

## CHAPTER 65.5-01-03 ACCESS TO RECORDS

### Section

65.5-01-03-01 Access to Records - Representation - Investigation of Reports of Abuse, Neglect, or Exploitation and Complaints

#### **65.5-01-03-01. Access to records - Representation - Investigation of reports of abuse, neglect, or exploitation and complaints.**

1. The project will have access to records of an individual for representation of that individual and for investigation of complaints or reports of abuse, neglect, or exploitation. When those records are subject to confidentiality requirements imposed by statute, administrative regulation, or court order, the project will have access to those records consistent with that statute, administrative regulation, or court order, if:
  - a. For an adult, access is consented to by the individual or the individual's guardian.
  - b. For a minor, access is consented to by the minor's parent or guardian.
  - c. The individual is unable to provide consent by reason of mental or physical condition, does not have a guardian or other legal representative, and either:
    - (1) The project has received a report or complaint; or
    - (2) There is probable cause to believe:
      - (a) The individual has been subjected to abuse, neglect, or exploitation; or
      - (b) There is a lack of compliance with federal or state laws or rules that affect the individual's habilitation or treatment plans, program plans, educational plans, or other services and care.
  - d. An individual's guardian has refused to consent, the project has probable cause to believe the guardian is not acting in the best interest of the individual, and either:
    - (1) The project has received a report or complaint; or
    - (2) There is probable cause to believe:
      - (a) The individual has been subjected to abuse, neglect, or exploitation; or
      - (b) There is a lack of compliance with federal or state laws or rules that affect the individual's habilitation or treatment plans, program plans, educational plans, or other services and care.
2. The project will have access to a facility's records in order to represent an individual or to investigate complaints or reports of abuse, neglect, or exploitation. The project will maintain the confidentiality of all records that have been designated confidential by another law, to the extent this is possible without compromising the primary responsibilities assigned to the project by law.

**History:** Effective December 1, 1990; amended effective June 1, 1998.

**General Authority:** NDCC 25-01.3-02, 25-01.3-07, 28-32-02

**Law Implemented:** NDCC 25-01.3-07