


Please note: This packet is intended for general information purposes only and should not take the place of a thorough review of pertinent statutes, consultation with legal counsel, or other specific guidance on this subject.

## General Assistance Confidentiality and Disclosure of Information

[PDF & Interactive PDF Documents and Downloading Acrobat Reader](#) 

This packet includes the following attachments:

- [Title 22 M.R.S.A. § 4306](#)
- [Title 22 M.R.S.A. § 4314](#)
- *Sample* [Information Confidentiality Policy/Agreement](#)
- *Sample* [General Information Disclosure Form](#)
- *Sample* [Medical Information Disclosure Form](#)  

Important issues and considerations include:

### I. Confidentiality of General Assistance Information

Although Maine's "Right to Know" Law (Freedom of Access Act, [1 M.R.S.A. §§ 401-410](#)) provides for public access to public records, certain important exceptions exist to this broad rule (*see Information Packet on "Right to Know"*). Among others, "[r]ecords that have been designated confidential by statute" are exempted from public disclosure ([1 M.R.S.A. § 402\(3\)\(A\)](#)). One example of this is found in the municipal general assistance (GA) statute—the confidentiality provision at [22 M.R.S.A. § 4306](#).

Section 4306 provides in part that, "[r]ecords, papers, files and communications relating to an applicant or recipient made or received by persons charged with the responsibility of administering" the GA program are "confidential." Furthermore, this information "may not be disclosed to the general public, unless expressly permitted by [the applicant or recipient]."

It is important to note that Section 4306 concerns disclosures made to the "general public" only and not to government officials acting in an official capacity. Therefore, discussions with the Department of Health & Human Services (DHHS), other state departments or, other GA administrators for the purpose of determining eligibility, would not be prohibited under the statute. In addition, because the general public does not include a government official acting in his or her official capacity, in an instance where a municipal official (i.e., selectperson appointed to review GA administration in the municipality) required information about the town's GA program or perhaps requested information regarding a GA case which appeared questionable, such an official would not be considered a member of the general public. On the other hand if such a selectperson was requesting information unnecessarily or outside the scope of his or her official duty or perhaps was unnecessarily intrusive into the facts of a case (e.g. prying), the GA administrator should remind the selectperson of the confidentiality of such GA information.

Although GA administrators are responsible for the collection and verification of information necessary to determine a GA applicant's eligibility, they are also responsible for maintaining the confidentiality of this information. Moreover, under [22 M.R.S.A. § 4314 \(4\)](#), State departments, financial institutions and employers obtaining "...information under this section [are] subject to the same rules of confidentiality" as the municipality.

Consequently, when a GA administrator communicates with State departments, financial institutions and employers regarding confidential information obtained during the course of the general assistance application process, the administrator should remind these parties that the information discussed is "confidential." These discussions should be documented, and the fact that a direction of confidentiality was given should be incorporated into the documentation.

Municipalities should require court ordered subpoenas for the release of GA information if it is not clear that the release is permitted under the statute.

## II. GA Information Confidentiality Policy/Agreement

GA administrators are required to keep client information confidential. As a result, they should periodically remind their employees (and other municipal departments, which may have knowledge of a GA application e.g., finance department) of the duty to maintain GA information confidentially. Municipalities may wish to incorporate a version of the attached "GA Information Confidentiality Policy/Agreement" into personnel manuals and have employees sign the agreement upon being assigned GA duties. While serving as a training tool and reminder for employees regarding their responsibilities, this policy/agreement also serves as evidence of a municipality's "good faith" effort to maintain the confidentiality of GA records and information.

## III. Disclosing GA Information

If a GA applicant or recipient wishes to have information in their GA file disclosed to a third party such as an attorney or other social service provider, Section 4306 requires that the municipality obtain "express" permission. Although "express" permission may be interpreted as "oral" permission, municipalities should obtain this permission in writing (see [General Information Disclosure Form](#)). *Janek v. Ives*, No. CV-89-116 (Me. Super. Ct., Aro. Cty, Feb. 14, 1990), specifically confirmed the interpretation that "express" permission may be interpreted as requiring a writing by a municipality. However, prior to instituting a requirement for "written" releases, municipalities should incorporate this requirement into their GA ordinance.

## IV. Medical Information Disclosures

Although most GA client information may be disclosed upon receiving a client's "general consent," municipalities are strongly encouraged to utilize specific "[medical](#)" release forms ([click for sample](#)) when releasing information of a medical nature.

## V. HIV Information Disclosures

In addition to utilizing specific medical information disclosures, municipalities should consider adopting a policy/practice that further requires a client to provide an additional "HIV" release for HIV status information contained in a client's file.

Generally speaking, due to this information's highly sensitive nature, municipalities should avoid requiring documents which substantiate an HIV diagnosis. In the event a GA applicant/recipient has HIV, the HIV status can be described as a "life threatening" illness. Pertinent information concerning the specifics of the illness can, as necessary, be confirmed over the course of a telephone conversation. For purposes of GA, whether the person has HIV or cancer for example is usually not important to the GA eligibility analysis. The GA issue(s) behind such "life threatening" illnesses usually consist of requests for assistance in order to purchase expensive medications or the issue of a GA applicant not being able to meet the "work requirement" due to the illness. As a result, for the purposes of GA, describing the client as being inflicted with a life threatening illness is generally sufficient.

The relevant provision of law ([5 M.R.S.A. § 19203](#)) requires that a person who is the subject of an HIV test makes an election in writing whether to authorize the release of that portion of the medical record containing the HIV infection status information when that person's medical record has been requested." It is important to note that Section 19203 appears to apply to health care providers and medical records, with no direct mention of municipal records. However, it is opinion of MMA Legal Services staff that because of the sensitivity of this information, if a municipality is requiring the release of HIV related information (which is arguably not the best thing to do), it should require a specific HIV information release in addition to a general medical information release as an added precaution.

Municipalities requiring the additional HIV release must do so with the understanding that such a policy of "requiring" the additional release will provide additional protection for the municipality *only if the policy is stringently enforced*. Should a municipality adopt such a policy and then disregard it, the municipality's risk of liability following illegal or unauthorized release of information would be heightened. In addition, if a municipality obtains documentation which verifies a client's HIV status, then the municipality becomes a custodian of this information and must guard it accordingly.

Date of last revision: 04/08

The statutes referenced here may have been amended during the last legislative session, and we will update them when the text becomes available.

## **22 §4306. Records; confidentiality of information**

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## **22 §4306. Records; confidentiality of information**

The overseer shall keep complete and accurate records pertaining to general assistance, including the names of eligible persons assisted and the amounts paid for their assistance. Records, papers, files and communications relating to an applicant or recipient made or received by persons charged with responsibility of administering this chapter are confidential and no information relating to a person who is an applicant or recipient may be disclosed to the general public, unless expressly permitted by that person. [ 1983, c. 577, §1 (NEW). ]

### **SECTION HISTORY**

1983, c. 577, §1 (NEW).

## 22 §4314. Cooperation in administration of general assistance

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## 22 §4314. Cooperation in administration of general assistance

**1. State departments.** Upon the request of any municipal official charged with the responsibility of administering general assistance, the Department of Health and Human Services and any other department of the State having information which has a bearing on the eligibility of any person applying for general assistance shall release that information. The information shall be restricted to those facts necessary for the official to make a determination of eligibility for general assistance.

[ 1983, c. 577, §1 (NEW); 2003, c. 689, Pt. B, §6 (REV) .]

**2. Financial institutions.** A treasurer of any bank, federally or state-chartered credit union, trust company, benefit association, insurance company, safe deposit company or any corporation or association receiving deposits of money, except national banks, shall, on request in writing signed by the overseer of any municipality or its agents, or by the Commissioner of Health and Human Services or the commissioner's agents or by the Commissioner of Defense, Veterans and Emergency Management or the commissioner's agents, inform that overseer or the Department of Health and Human Services or the Bureau of Maine Veterans' Services of the amount deposited in the corporation or association to the credit of the person named in the request, who is a charge upon the municipality or the State, or who has applied for support to the municipality or the State.

[ 1997, c. 455, §§8, 32 (AMD); 2003, c. 689, Pt. B, §§6, 7 (REV) .]

**3. Verification of employment.** The applicant has responsibility for providing documentary verification of benefits received during the period for which assistance is requested, or in the month immediately prior to the application for assistance when those wages and benefits are expected to be the same during the period for which assistance is requested.

The overseer shall give the applicant written notice that if the applicant does not provide the documentary verification within one week of the application, the employer will be contacted.

Notwithstanding any other provision of law, every employer shall, upon written request of the overseer, release information regarding any wages or other financial benefits paid to the applicant or a member of the applicant's household. No employer may discharge or otherwise adversely affect an employee because of any request for information pursuant to this section.

[ 1983, c. 577, §1 (NEW) .]

**4. Confidentiality.** Any person who seeks and obtains information under this section is subject to the same rules of confidentiality as the person who is caretaker of the information which is by law confidential.

[ 1983, c. 577, §1 (NEW) .]

**5. Refusal.** Any person who refuses to provide any information to an overseer who requests it in accordance with this section shall state in writing the reasons for the refusal within 3 days of receiving the request.

[ 1983, c. 577, §1 (NEW) .]

**6. Refusal; penalty.** A person who refuses upon request to provide information under this section without just cause commits a civil violation for which a fine of not less than \$25 and not more than \$100 may be adjudged.

[ 2003, c. 452, Pt. K, §25 (AMD); 2003, c. 452, Pt. X, §2 (AFF) .]

**7. False information; penalty.** A person who intentionally or knowingly renders false information under this section to an administrator commits a Class E crime.

[ 2003, c. 452, Pt. K, §26 (NEW); 2003, c. 452, Pt. X, §2 (AFF) .]

SECTION HISTORY

1983, c. 577, §1 (NEW). 1991, c. 626, §4 (AMD). 1995, c. 86, §2 (AMD). 1997, c. 455, §§8,32 (AMD). 2003, c. 452, §§K25,26 (AMD). 2003, c. 452, §X2 (AFF). 2003, c. 689, §§B6,7 (REV).



Municipality of \_\_\_\_\_

General Assistance Information Confidentiality Policy/Agreement

It shall be the policy of the Town of \_\_\_\_\_ to have employees engaged in administering the municipality's General Assistance (hereinafter GA) program maintain in strictest confidence client information. In an effort to effectuate compliance, it is the policy of this municipality to have employees engaged in GA functions sign the following agreement.

I. Strict Confidentiality Required:

The undersigned \_\_\_\_\_, hereby agrees to maintain strict confidentiality relative to all records, papers, files and communications relating to a GA applicant or recipient made or received by persons charged with administering the municipal GA program. No information relating to a person who is an applicant or recipient may be disclosed to the general public, unless expressly permitted in writing by that person. In addition the following shall also apply:

II. Release of Medical Information:

Requests for release of medical information made by GA clients regarding information found in client files shall be made in writing, using appropriate medical release forms. No medical information shall be released without a proper written medical release signed by the GA client.

III. HIV Infection Status Information:

It shall be the policy of this municipality's GA office not to make mention nor store information relative to a client's HIV antibody status in client files or records. In the event that HIV status information has been recorded in Municipal GA files, under no circumstances shall the HIV status information be released without obtaining *both* a written general medical release in addition to a specific HIV information release signed by the GA client requesting release of HIV status information.

Employees found to have acted in violation of this policy/agreement shall be subject to disciplinary action.

\_\_\_\_\_  
(Print Employee Name) Dated: \_\_\_\_\_

\_\_\_\_\_  
(Employee Signature)

WITNESS:

\_\_\_\_\_ Dated: \_\_\_\_\_

Legal References: 22 MRSA §4306



Municipality of \_\_\_\_\_

**General Assistance Authorization of Disclosure  
General Consent Form**

I, \_\_\_\_\_ authorize the Municipality of \_\_\_\_\_  
to disclose to \_\_\_\_\_, at the following address \_\_\_\_\_,  
the following information from my records:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The purpose or need for such disclosure is: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

I understand that this consent to disclose may be withdrawn by me at any time except where action has already been taken based upon my consent. This consent (unless clearly withdrawn in writing earlier) expires on \_\_\_\_\_  
(specify date, event or condition upon which consent shall expire)

I am signing this General Consent Form voluntarily.

Client Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Witness Name: \_\_\_\_\_ Date: \_\_\_\_\_

Witness Signature: \_\_\_\_\_

**\*Optional\***

**ACKNOWLEDGMENT**

State of Maine

\_\_\_\_\_, S.S.  
(County)

Place: \_\_\_\_\_

Date: \_\_\_\_\_

Personally appeared before me the above named \_\_\_\_\_ and acknowledged the above disclosure to be his/her free act and deed.

Before me, \_\_\_\_\_  
(Justice of Peace, Notary Public, Attorney at Law)



