

**17—22.10(231E,633) Confidentiality.** Notwithstanding Iowa Code chapter 22, the following provisions shall apply to records obtained by public guardians in the course of their duties.

**22.10(1)** Records or information obtained for use by a public guardian is confidential. All records or information obtained from federal, state or local agencies and health or mental care service providers shall be managed by the state and local offices with the same degree of confidentiality required by law or the policy utilized by the entity having control of such records or information. Such records or information shall not be disseminated without written permission from the entity having control of such records or information.

**22.10(2)** In its sole discretion, the state or local office may disclose a record obtained in the performance of its duties if release of the record is necessary and in the best interest of the consumer. Disclosure of a record under this rule does not affect the confidential nature of the record.

**22.10(3)** Information may be redacted so that personally identifiable information is kept confidential.

**22.10(4)** Confidential information may be disclosed to employees and agents of the department as needed for the performance of their duties. The state office shall determine what constitutes legitimate need to use confidential records. Individuals affected by this rule may include paid staff and volunteers working under the direction of the department and commission members.

**22.10(5)** Information concerning program expenditures and client eligibility may be released to staff of the state executive and legislative branches who are responsible for ensuring that public funds have been managed correctly. This same information may also be released to auditors from federal agencies when those agencies provide program funds.

**22.10(6)** The state office or a local office may enter into contracts or agreements with public or private entities in order to carry out the state or local office's official duties. Information necessary to carry out these duties may be shared with these entities. The state or local office may disclose protected health information to an entity under contract and may allow an entity to create or receive protected health information on the state or local office's behalf if the state or local office obtains satisfactory assurance that the entity will appropriately safeguard the information.

**22.10(7)** Release for judicial and administrative proceedings.

*a.* Information shall be released to the court as required by law.

*b.* The state or local office shall disclose protected health information in the course of any judicial or administrative proceeding in response to an order of a court or administrative tribunal. The state or local office shall disclose only the protected health information expressly authorized by the order and when the court makes the order knowing that the information is confidential.

*c.* If a court subpoenas other information that the state or local office is prohibited from releasing, the state or local office shall advise the court of the statutory and regulatory provisions against disclosure of the information and shall disclose the information only on order of the court.

**22.10(8)** Information concerning suspected fraud or misrepresentation in order to obtain public guardianship services or assistance may be disclosed to law enforcement authorities.

**22.10(9)** Information concerning consumers may be shared with service providers under contract.

*a.* Information concerning the consumer's circumstances and need for services may be shared with prospective service providers to obtain placement for the consumer. If the consumer is not accepted for service, all written information released to the service provider shall be returned to the state or local office.

*b.* When the information needed by the service provider is mental health information or substance abuse information, the consumer's specific consent is required.

**22.10(10)** After the state or local office receives a request for access to a confidential record, and before the state or local office releases such a record, the state or local office may make reasonable efforts to promptly notify any person who is a subject of that record, who is identified in that record, or whose address or telephone number is contained in that record. To the extent such a delay is practicable and in the public interest, the custodian may give the subject of such a confidential record to whom notification is transmitted a reasonable opportunity to seek an injunction under Iowa Code section 22.8, and indicate

to the subject of the record the specific period of time during which disclosure will be delayed for that purpose.

[**ARC 8489B**, IAB 1/27/10, effective 1/7/10; **ARC 4880C**, IAB 1/15/20, effective 2/19/20]