



# Texas and Federal Privacy and Information Sharing Provisions

## Mental Health Record Protections

### [Health and Safety Code Chapter 533:](#)

Section 533.009. EXCHANGE OF PATIENT RECORDS.

(a) HHSC facilities, local mental health authorities, community centers, other designated providers, and subcontractors of mental health services are component parts of one service delivery system within which patient records may be exchanged without the patient's consent.

### [Health and Safety Code Chapter 611:](#)

Section 611.004 AUTHORIZED DISCLOSURE OF CONFIDENTIAL INFORMATION OTHER THAN IN JUDICIAL OR ADMINISTRATIVE PROCEEDING.

(a) A professional may disclose confidential information only:

- (1) to a governmental agency if the disclosure is required or authorized by law;
- (2) to medical, mental health, or law enforcement personnel if the professional determines that there is a probability of imminent physical injury by the patient to the patient or others or there is a probability of immediate mental or emotional injury to the patient;
- (3) to qualified personnel for management audits, financial audits, program evaluations, or research, in accordance with Subsection (b);
- (4) to a person who has the written consent of the patient, or a parent if the patient is a minor, or a guardian if the patient has been adjudicated as incompetent to manage the patient's personal affairs;
- (5) to the patient's personal representative if the patient is deceased;
- (6) to individuals, corporations, or governmental agencies involved in paying or collecting fees for mental or emotional health services provided by a professional;
- (7) to other professionals and personnel under the professionals' direction who participate in the diagnosis, evaluation, or treatment of the patient;
- (8) in an official legislative inquiry relating to a state hospital or state school as provided by Subsection (c);

(9) to designated persons or personnel of a correctional facility in which a person is detained if the disclosure is for the sole purpose of providing treatment and health care to the person in custody;

(10) to an employee or agent of the professional who requires mental health care information to provide mental health care services or in complying with statutory, licensing, or accreditation requirements, if the professional has taken appropriate action to ensure that the employee or agent:

(A) will not use or disclose the information for any other purposes; and

(B) will take appropriate steps to protect the information; or

(11) to satisfy a request for medical records of a deceased or incompetent person pursuant to Section 74.051(e), Civil Practice and Remedies Code.

(a-1) No civil, criminal, or administrative cause of action exists against a person described by Section 611.001(2)(A) or (B) for the disclosure of confidential information in accordance with Subsection (a)(2). A cause of action brought against the person for the disclosure of the confidential information must be dismissed with prejudice.

(b) Personnel who receive confidential information under Subsection (a)(3) may not directly or indirectly identify or otherwise disclose the identity of a patient in a report or in any other manner.

(c) The exception in Subsection (a)(8) applies only to records created by the state hospital or state school or by the employees of the hospital or school. Information or records that identify a patient may be released only with the patient's proper consent.

(d) A person who receives information from confidential communications or records may not disclose the information except to the extent that disclosure is consistent with the authorized purposes for which the person first obtained the information. This subsection does not apply to a person listed in Subsection (a)(4) or (a)(5) who is acting on the patient's behalf.

#### [Health and Safety Code Chapter 614](#)

##### Section 614.017 EXCHANGE OF INFORMATION.

(a) An agency shall:

(1) accept information relating to a special needs offender or a juvenile with a mental impairment that is sent to the agency to serve the purposes of continuity of care and services regardless of whether other state law makes that information confidential; and

(2) disclose information relating to a special needs offender or a juvenile with a mental impairment, including information about the offender's or juvenile's identity, needs, treatment, social, criminal, and vocational history, supervision status and compliance with conditions of supervision, and medical and mental health history, if the disclosure serves the purposes of continuity of care and services.

(b) Information obtained under this section may not be used as evidence in any juvenile or criminal proceeding, unless obtained and introduced by other lawful evidentiary means.

(c) In this section:

(1) "Agency" includes any of the following entities and individuals, a person with an agency relationship with one of the following entities or individuals, and a person who contracts with one or more of the following entities or individuals:

(A) the Texas Department of Criminal Justice and the Correctional Managed Health Care Committee;

(B) the Board of Pardons and Paroles;

(C) the Department of State Health Services;

(D) the Texas Juvenile Justice Department;

(E) the Department of Assistive and Rehabilitative Services;

(F) the Texas Education Agency;

(G) the Commission on Jail Standards;

(H) the Department of Aging and Disability Services;

(I) the Texas School for the Blind and Visually Impaired;

(J) community supervision and corrections departments and local juvenile probation departments;

(K) personal bond pretrial release offices established under Article [17.42](#), Code of Criminal Procedure;

(L) local jails regulated by the Commission on Jail Standards;

(M) a municipal or county health department;

(N) a hospital district;

(O) a judge of this state with jurisdiction over juvenile or criminal cases;

- (P) an attorney who is appointed or retained to represent a special needs offender or a juvenile with a mental impairment;
- (Q) the Health and Human Services Commission;
- (R) the Department of Information Resources;
- (S) the bureau of identification and records of the Department of Public Safety, for the sole purpose of providing real-time, contemporaneous identification of individuals in the Department of State Health Services client data base; and
- (T) the Department of Family and Protective Services.

### **SUD Records Protections:**

[42 CFR Part 2.](#) CONFIDENTIALITY OF SUBSTANCE USE DISORDER PATIENT RECORDS

[42 CFR Part 2 Subpart C.](#) DISCLOSURES WITH PATIENT CONSENT

[42 CFR Part 2 Subpart D.](#) DISCLOSURES WITHOUT PATIENT CONSENT

[42 CFR Part 2 Subpart E.](#) COURT ORDERS AUTHORIZING DISCLOSURE AND USE