any state or national accreditation agency or any scholarly investigator without making that determination, but, before the disclosure is made, the superintendent shall require a pledge from any state or national accreditation agency or scholarly investigator that such agency or investigator will not disclose the name of any proposed resident, resident or former resident to any person not otherwise authorized by law to receive that information.

(3) Upon the order of any court of record after a determination by the court that the records are necessary for the conduct of proceedings before it and are otherwise admissible as evidence.

(4) To any other person if such disclosure is required by federal law or regulation implementing a federal grant-in-aid program in which the state is participating.

(5) As provided in K.S.A. 74-5515, and amendments thereto.

(b) For the purposes of promoting the continuity of care between services provided in an institution and by a community provider, either in arranging admission to an institution, in making the determinations required as a function of the periodic reviews required by K.S.A. 76-12b05, and amendments thereto, or in planning for the discharge of a person from an institution to community care, the consent of a resident, former resident or proposed resident, or of the person's guardian, if one has been appointed, or of their parent, if the person is a minor, shall not be required for the release of records or exchange of information concerning that person between a state institution and any community developmental disability organization, as defined in K.S.A. 39-1803, and amendments thereto.

(c) Except as provided in subsections (a) or (b), to the extent the provisions of K.S.A. 65-5601 to 65-5605, inclusive, and amendments thereto, are applicable to the records of any proposed resident, resident or former resident of a state institution for people with intellectual disability that are in the possession of the institution, the provisions of K.S.A. 65-5601 to 65-5605, inclusive, and amendments thereto, shall control the disposition of information contained in such records.

History: L. 1985, ch. 269, § 1; L. 1986, ch. 212, § 9; L. 1996, ch. 60, § 2; L. 2012, ch. 91, § 72; July 1.