


**COMPLAINT-PROOFING YOUR PRACTICE:
WHAT THEY DID NOT TEACH YOU
IN GRADUATE SCHOOL**



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CAVEAT:

These materials have been prepared for information and general use by seminar attendees. To the best of my knowledge, the information contained in this paper is accurate. However, neither the text of this paper, nor any remarks made during the lecture are intended for use as legal advice. Please consult an attorney who specializes in these areas for legal advice on all real or potential problems. Further, the opinions expressed in this paper and during the lecture are my own.

▶ ANNUAL LSOTP CE HOURLY REQUIREMENTS

- ▶ • 24 hours of CE for every licensure cycle (2 years), including 6 hours of Ethics, 12 hours in sex offender assessment and treatment and 6 hours in victim-related training.

▶ ANNUAL LPC CE HOURLY REQUIREMENTS

- ▶ • 24 clock hours every licensure cycle (2 years), including the Jurisprudence Exam.
- ▶ • LPC-Supervisors must complete at least 6 hours of CE in Supervision.

▶ ANNUAL LMFT CE HOURLY REQUIREMENTS

- ▶ • 30 clock hours every licensure cycle (2 years), including 6 hours of Ethics.
- ▶ • LMFT-Supervisors must complete at least 3 hours of CE in Clinical Supervision.

▶ ANNUAL SOCIAL WORKER CE HOURLY REQUIREMENTS

- ▶ • 30 clock hours every licensure cycle (2 years), including 6 hours of Ethics (the Jurisprudence Exam will count for 3 hours in Ethics).

▶ **MAINTAIN PROFESSIONAL
LIABILITY INSURANCE
AND CHECK COVERAGE YEARLY**

▶ **RESPOND TO REQUESTS FOR
RECORDS
IN A TIMELY MANNER**

**Mental Health records are confidential and
privileged under Chapter 611 of the Texas
Health & Safety Code.**



Time to Respond to a Request for Mental Health Records

Upon receipt of a written request to examine or copy all or part of the patient's recorded mental health information, a professional, as promptly as required under the circumstances but not later than the 15th day after the date of receiving the request shall make the information available for examination during regular business hours or provide a copy to the patient, if requested, or inform the patient if the information does not exist or cannot be located.

Texas Health & Safety Code, §611.008

Fees Allowed for Mental Health Records

A mental health professional is not required to charge any fee for providing records to a client upon request. However, a professional may charge a "reasonable fee" for releasing mental health records, and the professional is not required to provide records until the fee is paid unless there is a medical emergency. Unlike the Texas Medical Board, none of the mental health licensing boards have taken the step to adopt a fee guideline, preferring instead to leave the question of what is "reasonable" to the individual provider.

Texas Health & Safety Code §611.008 (b)

TEXAS MEDICAL BOARD FEE GUIDELINE

A physician is not required to charge a fee for providing records to a patient upon request. TMB Rules provide that a physician is entitled to receive a reasonable, cost-based fee for providing medical records, which is:

- ▶ \$25.00 for the first twenty (20) pages of records, and \$.50 cents per page thereafter, plus the actual costs of shipping if the patient requests that the records be mailed.
- ▶ If an affidavit is requested to certify that the information is a true and correct copy of the requested records, a reasonable fee of up to \$15.00 may be charged for executing the affidavit.

22 TAC, §165.2(e)(1)

Statutory Fee Waiver for Records in Certain Circumstances

In 1995, the Texas Legislature passed Senate Bill 133 to establish a requirement that health care providers and facilities in Texas may not charge a fee for medical or mental health records when the records are sought for the purpose of qualifying for, or appealing a denial of benefits under a number of cited status related to public assistance (for programs such as the Texas Aid for Nutrition and Families (TANF), Medicaid, Medicare, Federal Old Age and Survivors Insurance and Supplemental Security Income for the Aged, Blind or Disabled).

Procedure for substantiating the request for free records.

The requestor of the records (usually the patient's lawyer) is required to submit a written request for records, and include a statement or document from the department or agency that administers the issuance of the assistance or benefits that confirms the application or appeal. This information is necessary to place the provider on notice that that usual fees for providing records do not apply. The fee waiver applies when the patient, his attorney or other authorized representative request the records. It does not apply when a state or federal agency requests the records.

Tex. Health & Safety Code §161.202 (c)

Limitation on number of records to be provided at no cost.

A provider of facility is not required to provided more than one complete record for a patient without charge. However, when an additional material is added to the patient's record, the provider or facility shall supplement the records without charge when requested to do so.

Texas Health & Safety Code §161.202(d)

KNOW YOUR BOARD RULES

▶ DEFINE AND DOCUMENT YOUR THERAPEUTIC RELATIONSHIP

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**▶KEEP COMPLETE RECORDS OF
TREATMENT PROVIDED**

**▶SET AND MAINTAIN PROFESSIONAL
BOUNDARIES**

**▶KNOW WHEN TREATMENT HAS RUN
ITS COURSE...AND WHEN THE
PROFESSIONAL RELATIONSHIP IS
OVER.**


▶ UNDERSTAND AND EXPLAIN THE LIMITS OF CONFIDENTIALITY.

▶ KEEP YOUR ADDRESS CURRENT WITH YOUR LICENSING BOARD(S)

▶ BOARD CONTACTS

▶ KNOW THE LAW

▶ QUESTIONS? ASK AWAY.

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