

HEALTH AND SAFETY CODE CHAPTER 595. RECORDS

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TITLE 7. MENTAL HEALTH AND MENTAL RETARDATION

SUBTITLE D. PERSONS WITH MENTAL RETARDATION ACT

CHAPTER 595. RECORDS

Sec. 595.001. CONFIDENTIALITY OF RECORDS. Records of the identity, diagnosis, evaluation, or treatment of a person that are maintained in connection with the performance of a program or activity relating to mental retardation are confidential and may be disclosed only for the purposes and under the circumstances authorized under Sections 595.003 and 595.004.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Sec. 595.002. RULES. The board shall adopt rules to carry out this chapter that the department considers necessary or proper to:

(1) prevent circumvention or evasion of the chapter;

or

(2) facilitate compliance with the chapter.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Sec. 595.003. CONSENT TO DISCLOSURE. (a) The content of a confidential record may be disclosed in accordance with the prior written consent of:

(1) the person about whom the record is maintained;

(2) the person's parent if the person is a minor;

(3) the guardian if the person has been adjudicated incompetent to manage the person's personal affairs; or

(4) if the person is dead:

(A) the executor or administrator of the deceased's estate; or

(B) if an executor or administrator has not been appointed, the deceased's spouse or, if the deceased was not married, an adult related to the deceased within the first degree of consanguinity.

(b) Disclosure is permitted only to the extent, under the

circumstances, and for the purposes allowed under department rules.  
Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Sec. 595.004. RIGHT TO PERSONAL RECORD. (a) The content of a confidential record shall be made available on the request of the person about whom the record was made unless:

- (1) the person is a client; and
- (2) the qualified professional responsible for supervising the client's habilitation states in a signed written statement that having access to the record is not in the client's best interest.

(b) The parent of a minor or the guardian of the person shall be given access to the contents of any record about the minor or person.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Sec. 595.005. EXCEPTIONS. (a) The content of a confidential record may be disclosed without the consent required under Section 595.003 to:

- (1) medical personnel to the extent necessary to meet a medical emergency;
- (2) qualified personnel for management audits, financial audits, program evaluations, or research approved by the department; or
- (3) personnel legally authorized to conduct investigations concerning complaints of abuse or denial of rights of persons with mental retardation.

(b) A person who receives confidential information under Subsection (a)(2) may not directly or indirectly identify a person receiving services in a report of the audit, evaluation, or research, or otherwise disclose any identities.

(c) The department may disclose without the consent required under Section 595.003 a person's educational records to a school district that provides or will provide educational services to the person.

(d) If authorized by an appropriate order of a court of competent jurisdiction granted after application showing good

cause, the content of a record may be disclosed without the consent required under Section 595.003. In determining whether there is good cause, a court shall weigh the public interest and need for disclosure against the injury to the person receiving services. On granting the order, the court, in determining the extent to which any disclosure of all or any part of a record is necessary, shall impose appropriate safeguards against unauthorized disclosure. Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Sec. 595.0055. DISCLOSURE OF NAME AND BIRTH AND DEATH DATES FOR CERTAIN PURPOSES. (a) In this section, "cemetery organization" and "funeral establishment" have the meanings assigned by Section 711.001.

(b) Notwithstanding any other law, on request by a representative of a cemetery organization or funeral establishment, the superintendent of a residential care facility shall release to the representative the name, date of birth, or date of death of a person who was a resident at the facility when the person died, unless the person or the person's guardian provided written instructions to the facility not to release the person's name or dates of birth and death. A representative of a cemetery organization or a funeral establishment may use a name or date released under this subsection only for the purpose of inscribing the name or date on a grave marker.

Added by Acts 2003, 78th Leg., ch. 174, Sec. 2, eff. May 27, 2003.

Sec. 595.006. USE OF RECORD IN CRIMINAL PROCEEDINGS. Except as authorized by a court order under Section 595.005, a confidential record may not be used to:

(1) initiate or substantiate a criminal charge against a person receiving services; or

(2) conduct an investigation of a person receiving services.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Sec. 595.007. CONFIDENTIALITY OF PAST SERVICES. The prohibition against disclosing information in a confidential

record applies regardless of when the person received services.  
Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Sec. 595.008. EXCHANGE OF RECORDS. The prohibitions against disclosure apply to an exchange of records between government agencies or persons, except for exchanges of information necessary for:

- (1) delivery of services to clients; or
- (2) payment for mental retardation services as defined in this subtitle.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Sec. 595.009. RECEIPT OF INFORMATION BY PERSONS OTHER THAN CLIENT OR PATIENT. (a) A person who receives information that is confidential under this chapter may not disclose the information except to the extent that disclosure is consistent with the authorized purposes for which the information was obtained.

(b) This section does not apply to the person about whom the record is made, or the parent, if the person is a minor, or the guardian of the person.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Sec. 595.010. DISCLOSURE OF PHYSICAL OR MENTAL CONDITION. This chapter does not prohibit a qualified professional from disclosing the current physical and mental condition of a person with mental retardation to the person's parent, guardian, relative, or friend.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.