DIVISION OF DRUG AND ALCOHOL 
PROGRAM LICENSING

CHAPTER 709
SUBCHAPTER C. GENERAL STANDARDS FOR FREE-STANDING 
TREATMENT ACTIVITIES

Interpretive Guideline

28 PA Code §709.28 Confidentiality

(a) A written procedures shall be developed by the project director which shall comply 
with the provisions of 4 PA Code §255.5 (relating to projects and coordinating bodies: disclosure of client information). This procedure shall include, but not be limited to:

(1) Confidentiality of client identity and records. 
(2) Staff access to client records.

Chapter 255.5 State Plan of the Prevention, Treatment and Control of Drug and Alcohol Abuse

Projects and Coordinating Bodies: Disclosure of Client –Oriented Information. With or without the client’s consent, information may be released to those judges who 
have imposed sentence on a particular client where such sentence is conditioned upon the 
client entering a project. Information released shall be limited to that provided for in 
subsection (b) of this section.

With or without the client’s consent, information may be released to those duly 
authorized probation or parole officers who have assigned responsibility to clients in 
treatment if the client’s probation or paroled is conditioned on his being in treatment. Information released shall be limited to that provided for in subsection (b) of this section. With or without the client’s consent, information may be released to judges who have 
assigned a client to a project under a pre-sentence, conditional release program. Pre-
sentence conditional release programs include pre-indictment or pre-conviction 
conditional release (such as ARD) probation without verdict or disposition in lieu of trial 
pursuant to section 17 and 18 of Act 64 (35 P.S. 780-117 and 780-118).

1 Also applicable for Chapter 711, Standards for Certification of Treatment Activities which are part of a Health Care Facility.

2 Refer to the Federal Register 42 CFR Part 11, Subpart C, Confidentiality of Alcohol and Drug Abuse Patient Records, and 71 P.S. §1690.108(b) which requires written client consent.

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In emergency medical situations where the client’s life is in immediate jeopardy, projects may release client records without the client’s consent to proper medical authorities solely for the purpose of providing medical treatment to the client.

Information released to judges, probation or parole officers, insurance company, health or hospital plan or governmental officials, pursuant to paragraphs (1), (2), (4), (7), (8) or subsection (a) of this section, is for the purpose of determining the advisability of continuing the client with the assigned project and shall be restricted to the following.

(1) Whether the client is or is not in treatment.

(2) Client’s prognosis.

(3) The nature of the project.

(4) A brief description of the client’s progress.

(5) A short statement as to whether the client has relapsed into drug or alcohol abuse and the frequency of such relapse.

The Division has further defined the types of information that are consistent with the intent of the restrictions and are described as follows:

(1) **Whether the client is or is not in treatment.**

With the client’s written consent the provider may tell whether the client is or is not in treatment and can further elaborate on this theme by providing an estimate of the length of time the client may be required to stay with the program in order to complete treatment. The provider can disclose if and when a client terminated treatment (unless the client revokes his/her consent to release information prior to terminating treatment) and can elaborate on the client’s attendance patterns, which may include date of session(s), types of service provided, and length of session.

(2) **Client’s prognosis.**

Webster’s Dictionary defines ‘prognosis’ as “the prospect of recovery as anticipated from the usual course of disease or peculiarities of the case.” With the client’s written consent, the provider may disclose the client’s diagnosis which can be considered a part of the prognosis. The provider may provide his/her opinion of how treatment will or will not benefit the client. The provider would be basing his/her opinion on personal observations and the information the provider obtained during the intake process. The provider can discuss any peculiarities of a case only in a very general way. Intimate details provided by the client to the provider and included in the psychosocial history and evaluation are
not appropriate for release and should not be released to or discussed with any entity covered by 4 PA Code §255.5. The provider can present his/her own recommendations regarding the client’s continuation with the treatment project.

(3) The nature of the project.

The provider can describe the purpose and philosophy of his/her project. The provider can describe the program structure, the methodology of treatment and the treatment models that are utilized by the project. The provider can describe the type of services that would be offered to a client in a standard course of treatment at that agency. Supportive services and support groups that are commonly used by this agency could be described. The provider cannot release the treatment plan itself, but may give a clear indication of the typical services provided by describing the nature of the project as indicated above.

(4) A brief description of the client’s progress.

With the client’s written consent, the provider can speak about the client’s progress in treatment. The provider can speak in general terms of the client’s progress or lack of progress as it relates to recovery in general. The provider can speak in general terms of the client’s cooperation or lack of cooperation with the treatment plan and the facility rules, and acceptance of his/her condition, but may not identify the specific components of the treatment plan.

(5) A short statement as to whether the client has relapsed into drug or alcohol abuse and the frequency of such relapse.

The provider can, with the client’s written consent, report relapses into drug or alcohol abuse and the frequency of such relapse. The project should be careful in training staff in the difference between an incidence of “use” and a relapse. Depending on project philosophy an isolated incident of use may or may not constitute “relapse.” These reports should be brief and to the point, in accordance with the written consent to release information form obtained from the client. These reports should never indicate the nature of the relapse to the extent of naming the substances with which the client relapsed. The restrictions here do not appear to allow the provider to release copies of the actual toxicology reports or blood workups. It is important to remember that the Federal regulations prohibit the use of any information obtained during the provision of drug and alcohol treatment; the diagnosis for the need for drug and alcohol treatment; or the referral for drug or alcohol treatment; for any criminal, civil, administrative or legislative actions against the client.