

MENTAL HEALTH CODE (EXCERPT)
Act 258 of 1974

330.2004a Rights of prisoners; confidentiality of information.

Sec. 1004a.

(1) In addition to the rights, benefits, and privileges guaranteed to prisoners by other provisions of law, the state constitution of 1963, and the constitution of the United States, a prisoner receiving services from the corrections mental health program has the rights enumerated in this section. The rights enumerated in this section do not replace or limit any other rights, benefits, or privileges of a prisoner.

(2) The rights enumerated in this section pertain to the manner in which mental health services are provided to the prisoner. This section does not affect the regulations and policies of the department of corrections relating to the operation of a state correctional facility. In an instance in which a right enumerated in this section conflicts with a regulation or policy of the department of corrections affecting the security of a state correctional facility or the protection of prisoners, employees, or the public, the department of corrections regulation or policy shall control.

(3) A prisoner is entitled to receive mental health services suitable to his or her condition in a manner that protects and promotes the basic human dignity of the prisoner.

(4) Subject to subsection (2), a prisoner receiving services from the corrections mental health program is entitled to those rights enumerated in sections 706, 710, 712, 714, 716, 722, 740, 742, 744, and 746.

(5) Information in the medical record of a prisoner receiving services from the corrections mental health program and other information acquired in the course of the prisoner's treatment in the program is confidential and shall not be open to public inspection. The corrections mental health program is the holder of the record and may disclose the information only in the circumstances and under the conditions set forth in this subsection. If information made confidential by this subsection is disclosed, the identity of the individual to whom it pertains shall be protected and shall not be disclosed unless it is germane to the authorized purpose for which disclosure was sought; and, if practicable, other information shall not be disclosed unless it is germane to the authorized purpose for which disclosure was sought. A person receiving information made confidential by this subsection shall disclose the information to others only to the extent consistent with the authorized purpose for which the information was obtained. With the exception of records, data, and knowledge generated by individuals or committees performing a peer review function, which is not subject to disclosure, information pertaining to a prisoner receiving mental health services from the corrections mental health program may be disclosed under 1 or more of the following circumstances:

(a) Pursuant to orders or subpoenas of a court of record, or subpoenas of the legislature, unless the information is made privileged by law.

(b) To an attorney for the prisoner, with the prisoner's consent.

(c) If necessary to comply with another provision of law.

(d) To the department of corrections if the information is necessary to protect the safety of the prisoner, other prisoners, or the public, or to protect the prisoner's interactions with others in the state correctional facility.

(e) To the department of mental health if the information is necessary for the department to discharge a responsibility placed upon it by law.

(f) To the office of the auditor general if the information is necessary for that office to discharge its constitutional responsibility.

(g) As necessary to enable a prisoner or the prisoner's surviving spouse or other related person to apply for or receive benefits.

(h) As necessary for the purpose of outside research, evaluation, accreditation, or statistical compilation, if the prisoner can be identified from the disclosure only if that identification is essential in order to achieve the purpose for which the information is sought or if preventing that identification would clearly be impractical, but in no event if the prisoner is likely to be harmed by the identification.

(i) To providers of mental health or other health services or a public agency, when there is a compelling need for disclosure based upon a substantial probability of harm to the prisoner or to other persons.

(j) To a representative of the protection and advocacy system designated by the governor in section 931 if both of the following apply:

(i) A complaint regarding the provision of mental health services by the corrections mental health program has been received by the protection and advocacy system from or on behalf of the prisoner.

(ii) The prisoner does not have a legal guardian, or the state or the designee of the state is the legal guardian of the prisoner.

History: Add. 1993, Act 252, Imd. Eff. Nov. 29, 1993

