

CIVIL PRACTICE AND REMEDIES CODE  
TITLE 6. MISCELLANEOUS PROVISIONS  
CHAPTER 144. DESTRUCTION OF CERTAIN RECORDS

Sec. 144.001. DEFINITIONS. In this chapter:

(1) "Former mental health patient" means an individual who:

(A) between January 1, 1986, and December 31, 1993, was admitted to a mental health facility that has pled guilty, or whose parent or affiliate corporation has so pled, to unlawfully conspiring to offer and pay remuneration to any person to induce that person to refer individuals for services to a mental health facility; and

(B) has been released from that mental health facility; but

(C) was not admitted to the facility on the basis of a court proceeding that included a commitment hearing that was on the record.

(2) "Record" means a medical record:

(A) that a federal statute or regulation does not require to be retained, maintained, or preserved; or

(B) for which the requirement under a federal statute or regulation to retain, maintain, or preserve the record has expired.

(3) "Court" means a district or statutory probate court.

Added by Acts 1997, 75th Leg., ch. 1295, Sec. 1, eff. Sept. 1, 1997.

Sec. 144.005. COURT RECORDS CONCERNING ORDER. The court shall seal records concerning an order issued under this chapter and ensure that the court's records are not open for inspection by any person except the former mental patient or on further order of the court after notice to the former mental patient and a finding of good cause. The institution of a suit or bringing of a claim by or on behalf of the former mental patient or the former patient's assignee or insurer constitutes good cause.

Added by Acts 1997, 75th Leg., ch. 1295, Sec. 1, eff. Sept. 1, 1997.

Sec. 144.006. COLLATERAL EFFECTS OF ORDER. (a) A former mental health patient who successfully petitions for an order under this chapter and a facility or health care provider, or the owner, operator, parent, or affiliate of a facility or health care provider, that is subject to an order under this chapter may deny:

(1) the existence of any record subject to the order;

(2) the existence of the order itself;

(3) the occurrence of the former mental patient's admission to a mental health facility if the records of the admission are subject to the order; and

(4) the occurrence of any treatment related to the admission if the records of the admission are subject to the order.

(b) A former mental health patient who makes a denial under Subsection (a) or a facility or health care provider, or the owner, operator, parent, or affiliate of a facility or health care provider, that is subject to an order under this chapter and that makes a denial under Subsection (a) is not liable for a civil or criminal penalty for perjury.

Added by Acts 1997, 75th Leg., ch. 1295, Sec. 1, eff. Sept. 1, 1997.

Sec. 144.007. LIMITATION ON CERTAIN LAWSUITS. (a) Except as provided by Subsection (b), a former mental patient who successfully petitions a court for an order under this chapter or a person acting on the former mental patient's behalf may not file an action against a facility or health care provider, or the owner, operator, parent, or affiliate of a facility or health care provider, related to an event or activity that formed the basis of a record subject to the court's order.

(b) A juvenile former mental health patient whose records have been sealed under this chapter may file an action or complaint at any time before the records have been destroyed under Section 144.002(c).

(c) A finding made under this chapter is not admissible against any party in litigation to establish liability for damages, expenses, or other relief as an alleged result of any treatment or admission.

Added by Acts 1997, 75th Leg., ch. 1295, Sec. 1, eff. Sept. 1, 1997.

Sec. 144.008. DISCLOSURE OF INFORMATION SUBJECT TO ORDER; PENALTY. (a) A person commits an offense if the person:

(1) knows of a former mental patient's admission to a mental health facility;

(2) knows of a court order issued under this chapter that relates to that admission; and

(3) intentionally releases, disseminates, or publishes a record or index reference subject to that order.

(b) A person commits an offense if the person:

(1) knowingly fails to delete, seal, destroy, or present to the court a record or index reference subject to an order issued under this chapter; and

(2) knows or should know that the record or index reference is subject to that order.

(c) An offense under this chapter is a Class B misdemeanor.

(d) This chapter does not prohibit an attorney or insurer of a provider or patient from retaining or communicating confidentially about a privileged document as necessary to provide legal advice regarding an actual or potential claim or issue. The document or communication remains privileged and not subject to a subpoena.

Added by Acts 1997, 75th Leg., ch. 1295, Sec. 1, eff. Sept. 1, 1997.

Sec. 144.009. APPLICABILITY OF OTHER LAW. This chapter supersedes other state law regarding the retention or destruction of patient records.

Added by Acts 1997, 75th Leg., ch. 1295, Sec. 1, eff. Sept. 1, 1997.

Sec. 144.010. EXPIRATION OF CERTAIN PROVISIONS. Sections 144.002, 144.003, and 144.004 expire January 1, 1999.

Added by Acts 1997, 75th Leg., ch. 1295, Sec. 1, eff. Sept. 1, 1997.