

STATES DISCLOSURE LAWS

ALABAMA: Medical records disclosing "notifiable diseases" (those diseases or illnesses that doctors are required to report to state officials) are strictly confidential. Written consent of patient is required for release of information regarding sexually transmitted disease. (Ch. 22-11A-2, 22).

ALASKA: Mental health records may be disclosed only with patient consent/court order/law enforcement reasons (Ch. 47.30.845). In cases of emergency medical services, records of those treated may be disclosed to specified persons.(Ch. 18.08.086). Express language permits disclosure of financial records of medical assistance beneficiaries to the Dept. of Social Services. (Ch. 47.07.074).

ARIZONA: Statutory privilege for physicians and surgeons (Ch. 12-2235). There are mandatory reporting requirements for malnourishment, physical neglect, SEXUAL ABUSE, non-accidental injury, or other deprivation with intent to cause or allow death of minor children, but the records remain confidential outside judicial matters (Ch. 13-3620). Access to other medical records is by consent or pursuant to exceptions outlined in Ch. 36-664.

ARKANSAS: Arkansas has a special privilege permitting doctors to deny giving patients or their attorneys or guardians certain medical records upon a showing of "detrimentality" (Ch.16-46-106). Otherwise, access by patients and their attorneys are covered under Ch. 23-76-129 and 16-46-106.

CALIFORNIA: California's legal privilege expressly includes psychotherapists and psychiatrists (Section 1010 of Evidence Rules). Patients must expressly waive doctor-patient confidentiality when they become plaintiffs in civil lawsuits (Section 1016 of Evidence Rules). Doctors may withhold certain mental health records from patients if disclosure would have an adverse effect on patient. (H&S Section 1795.12 and.14).

COLORADO: Doctors are permitted to withhold from patients' psychiatric records that would have a significant negative psychological impact; in those cases, doctors may prepare a summary statement of what the records contain (Ch.25-1-801). There are mandatory disclosure requirements for certain diseases (Ch 25-1-122).

CONNECTICUT: There is limited disclosure of mental health records (Ch. 4-105) and limited disclosure to state officials (Ch.53-146h; 17b-225).

DELAWARE: Strict disclosure prohibitions exist about sexually transmitted diseases, HIV infections (Tit. 16-711). No physician-patient privilege exists in child abuse cases (Tit. 16-908).

DISTRICT OF COLUMBIA: D.C. Code 14-307 and 6-2511 address legal privilege of physicians and surgeons and mental health professionals except where they are outweighed by "interests of public justice." Public mental health facilities must release records to patient's attorney or personal physician (21-562).

FLORIDA: Florida Statutes Annotated 455-241 recognizes a psychotherapist-patient privilege. Mental health records may be provided in the form of a report instead of actual annotations (455-241). Patient consent is required for general medical records releases except by SUBPOENA or consent to compulsory

physical exam pursuant to Civil Rule of Procedure 1.360 (455-241).

GEORGIA: Legal privilege is extended to pharmacists and psychiatrists (Ch. 24-9-21, 9-40). Mandatory disclosure to state officials is required for child abuse and venereal disease. (Ch. 19-7-5; 31-17-2).

HAWAII: Hawaii Revised Statute 325-2 provides for mandatory disclosure to state officials for communicable disease or danger to public health. Names appearing in public studies such as the Hawaii Tumor Registry are confidential and no person who provides information is liable for it (324-11, et seq.).

IDAHO: Physician-patient privilege is found in the Idaho Code 9-203(4). There is mandatory disclosure for child abuse cases within 24 hours (16-1619) and sexually transmitted diseases (39-601). Both doctors and nurses may request protective orders to deny or limit disclosure (9-420).

ILLINOIS: Mandatory disclosure to state officials exists for child abuse and sexually transmitted diseases (325 Illinois Compiled Statutes Annotated 5/4).

INDIANA: Doctor-patient information is protected by Ch.34-1-14-5. Insurance companies may obtain information with written consent (Ch 16-39-5-2). Mandatory disclosure to state officials exists for child abuse and sexually transmitted diseases (31-6-11-3 and 4) (16-41-2-3).

IOWA: Mandatory disclosure to state officials exists of sexually transmitted diseases (Ch. 140.3 and 4).

KANSAS: State law recognizes doctor-patient privilege (Ch. 60-427) and psychologist-patient privilege (74-5323). Mandatory disclosure of AIDS (65-6002(c) to state health officials is required of AIDS (65-6002(c)).

KENTUCKY: Psychiatrists are included in privilege statute (Ch. 422-330). Either patient or physician may ask for PROTECTIVE ORDER (422-315).

LOUISIANA: Louisiana Code of Evidence, Article 510 waives health-care provider-patient privilege in cases of child abuse or molestation. Mandatory disclosure of HIV information is required (Ch.1300-14 and 1300-15).

MAINE: Privilege covers both physicians and psychologists, except in child abuse cases (Ch. 22-4015). Doctors may withhold mental health records if detrimental to patient's health (22-1711). 20-A Maine Revised Statutes Annotated, Section 254, Subsection 5, requires schools to adopt local written policies and procedures.

MARYLAND: Both psychiatrists and psychologists are included in state's privilege statute (Cts. & Jud. Proc. 9-109). Physicians may inform local health officers of needle-sharing partners or sexual partners in cases of transmittable diseases (18-337).

MASSACHUSETTS: Any injury from the discharge of a gun or a burn affecting more than five percent of the body, rape, or sexual ASSAULT triggers mandatory disclosure law (Ch. 112-12A). No statutory privilege.

MICHIGAN: MCL 600.2157 recognizes a physician-patient privilege. Mandatory disclosure to state officials exists for communicable diseases (MCL.333.5117).

MINNESOTA: Minnesota Statutes Annotated 144.335 authorizes withholding of mental health records if information is detrimental to well-being of patient. Legal privilege expressly includes nurses and psychologists (595-02).

MISSISSIPPI: Mississippi is one of the few states that includes dentists, as well as pharmacists and nurses, in its statutory provisions for privilege (Ch. 13-1-21). Patient WAIVER is implied for mandatory disclosures to state health officials. Peer review boards assessing the quality of care for medical or dental care providers may have access to patient records without the disclosure of patient's identity (41-63-1, 63-3).

MISSOURI: Physicians, surgeons, psychologists, and dentists are included in Missouri's privilege statute (Ch. 491.060).

MONTANA: Doctor-patient privilege is found at Ch.26-1-805, and a psychologist-client privilege is recognized at Ch. 26-1-807. Mandatory Disclosure to state officials is required for sexually transmitted disease. (Ch. 50-18-106).

NEBRASKA: Nebraska Revised Statutes 81-642 requires reporting of patients with cancer for the Dept. of Health's Cancer Registry. The Dept. also maintains a Brain Injury Registry (81-651). Mandatory Disclosure to state officials is required for sexually transmitted disease. (71-503.01).

NEVADA: An express doctor/therapist-patient privilege is recognized under Nevada Statutes (Ch. 49-235 and 248). Mandatory Disclosure to state officials is required for communicable disease. (441A.150).

NEW HAMPSHIRE: The state has a statutorily recognized doctor-patient privilege (Ch. 329:26) and psychologist-patient privilege (330-A:19). Mandatory Disclosure to state officials is required for communicable disease (141-C:7).

NEW JERSEY: Doctor-patient privilege is found at Ch. 2A:84A-22.1, and a psychologist-client privilege is recognized at Ch. 45:14B-28. Mandatory Disclosure to state officials is required for child abuse (9:6-8.30), pertussis vaccine (26:2N-5), sexually transmitted disease.(26:4-41), or AIDS (26:5C-6).

NEW MEXICO: Doctor-patient privilege (including psychologists) is found in Rules 11-509Ch. 26-1-805 New Mexico, through its 6 N.M. Administrative Code 4.2.3.1.11.3.2(d) requires the supervisory school nurse to develop and implement written policies and procedures for clinical services, including the administration of medication.

NEW YORK: The state includes dentists, as well as doctors and nurses, in its statutory provisions for privilege (Civ. Prac. 4504). Records concerning sexually transmitted disease or ABORTION for minors may not be released, not even to parents (NY Pub. Health 17).

NORTH CAROLINA: North Carolina General Statute 130A-133, et seq. provides for mandatory disclosure to state officials for communicable disease.

NORTH DAKOTA: Statute 31-01-06 and Rule of Evidence No. 503 provides for a physician/psychotherapist-patient privilege. Mandatory Disclosure to state officials is required for child abuse, communicable diseases, or chronic diseases that impact the public (23-07-01, 50-25.1-01).

OHIO: Doctor-patient privilege is found at Ch. 2317-02(B). Mandatory Disclosure to state officials is required for child abuse (2151-421), occupational diseases (3701.25), contagious disease including AIDS (3701.24), or cases to be included on the Cancer Registry (3701.262).

OKLAHOMA: Title 12, Section 2503 and Title 43A, Section 1-109 cover physician and psychotherapist-patient privileges. Mandatory Disclosure to state officials is required for child abuse, and for communicable or venereal diseases (23-07-01, 50-25.1-01).

OREGON: Oregon Revised Statute 146-750 provides for mandatory disclosure of medical records involving suspected violence, and for physical injury with a knife, gun, or other deadly weapon.

PENNSYLVANIA: Pennsylvania has an express physician-patient privilege limited to civil matter only (Title 42-5929).

RHODE ISLAND: Mandatory Disclosure to state officials is required for occupational disease (Ch. 23-5-5), and for communicable or venereal diseases (23-8-1, 23-11-5).

SOUTH CAROLINA: Mandatory Disclosure to state officials is required for sexually transmitted disease (z016744-29-70). There is also express privilege for mental health provider-patient relationships under Ch. 19-11-95.

SOUTH DAKOTA: Physician-patient privilege is expressly recognized in Ch. 19-2-3, but is waived for criminal proceedings or if physical or mental health of person is at issue. Mandatory Disclosure to state officials is required for venereal disease (34-23-2) and for child abuse or neglect (26-8A-3).

TENNESSEE: Tennessee Code Annotated 24-1-207 and 63-11-213 provide express psychiatrist-patient and psychologist-patient privileges, respectively. There are also requirements for mandatory disclosure to state officials for communicable disease (68-5-101) or sexually transmitted diseases (68-10-101).

TEXAS: There are mandatory disclosure requirements for bullet or gunshot wounds (Health & Safety 161.041), certain occupational diseases (Health & Safety 84.003), and certain communicable diseases (Health & Safety 81.041).

UTAH: Utah Code Annotated 78-24-8(4) provides for doctor-patient privilege. There are mandatory disclosure requirements for suspected child abuse (62A-4A-403), and for communicable and infectious diseases (including HIV and AIDS) (26-6-3).

VERMONT: The state includes dentists, doctors, nurses, and mental health professionals in its statutory provisions for privilege (Title 12-1612). Records concerning sexually transmitted disease require reporting (Title 18-1093). Any HIV-related record of testing or counseling may be disclosed only with a court order evidencing "compelling need" (Title 12-1705).

VIRGINIA: Virginia extends legal privilege to any duly licensed practitioner of any branch of the healing arts dealing with the patient in a professional capacity (Ch. 8.01-399). Mental health professionals may withhold records from patient if release would be injurious to patient's health. (8.01-413).

WASHINGTON: Physician-patient privilege is expressly recognized in Ch. 5.60.060 and psychologist-patient privilege is at 18.83.110. Mandatory Disclosure to state officials is required for sexually transmitted disease (70.24.105), child abuse (26.44.030), and tuberculosis (70.28.010).

WEST VIRGINIA: Mandatory Disclosure to state officials is required for venereal, communicable disease (Ch. 16-4-6; 16-2A-5; 26-5A-4), suspected child abuse (49-6A-2), and gunshot and other wounds or burns (61-2-27).

WISCONSIN: Wisconsin Statute 905.04 recognizes privilege for physicians, nurses, and psychologists. There are mandatory reporting requirements for sexually transmitted diseases (252.11), tuberculosis (252.07), child abuse (48.981) and communicable diseases (252.05).

WYOMING: Rather than expressly create a statutory privilege, Wyoming addresses the matter by limiting doctors' testimony to instances where patients have expressly consented or where patients voluntarily testify themselves on their medical conditions (putting their medical conditions "at issue") (Ch. 1-12-101). There are mandatory reporting requirements for sexually transmitted diseases, child abuse, and communicable diseases (14-3-205, 35-4-130, 35-4-103).

ADDITIONAL RESOURCE

"Medical Records." *National Survey of State Law*, 2nd ed., Richard A. Leiter, Ed. Gale, 1997.