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Texas Administrative Code

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(a) General Requirements.

- (1) All licensees shall create and maintain accurate, current, and pertinent records of all psychological services rendered by or under the supervision of the licensee.
- (2) All records shall be sufficient to permit planning for continuity in the event that another care provider takes over delivery of services to a patient or client for any reason, including the death, disability or retirement of the licensee and to permit adequate regulatory and administrative review of the psychological service.
- (3) All licensees shall identify impressions and tentative conclusions as such in patient or client records.
- (4) All records and record entries shall be created in as timely a manner as possible after the delivery of the specific services being recorded.
- (5) Records, test data and test protocols shall be maintained and stored in a way that permits review and duplication.
- (6) Licensees working in public school settings shall comply with all federal and state laws and regulations relative to the content, maintenance, control, access, retention and destruction of psychological and educational records, test data and test protocols.
- (7) Licensees are prohibited from falsifying, altering, fabricating, or back-dating patient records and reports.

(b) Maintenance and Control of Records and Test Data.

- (1) Licensees shall maintain records and test data in a manner that protects the confidentiality of all services delivered by the licensee.
- (2) Licensees are responsible for the maintenance, confidentiality and contents of, and access to, all records and test data.
- (3) Licensees shall make all reasonable efforts to protect against the misuse of any record or test data.
- (4) Licensees shall maintain control over records and test data to the extent necessary to ensure compliance with all applicable Board rules and all state and federal laws.
- (5) In situations where it becomes impossible for a licensee to maintain control over records and test data

as required by applicable Board rule and state and federal law, the licensee shall make all necessary arrangements for transfer of the licensee's records to another licensee who will ensure compliance with all applicable Board rules and state and federal laws concerning records.

(6) Records and test data of psychological services rendered by a licensee as an employee of an agency or organization remain the property of the employing agency upon termination of the employment of the individual unless legal ownership of such records is controlled by applicable state or federal law or legal agreement.

(c) Access to Records and Test Data.

(1) Records shall be entered, organized and maintained in a manner that facilitates their use by all authorized persons.

(2) Records may be maintained in any media that ensure confidentiality and durability.

(3) A licensee shall release information about a patient or client only upon written authorization by the patient, client or appropriate legal guardian pursuant to a proper court order or as required by applicable state or federal law.

(4) Test data are not part of a patient's or client's record. Test data are not subject to subpoena. Test data shall be made available only:

(A) to another qualified mental health professional and only upon receipt of written release from the patient or client, or

(B) pursuant to a court order.

(5) Licensees cooperate in the continuity of care of patients and clients by providing appropriate information to succeeding qualified service providers as permitted by applicable Board rule and state and federal law.

(6) Licensees who are temporarily or permanently unable to practice psychology shall implement a system that enables their records to be accessed in compliance with applicable Board rules and state and federal law.

(7) Access to records may not be withheld due to an outstanding balance owed by a client for psychological services provided prior to the patient's request for records. However, licensees may impose a reasonable fee for review and/or reproduction of records and are not required to permit examination until such fee is paid, unless there is a medical emergency or the records are to be used in support of an application for disability benefits.

(8) No later than 15 days after receiving a written request from a patient to examine or copy all or part of the patient's mental health records, a psychologist shall:

(A) make the information available for examination during regular business hours and provide a copy to the patient, if requested; or

(B) inform the patient in writing that the information does not exist or cannot be found; or

(C) provide the patient with a signed and dated statement that having access to the mental health records would be harmful to the patient's physical, mental or emotional health. The written statement must specify the portion of the record being withheld, the reason for denial and the duration of the denial.

(d) Retention of Records and Test Data.

- (1) Licensees shall comply with all applicable laws, rules and regulations concerning record retention.
- (2) In the absence of applicable state and federal laws, rules and regulations, records and test data shall be maintained for a minimum of ten years after the last contact with the client. If the client is a minor, the record retention period is extended until ten years after the minor reaches the age of majority.
- (3) All records shall be maintained in a manner which permits timely retrieval and production.

(e) Outdated Records.

- (1) Licensees take reasonable steps when disclosing records to note information that is outdated.
- (2) Disposal of records shall be done in an appropriate manner that ensures confidentiality of the records in compliance with applicable Board rules and state and federal laws.

Source Note: The provisions of this §465.22 adopted to be effective June 3, 1999, 24 TexReg 4017; amended to be effective March 13, 2000, 25 TexReg 2061; amended to be effective March 13, 2001, 26 TexReg 2023; amended to be effective February 21, 2002, 27 TexReg 1170; amended to be effective May 30, 2007, 32 TexReg 2864; amended to be effective June 5, 2008, 33 TexReg 4325

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