

Appendix A: Application of Pennsylvania Laws Governing Disclosure of Substance Use Treatment Information

Type of disclosure	What person or entity is regulated	What information is covered and under what circumstances	Conditions of disclosure (e.g., consent, court order)	Limits on information that may be disclosed	Provision(s) of law	Statute or Regulation	Notes
Treatment	Programs implemented under Pennsylvania Drug and Alcohol Abuse Control Act (e.g., community substance abuse treatment programs administered by a Single County Authority); The Department of Health.	All information in patient records relating to drug or alcohol abuse or dependence when disclosed to medical personnel for diagnosis or treatment purposes.	With patient consent (unless disclosure is necessary to save the patient’s life during a medical emergency).	None	71 P.S. § 1690.108(b)	Statute	
Obtaining benefits	Programs implemented under Pennsylvania Drug and Alcohol Abuse Control Act (e.g., community substance abuse treatment programs administered by a Single County Authority); The Department of Health.	All information in patient records relating to drug or alcohol abuse or dependence when disclosed to officials for the purpose of obtaining benefits related to the patient’s drug or alcohol use.	With patient consent.	None	71 P.S. § 1690.108(b)	Statute	

*Section 5100.36 of The Mental Health Procedures Act (MHPA) subjects drug abuse information in mental health records (for all inpatient and involuntary outpatient services) to the provisions of 71 P. S. § 1690.108(c) and 4 Pa. Code § 255.5.

*A variety of providers and activities are subject to the conditions of 4 Pa. Code § 255.5. Licensure provisions for freestanding drug and alcohol treatment facilities require project directors to develop and maintain a written procedure for confidentiality of patient records that complies with § 255.5, as a condition of obtaining and maintaining licensure. 28 Pa. Code § 709.28. Standards for approval of narcotic treatment programs require those programs to maintain secure, confidential patient records in compliance with § 255.5. Certification requirements for drug and alcohol treatment activities that are part of health care facilities require facilities to establish a procedure to maintain confidentiality in compliance with § 255.5. Codified at 28 Pa. Code §§ 711.43 (intake evaluation and referral activities), 711.53 (nonhospital residential treatment and rehabilitation), 711.62 (nonhospital short-term detoxification), 711.72 (transitional living facilities), 711.83 (partial hospitalization activities), 711.93 (outpatient activities), 710.23 (inpatient hospital detoxing services). Licensure standards for psychiatric rehabilitation service providers require those providers to protect information in compliance with § 255.5 and to comply with the MHPA. 55 Pa. Code § 5230.17.

*Client is defined in 28 Pa. Code § 701.1. as an individual who is or has been the recipient of the services of a project. However, the provisions that extend § 255.5 to other providers apply to their patients.

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Purposes other than treatment or benefits	Programs implemented under Pennsylvania Drug and Alcohol Abuse Control Act (e.g., community substance abuse treatment programs administered by a Single County Authority); The Department of Health.	All information in patient records relating to drug or alcohol abuse or dependence when disclosed for purposes other than treatment or benefits.	If a court of common pleas determines that there is good cause for the disclosure.	None	71 P.S. § 1690.108(b)	Statute	
Treatment	Private practitioners, hospitals, clinics, drug rehabilitation or drug treatment centers, providers of inpatient or involuntary mental health care*	All information in patient records relating to drug or alcohol abuse or dependence that is disclosed to medical personnel for diagnosis and treatment purposes.	With the consent of a patient aged 18+, a patient under 18 who has consented to treatment, or a patient under 18 who has not consented to treatment.	None	71 P.S. § 1690.108(c)(1)-(2)(i)	Statute	
Informing patient's parent or guardian	Private practitioners, hospitals, clinics, drug rehabilitation or drug treatment centers, providers of inpatient or involuntary mental health care*	All information in patient records relating to drug or alcohol abuse or dependence that is disclosed to a minor patient's parent or guardian or other person designated by the patient.	With the consent of a patient aged 18+, a patient under 18 who has consented to treatment, or a patient under 18 who has not consented to treatment.	None	71 P.S. § 1690.108(c)(1)-(2)(ii)	Statute	

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Obtaining benefits	Private practitioners, hospitals, clinics, drug rehabilitation or drug treatment centers, providers of inpatient or involuntary mental health care*	All information in patient records relating to drug or alcohol abuse or dependence that is disclosed to officials for the purpose of obtaining benefits related to the patient's drug or alcohol use.	With the consent of a patient aged 18+, a patient under 18 who has consented to treatment, or a patient under 18 who has not consented to treatment.	None	71 P.S. § 1690.108(c)(1)-(2)(iii)	Statute	
Emergency medical treatment	Programs implemented under Pennsylvania Drug and Alcohol Abuse Control Act (e.g., community substance abuse treatment programs administered by a Single County Authority); The Department of Health; Private practitioners, hospitals, clinics, drug rehabilitation or drug treatment centers, providers of inpatient or involuntary mental health care*	All information in patient records relating to drug or alcohol abuse or dependence that is disclosed to medical authorities when the patient's life is in immediate jeopardy due to an emergency medical situation.	No conditions	None	71 P.S. § 1690.108(b) and (c)(3)	Statute	

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Disclosures to parent when minor patient did not consent to disclosure	Private practitioners, hospitals, clinics, drug rehabilitation or drug treatment centers, providers of inpatient or involuntary mental health care*	All information in patient records relating to drug or alcohol abuse or dependence that is released to the parent or guardian of a minor patient when the parent or guardian consented to the minor patient's treatment but the minor refused to sign a consent to release the treatment information to the minor's parent or legal guardian.	No conditions	Limits the information that may be disclosed without consent to the facts necessary to reduce a threat to the minor patient or another person.	71 P.S. § 1690.108(c)(4)	Statute	
Disclosures to sentencing judge	Drug and Alcohol Programs, staff that provide program services, facilities that provide drug and alcohol treatment*, and providers of inpatient or involuntary mental health care*	All client# information relating to drug or alcohol abuse or dependence disclosed to judges that have sentenced the particular client to a project.	With or without client consent.	Disclosure is limited to: (1) Whether the client is or is not in treatment; (2) The client's prognosis; (3) the project's nature; (4) A brief description of the client's progress; and (5) A short statement regarding whether the client has relapsed into substance use and the frequency of the relapse.	4 Pa. Code § 255.5(a)(1), (b)	Regulation	The DDAP Interpretive Guideline for 255.5 explains permitted content of each of the five authorized disclosures.
Disclosures to probation or parole officer	Drug and Alcohol Programs, staff that provide program services, facilities that provide drug and alcohol treatment*, and providers of inpatient or involuntary mental health care*	All client# information relating to drug or alcohol abuse or dependence disclosed to probation or parole officers.	With or without client consent.	Disclosure is limited to: (1) Whether the client is or is not in treatment; (2) The client's prognosis; (3) the project's nature; (4) A brief description of the client's progress; and (5) A short statement regarding whether the client has relapsed into substance use and the frequency of the relapse.	4 Pa. Code § 255.5(a)(2), (b)	Regulation	The DDAP Interpretive Guideline for 255.5 explains permitted content of each of the five authorized disclosures.

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Disclosures to judge	Drug and Alcohol Programs, staff that provide program services, facilities that provide drug and alcohol treatment*, and providers of inpatient or involuntary mental health care*	All client# information relating to drug or alcohol abuse or dependence disclosed to judges that assign that particular client to a pre-sentence, condition release programs.	With or without client consent.	None	4 Pa. Code § 255.5(a)(3)	Regulation	
Disclosures to judge	Drug and Alcohol Programs, staff that provide program services, facilities that provide drug and alcohol treatment*, and providers of inpatient or involuntary mental health care*	All client# information relating to drug or alcohol abuse or dependence disclosed to a judge for the purpose of the judge determining whether to authorize a conditional release program.	With a client's written consent.	None	4 Pa. Code § 255.5(a)(4)	Regulation	
Disclosures to attorney	Drug and Alcohol Programs, staff that provide program services, facilities that provide drug and alcohol treatment*, and providers of inpatient or involuntary mental health care*	All client# information relating to drug or alcohol abuse or dependence disclosed to the client's attorney, if the attorney is representing the client during a civil, criminal, or administrative proceeding.	With a client's written consent.	None	4 Pa. Code § 255.5(a)(5)	Regulation	

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Disclosures to employer	Drug and Alcohol Programs, staff that provide program services, facilities that provide drug and alcohol treatment*, and providers of inpatient or involuntary mental health care*	All client# information relating to drug or alcohol abuse or dependence disclosed to a client’s employer—if sought to help the client’s rehabilitation—or prospective employer—if sought to facilitate the engagement of the client as an employee.	With a client’s written consent.	Disclosure is limited to whether the client is receiving or has received treatment from a project.	4 Pa. Code § 255.5(a)(6)	Regulation	
Obtaining benefits (from insurer)	Drug and Alcohol Programs, staff that provide program services, facilities that provide drug and alcohol treatment*, and providers of inpatient or involuntary mental health care*	All client# information relating to drug or alcohol abuse or dependence disclosed to an insurance company that provides medical, hospital, disability, or other benefits to the client.	With a client’s written consent.	Disclosure is limited to: (1) Whether the client is or is not in treatment; (2) The client’s prognosis; (3) the project’s nature; (4) A brief description of the client’s progress; and (5) A short statement regarding whether the client has relapsed into substance use and the frequency of the relapse.	4 Pa. Code § 255.5(a)(7)	Regulation	Permits insurance company to obtain information beyond the scope of the limitations by appealing to the Executive Director with the client’s written consent and obtaining the Director’s approval. Executive Director is defined in 28 Pa. Code § 701.1 as “The administrator of a drug and alcohol commission.” (It is not clear whether or how that appeal process is used.) The DDAP Interpretive Guideline for 255.5 explains permitted content of each of the five authorized disclosures.

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Obtaining benefits (from government)	Drug and Alcohol Programs, staff that provide program services, facilities that provide drug and alcohol treatment*, and providers of inpatient or involuntary mental health care*	All client# information relating to drug or alcohol abuse or dependence disclosed to government officials as a means of obtaining government benefits related to the client's substance use.	With a client's written consent.	Disclosure is limited to: (1) Whether the client is or is not in treatment; (2) The client's prognosis; (3) the project's nature; (4) A brief description of the client's progress; and (5) A short statement regarding whether the client has relapsed into substance use and the frequency of the relapse.	4 Pa. Code § 255.5(a)(8), (b)	Regulation	The DDAP Interpretive Guideline for 255.5 explains permitted content of each of the five authorized disclosures.
Emergency medical treatment	Drug and Alcohol Programs, staff that provide program services, facilities that provide drug and alcohol treatment*, and inpatient mental health providers*	All client# information relating to drug or alcohol abuse or dependence disclosed to medical authorities when the client needs treatment for a life-threatening medical emergency.	No consent required	None	4 Pa. Code § 255.5(a)(9)	Regulation	
Treatment	Drug and Alcohol Programs, staff that provide program services, facilities that provide drug and alcohol treatment*, and inpatient mental health providers*	Client# records regarding drug or alcohol abuse or dependence transferred for treatment purposes.	With client authorization	Limits the records that may be transferred to: Client Admission Forms, Treatment/Discharge Forms, and Discharge Summary Records	4 Pa. Code § 255.5(c)	Regulation	

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Care coordination	Persons or entities that coordinate client participation in a drug or alcohol treatment program	All client information relating to drug or alcohol abuse or dependence.	No conditions	Limits the information that may be received or sent by a coordinating entity when assigning or transferring clients to Client Admission Forms, Treatment/Discharge Forms, and Discharge Summary Records	4 Pa. Code § 255.5(d)	Regulation	This provision applies to "coordinating bodies," which is not defined. Disclosures to the Advisory Council (now DDAP) are exempted.

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