

481—888.3(154B) Access to records.

888.3(1) *Clinical records generally.* When records are requested along with a signed release from the patient or the patient's personal representative, a licensee will provide requested clinical records in a timely manner unless there is a ground for denial under HIPAA (Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, August 21, 1996, 110 Stat. 1936).

888.3(2) *Psychotherapy notes.* A licensee is not required to release psychotherapy notes in response to a signed release; if a licensee chooses to release psychotherapy notes, a signed release specifically authorizing the release of those notes will be provided.

888.3(3) *Substance use disorder treatment programs.* Licensees who practice in a federally assisted substance use disorder treatment program, also known as a part 2 program, are prohibited from disclosing any information that would identify a patient as having a substance use disorder unless the patient provides written consent in compliance with part 2 requirements.

888.3(4) *Clinical records of minor patients.* A minor patient is a patient who is under the age of 18 and is not emancipated. A licensee is not required to release the clinical records of a minor patient to the minor's personal representative if releasing such records is not in the minor's best interest. When a minor patient reaches the age of 18, the clinical records belong to the patient.

888.3(5) *Clinical records of deceased patients.* A licensee will provide the clinical records of a deceased patient to the deceased patient's executor upon a written request accompanied by a copy of the patient's death certificate and a copy of the legal document identifying the requestor as the patient's executor.

888.3(6) *Forensic records.* A licensee will provide forensic records consistent with the APA Specialty Guidelines for Forensic Psychology published January 2011.

888.3(7) *Board.* A licensee shall provide clinical records, test data, or forensic records to the board as requested during the investigation of a complaint. A licensee is not required to obtain a patient release to send such information to the board because the board is a health oversight agency.

888.3(8) *Exceptions.* These rules do not apply when there is a legal basis for not disclosing requested information.

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