The Duty to Record: Ethical, Legal, and Professional Considerations for Utah Psychologists

Introduction

The American Psychological Association Practice Directorate has provided an excellent online presentation about electronic healthcare records (EHRs) and the basic terminology related to EHRs; the presentation dispels common myths about EHR systems and provides detail about their meaningful use in integrated health care settings.1

The Division 31 and 42 EHR working group’s2 primary goal was to create a series of State specific templates that would work well for psychologists as they transition into the use of EHRs, particularly in integrated health care settings where shared information is clinically essential and specific laws or regulations may dictate at least some of what is included in those records. To achieve this goal, we conducted a review of the laws related to record keeping, and the relevant and recent literature (particularly the last decade) regarding EHRs, including variations across states. Further, we consulted with key psychologists that have been using EHRs on a day to day basis, who have developed experience establishing polices and processes within their own institutions and practices. They have effectively used this developing technology to improve clinical care while protecting patient rights. They have found that the EHR enables collaborating professionals within the integrated health care settings to understand the behavioral risk factors that exist in each case and to be kept informed about the health behavior changes that occur with psychological service interventions (HRSA, 2012).3

In order to digest the laws accurately, we examined the annotated codes and regulations available on Westlaw and Lexis for the 50 states and the District of

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2 Christina Luini, JD, M.L.I.S.; Dinelia Rosa, PhD; Mary Karapetian Alvord, PhD; Vanessa K. Jensen, PsyD; Jeffrey N. Younggren, PhD; G. Andrew H. Benjamin, JD, PhD, ABPP. The working group, came together to discharge the obligations of the CODAPAR grant that we wrote and received: http://www.apadivisions.org/division-31/news-events/grant-funding.aspx.

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Columbia with reference to several relevant state-by-state surveys retrieved from Lexis and Westlaw.\(^4\) Our research answered the following questions for each jurisdiction: (a) Do record keeping duties created by statutes or administrative rules exist? (b) Have court rulings created a common-law duty or interpreted the statutes or administrative rules? (c) What are the contents of the record that are mandated by law? (d) Are there laws related to the maintenance and security of records? (e) What are the laws related to retention of records? (f) What are the consequences of violating specific duties? 

Readers should view the narrative summary of their jurisdiction’s law as a starting point for interpreting how to meet the law within their own jurisdiction as they construct their electronic records. As laws can change, please check the law with your state associations to see if more current interpretations for meeting the record keeping duties. Many state professional associations have ethics committees that can be consulted as part of their benefits. In addition, your association can refer psychologists for individual consultation to lawyers specializing in legal practices focused on mental health practice. The professional liability carriers also provide free legal and professional consultation.

Utah specific templates for the types and contents of the record are provided based upon a review of your jurisdiction’s law. The digest of your jurisdiction’s law should be read if you intend to use the templates.

**State Specific Template for contents of a record**

Utah law calls for an intake and evaluation note, and progress notes. The contents of the two templates for these documents comply with the law digested below. We also believe that a termination note will likely reduce exposure to arguments about continued duty of care, and reduce the risk of responsibility in a duty to protect/warn jurisdiction.\(^5\)

Because the documents permit hovering over the underline fields with a cursor


to select an option or permit filling in the shaded text boxes, they cannot be inserted into this document. Please access each of the documents on this website, separately.

Our group also suggests that users of the templates consider how “behavior may be shaped by culture, the groups to which one belongs, and cultural stereotypes.” Whenever “Eurocentric therapeutic and interventions models” may impair the consideration of multicultural factors among the integrated health care team members, we urge that psychologists note the factors within the appropriate template fields. In light of the World Health Organization’s demonstrated commitment to the formulation of a diagnostic system that moves beyond biological causation and integrates the contributions of psychological, cultural, and social factors, and APA’s participation in the development of the International Classification of Functioning, Disability and Health (World Health Organization, 2010), our group recommends using ICD-10 whenever diagnoses are being made. The EHR templates permit drop down diagnoses using the ICD-10 functional diagnoses.

**Statute or Rule**

Utah has adopted the APA Ethical Principles of Psychology and Code of conduct for psychologists and the ASPPB Code of Conduct as standards of practice for Utah psychologists.

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6 Please use the most recent version of WORD to access the full capabilities of the EHR templates.
8 Id. at p. 45.
Common Law

Relevant annotations to Utah Code Annotated section 26-25-1 (re: -1. Authority to provide data on treatment and condition of persons to designated agencies -- Immunity from liability)

- Trial court had an insufficient evidentiary basis for its decision to deny motion to compel discovery of a hospital's incident reports on grounds that they were subject to the "care review" privilege under §§ 26-25-1 and 26-25-3; it should have reviewed the reports in camera and not relied solely on a hospital employee's vague and conclusory affidavit.11
- The purpose of statutes providing the "care review" privilege is to improve medical care by allowing healthcare personnel to provide information to evaluate and improve hospital and health care, and only documents prepared specifically for review purposes are privileged, not documents that might or could be used in the review process.12

Contents of the record are mandated by law

Utah law incorporates both the APA and the ASPPB Codes of Conduct and the standards of practice follow.13 The psychologist rendering professional services to an individual client (or a dependent), or services billed to a third party payor, shall maintain professional records that include:14

1. the name of the client and other identifying information,
2. the presenting problem(s) or purpose or diagnosis,
3. the fee arrangement,
4. the date and substance of each billed or service-count contractor service,
5. any test results or other evaluative results obtained and any basic test data from which they were derived,
6. notation and results of formal consults with other providers,
7. a copy of all test or other evaluative reports prepared as part of the professional relationship,

r. 156-61-502(2) also renders it “unprofessional conduct” to violate the Association of State and Provincial Psychology Boards (ASPPB) Code of Conduct, at ASPPB’s website: http://www.asppb.net/i4a/pages/index.cfm?pageid=3353 (last accessed Aug. 1, 2012).

13 APA AND ASPPB CODES OF CONDUCT, supra note 10.
8. any releases executed by the client.

Utah statutes and regulations also delineate the contents of records\(^\text{15}\) of health care providers, including psychologists, who work in health care facilities.\(^\text{16}\)

The APA Code of Conduct also would be applied with the Health Insurance Portability and Accountability Act (HIPAA)\(^\text{17}\) to psychological records:

**3.10 Informed Consent\(^\text{18}\)**

(a) When psychologists …provide assessment, therapy, counseling or consulting services in person or via electronic transmission or other forms of communication, they obtain the informed consent of the individual or individuals using language that is reasonably understandable to that person or persons… (See also Standards 9.03, Informed Consent in Assessments; and 10.01, Informed Consent to Therapy.)

(b) For persons who are legally incapable of giving informed consent, psychologists nevertheless (1) provide an appropriate explanation, (2) seek the individual's assent, (3) consider such persons' preferences and best interests, and (4) obtain appropriate permission from a legally authorized person, if such substitute consent is permitted or required by law. When consent by a legally


\(^{16}\) “Health care facility” means general acute hospitals, specialty hospitals, home health agencies, hospices, nursing care facilities, residential-assisted living facilities, birthing centers, ambulatory surgical facilities, small health care facilities, abortion clinics, facilities owned or operated by health maintenance organizations, end stage renal disease facilities, and any other health care facility which the committee designates by rule. (b) “Health care facility” does not include the offices of private physicians or dentists, whether for individual or group practice, except that it does include an abortion clinic.” UTAH CODE ANN. § 26-21-21(13)(a)-(b)


\(^{18}\) APA CODE OF CONDUCT, supra note 10.
authorized person is not permitted or required by law, psychologists take reasonable steps to protect the individual's rights and welfare.

(c) When psychological services are court ordered or otherwise mandated, psychologists inform the individual of the nature of the anticipated services, including whether the services are court ordered or mandated and any limits of confidentiality, before proceeding.

(d) Psychologists appropriately document written or oral consent, permission, and assent. (See also Standards 9.03, Informed Consent in Assessments; and 10.01, Informed Consent to Therapy.)

A HIPAA notice of privacy practices\(^{19}\) that delineates the psychologist’s scope of and limitations of confidentiality works in tandem with the disclosure document provided to the patient during the informed consent process specified by Standards 3.10, 9.03, and 10.01. In addition, the Utah law would require disclosures about the following possible exceptions to protecting patient confidentiality:\(^{20}\)

(2) A psychologist under this chapter is not subject to Subsection (1) if:

(a) the psychologist is permitted or required by state or federal law, rule, regulation, or order to report or disclose any confidential communication, including:

(i) reporting under Title 62A, Chapter 3, Part 3, Abuse, Neglect, or Exploitation of a Vulnerable Adult;
(ii) reporting under Title 62A, Chapter 4a, Part 4, Child Abuse or Neglect Reporting Requirements;
(iii) reporting under Title 78B, Chapter 3, Part 5, Limitation of Therapist's Duty to Warn; or
(iv) reporting of a communicable disease as required under Section 26-6-6;

(b) the disclosure is part of an administrative, civil, or criminal proceeding and is made under an exemption from evidentiary privilege under Rule 506,


\(^{20}\) UTAH CODE ANN. § 58-61-602.
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APA Standard 4.04(a) suggests that psychologists focus the documentation in a manner that is very protective of their client’s privacy rights.

4.04 Minimizing Intrusions on Privacy
(a) Psychologists include in written and oral reports and consultations, only information germane to the purpose for which the communication is made.

The following standards set forth in the APA Code of Ethics create specific record keeping obligations for Utah psychologists:

6.06 Accuracy in Reports to Payors and Funding Sources
In their reports to payors for services …psychologists take reasonable steps to ensure the accurate reporting of the nature of the service provided …the fees, charges, or payments, and where applicable, the identity of the provider, the findings, and the diagnosis. (See also Standards 4.01, Maintaining Confidentiality; 4.04, Minimizing Intrusions on Privacy; and 4.05, Disclosures.)

9.01 Bases for Assessments
(a) Psychologists base the opinions contained in their recommendations, reports and diagnostic or evaluative statements,…on information and techniques sufficient to substantiate their findings. (See also Standard 2.04, Bases for Scientific and Professional Judgments.)

(b) Except as noted in 9.01c, psychologists provide opinions of the psychological characteristics of individuals only after they have conducted an examination of the individuals adequate to support their statements or conclusions. When, despite reasonable efforts, such an examination is not practical, psychologists document the efforts they made and the result of those

21 Utah Code Ann. § 58-61-601 (“Evidentiary privilege for psychologists regarding admissibility of any confidential communication in administrative, civil, or criminal proceedings is in accordance with Rule 506 of the Utah Rules of Evidence.”).
23 APA Code of Ethics, supra note 10, § 6.06.
24 APA Code of Ethics, supra note 10, § 9.01.
efforts, clarify the probable impact of their limited information on the reliability and validity of their opinions and appropriately limit the nature and extent of their conclusions or recommendations. (See also Standards 2.01, Boundaries of Competence, and 9.06, Interpreting Assessment Results.)

(c) When psychologists conduct a record review or provide consultation or supervision and an individual examination is not warranted or necessary for the opinion, psychologists explain this and the sources of information on which they based their conclusions and recommendations.

9.02 Use of Assessments\(^\text{25}\)

(a) Psychologists administer, adapt, score, interpret or use assessment techniques, interviews, tests or instruments in a manner and for purposes that are appropriate in light of the research on or evidence of the usefulness and proper application of the techniques…

9.10 Explaining Assessment Results\(^\text{26}\)

Regardless of whether the scoring and interpretation are done by psychologists, by employees or assistants or by automated or other outside services, psychologists take reasonable steps to ensure that explanations of results are given to the individual or designated representative…

Standard 6.06 implies that information about the nature of the service provided…, the fees charged, the identity of the provider, findings, and diagnosis should be maintained in the record when necessary for billing purposes. In addition, the requirements of standards 9.01, 9.02, and 9.10 suggest that psychologists in Utah would use an intake and evaluation note, progress note, and termination note templates.

Maintenance and Security of Records

Under APA Code of Ethics Standard 4.01 - Maintaining Confidentiality,\(^\text{27}\) “[p]sychologists have a primary obligation and take reasonable precautions to protect confidential information obtained through or stored in any medium, recognizing that the extent and limits of confidentiality may be regulated by law or established by

\(^{25}\) APA CODE OF ETHICS, supra note 10, § 9.02.

\(^{26}\) APA CODE OF ETHICS, supra note 10, § 9.10.

\(^{27}\) APA CODE OF ETHICS, supra note 10.
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6. Record Keeping and Fees

6.01 Documentation of Professional …Maintenance of Records
Psychologists create, and to the extent the records are under their control, maintain, disseminate, store, retain and dispose of records and data relating to their professional and scientific work in order to (1) facilitate provision of services later by them or by other professionals, (2) allow for replication of research design and analyses, (3) meet institutional requirements, (4) ensure accuracy of billing and payments, and (5) ensure compliance with law. (See also Standard 4.01, Maintaining Confidentiality.)

HIPAA enables the patient to inspect and obtain Protected Health Information (PHI) records, including Psychotherapy Notes created by the psychologist, as long as those records are maintained. In addition, patients have a right to amend any part of the record; Under this section, a denial of the proposed amendment can occur if the record was not created by the psychologist (unless the patient provides a reasonable basis to believe that the originator of PHI is no longer available to act on the requested amendment) or if the record is accurate and complete (other subsections are not discussed as they are unlikely to arise for psychologists). HIPAA also permits sharing PHI with other health care professionals who are engaged in the evaluation and treatment of the same patient. Finally, patients may obtain an accounting as to who has accessed the PHI and the details about each disclosure.

6.02 Maintenance, Dissemination, and Disposal of Confidential Records of Professional...
(a) Psychologists maintain confidentiality in creating, storing, accessing, transferring, and disposing of records under their control, whether these are

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28 Id.
29 45 CFR 164.524.
30 45 CFR 164.526 (a).
32 45 CFR 164.528.
33 APA CODE OF ETHICS, supra note 10.
written, automated, or in any other medium. (See also Standards 4.01, Maintaining Confidentiality, and 6.01, Documentation of Professional and Scientific Work and Maintenance of Records.)

(b) If confidential information concerning recipients of psychological services is entered into databases or systems of records available to persons whose access has not been consented to by the recipient, psychologists use coding or other techniques to avoid the inclusion of personal identifiers.

(c) Psychologists make plans in advance to facilitate the appropriate transfer and to protect the confidentiality of records and data in the event of psychologists' withdrawal from positions or practice. (See also Standards 3.12, Interruption of Psychological Services, and 10.09, Interruption of Therapy.)

In addition, the following statutes and regulations impose obligations related to recordkeeping of Utah psychologists:

**Authority to provide data on treatment and condition of persons to designated agencies -- Immunity from liability**

(1) Any person, health facility, or other organization may, without incurring liability, provide the following information to the persons and entities described in Subsection (2):

(a) information as determined by the state registrar of vital records appointed under Title 26, Chapter 2, Utah Vital Statistics Act;

(b) interviews;

(c) reports;

(d) statements;

(e) memoranda;

(f) familial information; and

(g) other data relating to the condition and treatment of any person.

(2) The information described in Subsection (1) may be provided to:

(a) the department and local health departments;

(b) the Division of Substance Abuse and Mental Health within the Department of Human Services;

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(c) scientific and health care research organizations affiliated with institutions of higher education;
(d) the Utah Medical Association or any of its allied medical societies;
(e) peer review committees;
(f) professional review organizations;
(g) professional societies and associations; and
(h) any health facility’s in-house staff committee for the uses described in Subsection (3).

(3) The information described in Subsection (1) may be provided for the following purposes:
(a) study and advancing medical research, with the purpose of reducing the incidence of disease, morbidity, or mortality; or
(b) the evaluation and improvement of hospital and health care rendered by hospitals, health facilities, or health care providers.

(4) Any person may, without incurring liability, provide information, interviews, reports, statements, memoranda, or other information relating to the ethical conduct of any health care provider to peer review committees, professional societies and associations, or any in-hospital staff committee to be used for purposes of intraprofessional society or association discipline.

(5) No liability may arise against any person or organization as a result of:
(a) providing information or material authorized in this section;
(b) releasing or publishing findings and conclusions of groups referred to in this section to advance health research and health education; or
(c) releasing or publishing a summary of these studies in accordance with this chapter.

(6) As used in this chapter:
(a) "health care provider" has the meaning set forth in Section 78B-3-403, and
(b) "health care facility" has the meaning set forth in Section 26-21-2.

Duty to establish standards for the electronic exchange of clinical health information

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35 Psychologists are a covered “health care provider” under this provision.

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(1) For purposes of this section:
   (a) "Affiliate" means an organization that directly or indirectly through one or more intermediaries controls, is controlled by, or is under common control with another organization.
   (b) "Clinical health information" shall be defined by the department by administrative rule adopted in accordance with Subsection (2).
   (c) "Electronic exchange":
      (i) includes:
         (A) the electronic transmission of clinical health data via Internet or extranet; and
         (B) physically moving clinical health information from one location to another using magnetic tape, disk, or compact disc media; and
      (ii) does not include exchange of information by telephone or fax.
   (d) "Health care provider" means a licensing classification that is either:
      (i) licensed under Title 58, Occupations and Professions, to provide health care; or
      (ii) licensed under Chapter 21, Health Care Facility Licensing and Inspection Act.
   (e) "Health care system" shall include:
      (i) affiliated health care providers;
      (ii) affiliated third party payers; and
      (iii) other arrangement between organizations or providers as described by the department by administrative rule.
   (f) "Qualified network" means an entity that:
      (i) is a non-profit organization;
      (ii) is accredited by the Electronic Healthcare Network Accreditation Commission, or another national accrediting organization recognized by the department; and
      (iii) performs the electronic exchange of clinical health information among multiple health care providers not under common control, multiple third party payers not under common control, the department, and local health departments.


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(g) "Third party payer" means:
   (i) all insurers offering health insurance who are subject to Section 31A-22-614.5; and
   (ii) the state Medicaid program.

…(3) (a) Except as provided in Subsection (3)(e), a health care provider or third party payer in Utah is required to use the standards adopted by the department under the provisions of Subsection (2) if the health care provider or third party payer elects to engage in an electronic exchange of clinical health information with another health care provider or third party payer.

   (b) A health care provider or third party payer may disclose information to the department or a local health department, by electronic exchange of clinical health information, as permitted by Subsection 45 C.F.R. 164.512(b).

   (c) When functioning in its capacity as a health care provider or payer, the department or a local health department may disclose clinical health information by electronic exchange to another health care provider or third party payer.

   (d) An electronic exchange of clinical health information by a health care provider, a third party payer, the department, or a local health department is a disclosure for treatment, payment, or health care operations if it complies with Subsection (3)(a) or (c) and is for treatment, payment, or health care operations, as those terms are defined in 45 C.F.R. Parts 160, 162, and 164.

   (e) A health care provider or third party payer is not required to use the standards adopted by the department under the provisions of Subsection (2) if the health care provider or third party payer engage in the electronic exchange of clinical health information within a particular health care system.

(4) Nothing in this section shall limit the number of networks eligible to engage in the electronic data interchange of clinical health information using the standards adopted by the department under Subsection (2)(a)(ii).

(5) The department, a local health department, a health care provider, a third party payer, or a qualified network is not subject to civil liability for a disclosure of clinical health information if the disclosure is in accordance both with Subsection (3)(a) and with Subsection (3)(b), (3)(c), or (3)(d).

(6) Within a qualified network, information generated or disclosed in the
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(7) The department shall report on the use of the standards for the electronic exchange of clinical health information to the legislative Health and Human Services Interim Committee no later than October 15 of each year. The report shall include publicly available information concerning the costs and savings for the department, third party payers, and health care providers associated with the standards for the electronic exchange of clinical health records.

**Patient access to medical records -- Third party access to medical records**\(^37\)

(1) Pursuant to 45 C.F.R., Parts 160 and 164, Standards for Privacy of Individually Identifiable Health Information, a patient or a patient's personal representative may inspect or receive a copy of the patient's records from a health care provider as defined in Section 78B-3-403, when that health care provider is governed by the provisions of 45 C.F.R., Parts 160 and 164.

(2) When a health care provider as defined in Section 78B-3-403 is not governed by 45 C.F.R., Parts 160 and 164, Standards for Privacy of Individually Identifiable Health Information, a patient or a patient's personal representative may inspect or receive a copy of the patient's records unless access to the records is restricted by law or judicial order.

(3) A health care provider who provides a copy of a patient's records to the patient or the patient's personal representative:
   (a) shall provide the copy within the deadlines required by the Health Insurance Portability and Accountability Act of 1996, Administrative Simplification rule, 45 C.F.R. Sec. 164.524(b); and
   (b) may charge a reasonable cost-based fee provided that the fee includes only the cost of:
      (i) copying, including the cost of supplies for and labor of copying; and
      (ii) postage, when the patient or patient representative has requested the copy be mailed.

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(4) Except for records provided by a health care provider under Section 26-1-37, a health care provider who provides a copy of a patient's records to a third party authorized to receive records:
   (a) shall provide the copy within 30 days after receipt of notice; and
   (b) may charge a reasonable fee to cover the health care provider's cost, but may not exceed the following rates:
      (i) $20 for locating a patient's records, per request;
      (ii) copying charges may not exceed 50 cents per page for the first 40 pages and 30 cents per page for each additional page;
      (iii) the cost of postage when the third party has requested the copy be mailed; and
      (iv) any sales tax owed under Title 59, Chapter 12, Sales and Use Tax Act.

(5) Except for records provided under Section 26-1-37, a person authorized to provide medical records, other than a health care provider under Subsections (3) and (4), who provides a copy of a patient's records to a third party authorized to receive records:
   (a) shall provide the copy within 30 days after the request; and
   (b) may charge a reasonable fee to cover the health care provider's cost, but may not exceed the following rates:
      (i) $20 for locating a patient's records, per request;
      (ii) copying charges may not exceed 50 cents per page for the first 40 pages and 30 cents per page for each additional page;
      (iii) the cost of postage when the third party has requested the copy be mailed; and
      (iv) any sales tax owed under Title 59, Chapter 12, Sales and Use Tax Act.

Access to medical records of deceased patient

For purposes of Section 78B-5-618, and 45 C.F.R., Parts 160 and 164, Standards for Privacy of Individually Identifiable Health Information, a health care provider with medical records of a deceased person may recognize the deceased person's surviving spouse or an adult child as a personal representative.

HIPAA establishes privacy protections for all transmissions of PHI records,

and requires specific patient authorizations (with a right of revocation) to transfer PHI records to third parties.\textsuperscript{39} Concrete security standards are established for all electronic healthcare information (45 CFR 160).

\textbf{6.03 Withholding Records for Nonpayment}\textsuperscript{40}

Psychologists may not withhold records under their control that are requested and needed for a client's/patient's emergency treatment solely because payment has not been received.

Release and transfer of PHI records cannot be conditioned on payment or other conditions (such as enrollment in the health plan that employs the psychologist).\textsuperscript{41}

\textbf{Retention of Records}

Psychologists must maintain records for at least 10 years from the documented termination of services.\textsuperscript{42}

\textbf{Violations of the specific duty}

Under the statute governing licensed professionals generally, “unprofessional conduct” for which Utah psychologists may be sanctioned includes:

- violating, or aiding or abetting any other person to violate, any statute, rule, or order regulating an occupation or profession under this title;\textsuperscript{43}
- violating, or aiding or abetting any other person to violate, any generally accepted professional or ethical standard applicable to an occupation or profession regulated under this title;\textsuperscript{44}
- practicing or attempting to practice an occupation or profession regulated under this title through gross incompetence, gross negligence, or a pattern of incompetency or negligence;\textsuperscript{45}

Under the Psychologists Licensing Act, “unprofessional conduct” by a Utah psychologist includes:

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\textsuperscript{39} 45 CFR 164.508.
\textsuperscript{40} APA CODE OF ETHICS, \textit{supra} note 10.
\textsuperscript{41} 45 CFR 164.508 (b)(4).
\textsuperscript{42} UTAH ADMIN. CODE r. 156-61-502(17).
\textsuperscript{43} UTAH CODE ANN. § 58-1-501(a).
\textsuperscript{44} UTAH CODE ANN. § 58-1-501(b).
\textsuperscript{45} UTAH CODE ANN. § 58-1-501(g).

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• “[U]sing or employing the services of any individual to assist a licensee in any manner not in accordance with the generally recognized practices, standards, or ethics of the profession for which the individual is licensed, or the laws of the state;”

• “[D]isclosing or refusing to disclose any confidential communication under Section 58-61-602.”

In addition, under the Psychologists Licensing Act Rule, “unprofessional conduct” includes the following that may relate to recordkeeping of psychologists:

(1) violation of any provision of the "Ethical Principles of Psychologists and Code of Conduct" of the American Psychological Association (APA) as adopted the APA, August 2002 edition, which is adopted and incorporated by reference;

(2) violation of any provision of the "ASPPB Code of Conduct" of the Association of State and Provincial Psychology Boards (ASPPB) as adopted by the ASPPB, 2005 edition, which is adopted and incorporated by reference;

(3) acting as a supervisor or accepting supervision of a supervisor without complying with or ensuring the compliance with the requirements of Sections R156-61-302d and R156-61-302e;

(4) engaging in and aiding or abetting conduct or practices which are dishonest, deceptive or fraudulent;

(5) engaging in or aiding or abetting deceptive or fraudulent billing practices;

…(14) failing to render impartial, objective, and informed services, recommendations or opinions with respect to custodial or parental rights, divorce, domestic relationships, adoptions, sanity, competency, mental health or any other determination concerning an individual's civil or legal rights;

…(17) failing to maintain appropriate client records for a period of not less than ten years from the documented termination of services to the client;

46 UTAH CODE ANN. § 58-61-502(a).

47 UTAH CODE ANN. § 58-61-502(c).

48 UTAH ADMIN. CODE r. 156-61-101, et. seq.
(18) failing to obtain informed consent from the client or legal guardian before taping, recording or permitting third party observations of client care or records;

(19) failure to cooperate with the Division during an investigation…