

481—884.3(147) Mental health counselor and marriage and family therapist recordkeeping.

884.3(1) A mental health counselor or marriage and family therapist shall maintain sufficient, timely, and accurate documentation in client records.

884.3(2) For purposes of this rule, “client” means the individual, couple, family, or group to whom a mental health counselor or marriage and family therapist provides direct clinical services.

884.3(3) A mental health counselor’s or marriage and family therapist’s records shall reflect the services provided, facilitate the delivery of services, and ensure continuity of services in the future.

884.3(4) Clinical services. A mental health counselor or marriage and family therapist who provides clinical services in any employment setting, including private practice, shall:

a. Store records in accordance with state and federal statutes and regulations governing record retention and with the guidelines of the mental health counselor’s or marriage and family therapist’s employer or agency, if applicable. If no other legal provisions govern record retention, a mental health counselor or marriage and family therapist shall store all client records for a minimum of seven years after the date of the client’s discharge or death or, in the case of a minor, for three years after the client reaches the age of majority under state law or seven years after the date of the client’s discharge or death, whichever is longer.

b. Maintain timely records that include subjective and objective data, an assessment, a treatment plan, and any revisions to the assessment or plan made during the course of treatment.

c. Provide the client with reasonable access to records concerning the client. A mental health counselor or marriage and family therapist who is concerned that a client’s access to the client’s records could cause serious misunderstanding or harm to the client shall provide assistance in interpreting the records and consultation with the client regarding the records. A mental health counselor or marriage and family therapist may limit a client’s access to the client’s records, or portions of the records, only in exceptional circumstances when there is compelling evidence that such access would cause serious harm to the client. Both the client’s request for access and the licensee’s rationale for withholding some or all of a record shall be documented in the client’s records.

d. Take steps to protect the confidentiality of other individuals identified or discussed in any records to which a client is provided access.

884.3(5) Electronic recordkeeping. The requirements of this rule apply to electronic records as well as to records kept by any other means. When electronic records are kept, the mental health counselor or marriage and family therapist shall ensure that a duplicate hard-copy record or a backup, unalterable electronic record is maintained.

884.3(6) Correction of records.

a. Hard-copy records. Original notations shall be legible, be written in ink, and contain no erasures or whiteouts. If incorrect information is placed in the original record, it must be crossed out with a single, nondeleting line and be initialed and dated by the mental health counselor or marriage and family therapist.

b. Electronic records. If a record is stored in an electronic format, the record may be amended with a signed addendum attached to the record.

884.3(7) Confidentiality and transfer of records. Marital and family therapists or mental health counselors shall preserve the confidentiality of client records in accordance with their respective rules of conduct and with federal and state law. Upon receipt of a written release or authorization signed by the client, the licensee shall furnish such therapy records, or copies of the records, as will be beneficial for the future treatment of that client. A fee may be charged for duplication of records, but a mental health counselor or marriage and family therapist shall not refuse to transfer records for nonpayment of any fees. A written request may be required before transferring the record(s).

884.3(8) Retirement, death or discontinuance of practice.

a. If a mental health counselor or marriage and family therapist is retiring or discontinuing practice and is the owner of a practice, the mental health counselor or marriage and family therapist shall notify in writing all active clients and, upon knowledge and agreement of the clients, shall make reasonable arrangements with those clients to transfer client records, or copies of those records, to the succeeding licensee.

b. Upon a mental health counselor’s or marriage and family therapist’s death:

(1) The mental health counselor's or marriage and family therapist's employer or representative must ensure that all client records are transferred to another licensee or entity that is held to the same standards of confidentiality and agrees to act as custodian of the records.

(2) The mental health counselor's or marriage and family therapist's employer or representative shall notify each active client that the client's records will be transferred to another licensee or entity that will retain custody of the records and that, at the client's written request, the records will be sent to the licensee or entity of the client's choice.

884.3(9) Nothing stated in this rule shall prohibit a mental health counselor or marriage and family therapist from conveying or transferring the client records to another licensed individual who is assuming a practice, provided that written notice is furnished to all clients.

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