

WEST VIRGINIA CODE: §16-5L-15

§16-5L-15. Confidentiality of investigations.

(a) Information relating to any investigation of a complaint pursuant to section ten of this article that contains the identity of the complainant or resident shall remain confidential except:

- (1) Where disclosure is authorized in writing by the complainant, or resident or the guardian, committee, attorney in fact or representative of the resident;
- (2) Where disclosure is necessary to the office of adult protective services in order for such office to determine the appropriateness of initiating an investigation regarding potential abuse, neglect or emergency circumstances as defined in article six, chapter nine of this code;
- (3) Where disclosure is necessary to the office of health facility licensure and certification in order for such office to determine the appropriateness of initiating an investigation to determine facility compliance with applicable rules of licensure and/or certification; or
- (4) Upon order of any appropriate county circuit court after the judge in term or vacation thereof has conducted a hearing following adequate notice to all parties and rendered a determination as the interests of justice may require.

(b) Notwithstanding any other section within this article, all information, records and reports received by or developed by a state or regional long-term care ombudsman which relate to a resident of a facility, including written material identifying a resident, are confidential and are not subject to the provisions of chapter twenty-nine-b of this code, and shall not be disclosed or released by the long-term care ombudsman, except under the circumstances enumerated in this section.

(c) Nothing in subsection (a) or (b) of this section shall be construed to prohibit the preparation and submission by any state or regional long-term ombudsman of statistical data and reports, as required to implement the provisions of this article or any applicable federal law, exclusive of any material that identifies any resident or complainant.

(d) The executive director of the state commission on aging shall have access to the records and files of the long-term care ombudsman program to verify its effectiveness and quality where the identity of any complainant or resident is not disclosed.