

APPENDIX F

CHARGE 3

Texas Health Related Privacy Statutes

**INFORMATION HELD BY GOVERNMENTAL BODIES
DEEMED PRIVATE OR CONFIDENTIAL
BY THE TEXAS CONSTITUTION AND STATUTES**

Compiled by The Office of the Attorney General of Texas
at the Request of
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Subcommittee on Privacy Issues
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Health-Related Statutes

Statutory citation	Custodian of information	Information whose disclosure is prohibited	Remedy for wrongful disclosure of information
Family Code, § 6.705	Marriage counselor	Files, records, and other work products of a marriage counselor may not be admitted as evidence	No express penalty for wrongful disclosure. However, Public Information Act makes wrongful disclosure a misdemeanor and official misconduct.
Family Code, § 33.002	Texas Department of Health and physician maintaining minor's medical records	Certification of a physician that a clinical condition exists threatening the life or health of a pregnant minor that requires an immediate abortion	No express penalty for wrongful disclosure. However, Public Information Act makes wrongful disclosure a misdemeanor and official misconduct.
Family Code, § 33.003	Clerk of a court	The application and all court records regarding a pregnant minor's application for an abortion without providing parental notification	No express penalty for wrongful disclosure. However, Public Information Act makes wrongful disclosure a misdemeanor and official misconduct.
Family Code, § 33.004	A clerk of a court of appeals	A ruling by a court of appeals on an appeal by a pregnant minor of a lower court's denial of an application for an abortion without providing parental notification	No express penalty for wrongful disclosure. However, Public Information Act makes wrongful disclosure a misdemeanor and official misconduct.
Family Code, § 33.010	Department of Protective and Regulatory Services, a court, or other entity receiving certain information	Information received in the course of proceedings involving the request of a pregnant minor to receive an abortion without parental notification by the department or another entity regarding the possible sexual abuse of a minor	No express penalty for wrongful disclosure. However, Public Information Act makes wrongful disclosure a misdemeanor and official misconduct.
Family Code, § 108.001	Bureau of Vital Statistics	Records maintained in a central file by the Bureau of Vital Statistics regarding a suit affecting the parent-child relationship, except as provided by law	No express penalty for wrongful disclosure. However, Public Information Act makes wrongful disclosure a misdemeanor and official misconduct.
Family Code, § 160.255	Bureau of Vital Statistics	Information contained in Bureau's paternity registry, except as provided by that section	Class B misdemeanor

Family Code, § 162.006	Department of Protective and Regulatory Services, a licensed adoption agency, person, or entity	Adoption records that disclose the identity of birth parents and others whose names are confidential	No express penalty for wrongful disclosure. However, Public Information Act makes wrongful disclosure a misdemeanor and official misconduct.
Family Code, § 162.409	Department of Protective and Regulatory Services, a licensed adoption agency, person, or entity	All information relating to the history of a child that disclose the identity of birth parents and others whose names are confidential	No express penalty for wrongful disclosure. However, Public Information Act makes wrongful disclosure a misdemeanor and official misconduct.
Family Code, § 162.413	Clerk of a district court	Adoption records of a child maintained by a district clerk	No express penalty for wrongful disclosure. However, Public Information Act makes wrongful disclosure a misdemeanor and official misconduct.
Family Code, § 162.419	Personnel of voluntary adoption agencies	All applications, registrations, records and information of voluntary adoption agencies	Penalties for wrongful disclosure run from Class A misdemeanor to second degree felony
Family Code, § 261.314	Department of Protective and Regulatory Services	Results of test on children whom the department believes may have been sexually abused, including HIV testing, except as provided in that section	No express penalty for wrongful disclosure. However, Public Information Act makes wrongful disclosure a misdemeanor and official misconduct.
Family Code, § 264.511	Child Fatality Team Review Committee	All information and records acquired by the committee or review team members in the course of conducting investigations of child fatalities	No express penalty for wrongful disclosure. However, Public Information Act makes wrongful disclosure a misdemeanor and official misconduct.
Government Code, § 323.019	Legislative Council	Data collected by Council from other state agencies that is confidential remains confidential in custody of the Council	No express penalty for wrongful disclosure; however, Public Information Act makes wrongful disclosure a misdemeanor and official misconduct.
Government Code, § 411.136	Public hospitals and hospital districts	Criminal history record information of all applicants for employment or for volunteer positions, except as provided in this section	No express penalty for wrongful disclosure; however, Public Information Act makes wrongful disclosure a misdemeanor and official misconduct.
Government Code, § 411.153	Department of Public Safety	Information stored in DNA database, except as provided in Chapter 411	Punishment for wrongful disclosure is a misdemeanor involving a fine, jail confinement, or both
Government Code, § 418.175	State and local agencies involved in emergency management	All information regarding persons who are physically or mentally disabled, except as provided by the section	No express penalty for wrongful disclosure; however, Public Information Act makes wrongful disclosure a misdemeanor and official misconduct.
Government Code, § 420.010	Attorney General	All information received from reports, collected case information, or site-monitoring visits that would identify a person working at or receiving services from a program funded under the Sexual Assault Prevention and Crisis Services Program	No express penalty for wrongful disclosure; however, Public Information Act makes wrongful disclosure a misdemeanor and official misconduct.

Government Code, § 501.061	Texas Department of Criminal Justice - Institutional Division	Name of an inmate who requests an orchiectomy, except as provided by that section	No express penalty for wrongful disclosure; however, Public Information Act makes wrongful disclosure a misdemeanor and official misconduct.
Government Code, § 531.013	Health and Human Services Commission; health and human services agencies	In providing technical assistance to health services providers, agencies may not release confidential information regarding clients	No express penalty for wrongful disclosure; however, Public Information Act makes wrongful disclosure a misdemeanor and official misconduct.
Government Code, § 533.012	Health and Human Services Commission	Information provided to the commission by a managed care organization contracting with the commission a description of any financial or other business relationship between the organization and any subcontractor providing health services	No express penalty for wrongful disclosure; however, Public Information Act makes wrongful disclosure a misdemeanor and official misconduct.
Government Code, § 552.008 (Texas Public Information Act)	All governmental bodies	Member of legislature or a legislative committee may have access to information that would otherwise be confidential under law, as provided by this section	Public Information Act makes wrongful disclosure a misdemeanor and official misconduct.
Government Code, § 552.101 (Texas Public Information Act)	All governmental bodies	All information made confidential by law, whether constitutional law, statutory law, or court decision	Public Information Act makes wrongful disclosure a misdemeanor and official misconduct.
Government Code, § 552.102 (Texas Public Information Act)	All governmental bodies	Personnel information if disclosure would be a clearly unwarranted invasion of personal privacy, except as provided in this section.	
Government Code, § 552.115 (Texas Public Information Act)	Bureau of Vital Statistics of the Texas Department of Health and local registration officials	Birth and death records, except as provided by that section.	Public Information Act makes wrongful disclosure a misdemeanor and official misconduct.
Government Code, § 774.002	State health care agency	In interagency exchange of information between state health care agencies, information confidential in the custody of the transferring agency is confidential in the custody of the receiving agency	No express penalty for wrongful disclosure; however, Public Information Act makes wrongful disclosure a misdemeanor and official misconduct.

Health & Safety Code, § 12.0145	Texas Department of Health	Information made confidential by other law regarding an enforcement action that would otherwise be released under this section.	No express penalty for wrongful disclosure; however, Public Information Act makes wrongful disclosure a misdemeanor and official misconduct.
Health & Safety Code, § 12.097	Medical Advisory Board of the Department of Public Safety	Medical Advisory Board that assists the Department of Public Safety in determining whether applicants for drivers' licences or concealed handgun licenses should be licensed.	No express penalty for wrongful disclosure; however, Public Information Act makes wrongful disclosure a misdemeanor and official misconduct.
Health & Safety Code, § 44.071	Office of the Attorney General and advocates and service providers for survivors of sexual assault	All communications with and all records and information about survivors of sexual assault, except as provided by Section 44.072.	Punishment for wrongful disclose is a Class C misdemeanor.
Health & Safety Code, § 44.073	Office of the Attorney General and advocates and services providers for survivors of sexual assault	Information regarding survivors of sexual assault for which consent to disclosure has been given under the section, except as provided by this section.	Punishment for wrongful disclose is a Class C misdemeanor.
Health & Safety Code, § 47.008	Texas Department of Health	Data and information obtained through the information management, reporting, and tracking systems established by the department regarding hearing loss in newborns.	No express penalty for wrongful disclosure; however, Public Information Act makes wrongful disclosure a misdemeanor and official misconduct.
Health & Safety Code, § 81.046	Texas Department of Health and local health authorities	Reports, records, and information obtained by health authorities or the department regarding to cases or suspected cases communicable diseases, except as provided by this section.	No express penalty for wrongful disclosure; however, Public Information Act makes wrongful disclosure a misdemeanor and official misconduct.
Health & Safety Code, § 81.050	Texas Department of Health	Written notice to person ordered to be tested for communicable diseases, including HIV.	No express penalty for wrongful disclosure; however, Public Information Act makes wrongful disclosure a misdemeanor and official misconduct.
Health & Safety Code, § 81.051	Employees of health care providers participating in the HIV Partner Notification and Referral Program	Information disclosing the identity of a partner or the person giving the partner's name under the HIV Partner Notification and Referral Program	No express penalty for wrongful disclosure; however, Public Information Act makes wrongful disclosure a misdemeanor and official misconduct.
Health & Safety Code, § 81.090	Physician conducting a series serologic tests of pregnant women	Information regarding HIV testing of pregnant women	No express penalty for wrongful disclosure; however, Public Information Act makes wrongful disclosure a misdemeanor and official misconduct.
Health & Safety Code, § 81.103	All persons having knowledge of a test result for HIV	Knowledge regarding the HIV test results, except as provided by this section.	Punishment for wrongful disclosure is a Class A misdemeanor.

Health & Safety Code, § 81.203	All health care facilities	All records of a health care facility that directly or indirectly identify a present, former, or prospective patient of a communicable disease, except as provided in Chapter 81.	No express penalty for wrongful disclosure; however, Public Information Act makes wrongful disclosure a misdemeanor and official misconduct.
Health & Safety Code, § 81.306	Texas Department of Health	All information obtained by the department in connection with a sharps injury log report maintained by governmental units regarding exposure to bloodborne pathogens.	No express penalty for wrongful disclosure; however, Public Information Act makes wrongful disclosure a misdemeanor and official misconduct.
Health & Safety Code, § 82.009	Texas Department of Health and hospital cancer registries	All information obtained directly from the medical records or patients and information identifying patients that is included in the required cancer registries.	No express penalty for wrongful disclosure; however, Public Information Act makes wrongful disclosure a misdemeanor and official misconduct.
Health & Safety Code, § 84.006	Texas Department of Health	Information and records relating to reportable conditions caused by or related to exposure in the workplace.	No express penalty for wrongful disclosure; however, Public Information Act makes wrongful disclosure a misdemeanor and official misconduct.
Health & Safety Code, § 85.082	Texas Department of Health	Voluntary HIV counseling and testing services provided by each public health region.	Civil action for damages and injunctive relief if information used for insurance or employment purposes.
Health & Safety Code, § 85.204	Expert review panel created under this section	All proceedings and communications of the expert review panel created under this section and may only be released pursuant to Chapter 81.	No express penalty for wrongful disclosure; however, Public Information Act makes wrongful disclosure a misdemeanor and official misconduct.
Health & Safety Code, § 85.260	All persons having knowledge of a person's testing results with a home collection kits for HIV infection testing.	Statement that an identifiable person has or has not been tested and any results of such test, if any.	Punishment for wrongful disclosure is a Class A misdemeanor.
Health & Safety Code, § 87.002	Texas Department of Health	Except as provided by law, all reports, records, and information relating to health conditions involving birth defects.	No express penalty for wrongful disclosure; however, Public Information Act makes wrongful disclosure a misdemeanor and official misconduct.
Health & Safety Code, § 88.002	Texas Department of Health	Except as provided by law, all reports, records, and information relating to cases or suspected cases of lead poisoning of children.	No express penalty for wrongful disclosure; however, Public Information Act makes wrongful disclosure a misdemeanor and official misconduct.
Health & Safety Code, § 92.006	Texas Department of Health	Except as provided by law, all information and records relating to reportable injuries, as defined by law, including information from injury investigations.	No express penalty for wrongful disclosure; however, Public Information Act makes wrongful disclosure a misdemeanor and official misconduct.
Health & Safety Code, § 93.002	Texas Department of Health	Voluntary hepatitis C counseling and testing services provided by each public health region.	Civil action for damages and injunctive relief if information used for insurance or employment purposes.

Health & Safety Code, § 93.054	Council to Prevent Cardiovascular Disease and Stroke	Information received from other state agencies that is confidential when in the custody of the transferring state agency.	No express penalty for wrongful disclosure; however, Public Information Act makes wrongful disclosure a misdemeanor and official misconduct.
Health & Safety Code, § 104.042	Texas Department of Health	Data received by the department relating to specific health plan goals that identify specific patients.	No express penalty for wrongful disclosure; however, Public Information Act makes wrongful disclosure a misdemeanor and official misconduct.
Health & Safety Code, § 108.011	Texas Health Care Information Council	Provider quality data prescribed by Section 108.010 and information deemed confidential under Section 108.013.	No express penalty for wrongful disclosure; however, Public Information Act makes wrongful disclosure a misdemeanor and official misconduct.
Health & Safety Code, § 108.013	Texas Department of Health and Texas Health Care Information Council	Basis for assignment of uniform patient identifiers and information disclosing individual patients and physicians.	Punishment for wrongful disclosure is a Class C misdemeanor.
Health & Safety Code, § 109.064	Texas Healthy Kids Corporation	Information in the possession of the Texas Healthy Kids Corporation that identifies and individual, including medical records and financial information, except as provided by law.	No express penalty for wrongful disclosure; however, Public Information Act makes wrongful disclosure a misdemeanor and official misconduct.
Health & Safety Code, § 142.004	Texas Department of Health	Information received by the department relating to the competence and financial resources of an applicant for a home and community support agency providing home health, hospice, or personal assistance services.	No express penalty for wrongful disclosure; however, Public Information Act makes wrongful disclosure a misdemeanor and official misconduct.
Health & Safety Code, § 142.009	Texas Department of Health	Reports, records, and working papers used or developed in an investigation of a home and community support services agency, except as provided by that section.	No express penalty for wrongful disclosure; however, Public Information Act makes wrongful disclosure a misdemeanor and official misconduct.
Health & Safety Code, § 161.007	Texas Department of Health	Information obtained by the department for the immunization registry for childhood communicable diseases.	No express penalty for wrongful disclosure; however, Public Information Act makes wrongful disclosure a misdemeanor and official misconduct.
Health & Safety Code, § 161.0213	Texas Department of Health and the Texas Natural Resources Conservation Commission	Reports, records, and information furnished to the commissioner or TNRCC relating to an epidemiological or toxicological investigation of human illnesses and conditions and of environmental exposures that are considered harmful.	No express penalty for wrongful disclosure; however, Public Information Act makes wrongful disclosure a misdemeanor and official misconduct.
Health & Safety Code, § 161.022	Texas Department of Health and the Texas Natural Resources Conservation Commission	Identity of a person studied and interviews, reports, and statements furnished for the purpose of conducting epidemiological or toxicological investigation of human illnesses and conditions and of environmental exposures that are considered harmful.	No express penalty for wrongful disclosure; however, Public Information Act makes wrongful disclosure a misdemeanor and official misconduct.

Health & Safety Code, § 161.0315	Governing body of a hospital district	Report, information, or record the district receives from a health care facility related to a review action of a medical peer review committee.	No express penalty for wrongful disclosure; however, Public Information Act makes wrongful disclosure a misdemeanor and official misconduct.
Health & Safety Code, § 161.032	Medical Peer Review Committee of a public hospital, hospital authority, or hospital district	Records and proceedings of a medical peer review committee.	No express penalty for wrongful disclosure; however, Public Information Act makes wrongful disclosure a misdemeanor and official misconduct.
Health & Safety Code, § 161.042	Physician or person making a mandatory report of a controlled substance overdose	Name or address of person treated or for whom treatment was sought for an overdose of a controlled substance.	Health care facility immune from civil liability for damages or criminal penalties arising out of the report.
Health & Safety Code, § 161.354	Texas Health Department	Except as provided by this section, report filed by tobacco companies disclosing ingredients of cigarettes and tobacco products.	No express penalty for wrongful disclosure; however, Public Information Act makes wrongful disclosure a misdemeanor and official misconduct.
Health & Safety Code, § 162.003	Blood banks	Medical and donor records of a blood bank, except as provided by Chapter 162.	Punishment for wrongful disclosure is a Class C misdemeanor and may result in civil liability for damages.
Health & Safety Code, § 162.006	Blood banks	When reporting to other blood banks the name of a donor with a possible infectious disease, the name of the infectious disease may not be disclosed.	Punishment for wrongful disclosure is a Class C misdemeanor and may result in civil liability for damages.
Health & Safety Code, § 162.007	Blood banks	When blood tests positive for HIV infection and blood bank informs the hospital where the blood was transfused, the physician who transfused the blood, and the person who received the blood, blood bank may not disclose name or any identifying information of the donor.	Punishment for wrongful disclosure is a Class C misdemeanor and may result in civil liability for damages.
Health & Safety Code, § 162.010	State courts	When, after notice and hearing, court orders that blood bank provide recipient of blood with blood test results, court may not disclose the name or any identifying information of the donor.	Punishment for wrongful disclosure is a Class C misdemeanor and may result in civil liability for damages.
Health & Safety Code, § 162.011	State courts	When granting discovery, courts may not permit the disclosure of the name or any identifying information of the donor, except as provided by this section.	Punishment for wrongful disclosure is a Class C misdemeanor and may result in civil liability for damages.
Health & Safety Code, § 164.010	Operators of mental health treatment facilities	When marketing mental health treatment facilities, operators may not obtain information made confidential by state or federal law regarding a person to use in soliciting that person, except as provided by that section.	Penalty for violation identical to that for violating licensing provisions as well as violation of the Deceptive Trade Practices Act; additionally, injunctive relief may be available.

Health & Safety Code, § 192.002	Texas Department of Health	Information on birth certificate containing medical and health information.	Punishment for wrongful violation is a Class A misdemeanor.
Health & Safety Code, § 192.008	Texas Department of Health	Birth certificate of an adopted person may not disclose the fact that person was adopted.	No express penalty for wrongful disclosure; however, Public Information Act makes wrongful disclosure a misdemeanor and official misconduct.
Health & Safety Code, § 241.051	Texas Department of Health	All information and records obtained or compiled by the department in connection with a complaint or investigation concerning hospitals, except as provided by that section.	No express penalty for wrongful disclosure; however, Public Information Act makes wrongful disclosure a misdemeanor and official misconduct.
Health & Safety Code, § 241.152	All hospitals and agents and employees of hospitals	Except as provided by Section 241.153, a hospital or agent or employee of a hospital may not disclose health care information about a patient to any person.	Limited right on part of aggrieved patient to pursue civil action for damages and injunctive relief under Section 241.156.
Health & Safety Code, § 242.049	Texas Department of Human Services	Collection, compilation, and analysis of information obtained by department to evaluate quality of care in nursing homes.	No express penalty for wrongful disclosure; however, Public Information Act makes wrongful disclosure a misdemeanor and official misconduct.
Health & Safety Code, § 242.074	Texas Department of Human Services	Information obtained by the department regarding a significant change in a nursing home's financial situation.	Punishment for wrongful disclosure is a Class A misdemeanor.
Health & Safety Code, § 242.127	Texas Department of Human Services	Report, record, or working paper used or developed in an investigation involving alleged abuse or neglect in a nursing home.	No express penalty for wrongful disclosure; however, Public Information Act makes wrongful disclosure a misdemeanor and official misconduct.
Health & Safety Code, § 242.129	State courts	Only communication deemed to fall within the attorney-client privilege may be excluded as a privileged communication in a proceeding involving alleged abuse or neglect in a nursing home.	None.
Health & Safety Code, § 242.134	Texas Department of Human Services	Report submitted to the department by a nursing home regarding the death of a resident.	No express penalty for wrongful disclosure; however, Public Information Act makes wrongful disclosure a misdemeanor and official misconduct.
Health & Safety Code, § 242.553	Texas Department of Human Services	The name of a person making a complaint regarding alleged abuse or neglect at a nursing home.	No express penalty for wrongful disclosure; however, Public Information Act makes wrongful disclosure a misdemeanor and official misconduct.
Health & Safety Code, § 245.011	Texas Department of Health	Except as provided by Chapter 245, all information and records held by the department regarding an abortion facility.	Punishment for wrongful disclosure is a Class A misdemeanor.

Health & Safety Code, § 250.007	Texas Department of Human Services and requesting facilities	Except as provided by Chapter 250, criminal history information of employees and applicants for employment in facilities licensed by the department serving the elderly or disabled persons.	Punishment for wrongful disclosure is a Class A misdemeanor.
Health & Safety Code, § 251.015	Texas Department of Health	Information concerning quality of care provided by an end stage renal care facility provided to or compiled by the department or a medical review board, except as provided by this section.	No express penalty for wrongful disclosure; however, Public Information Act makes wrongful disclosure a misdemeanor and official misconduct.
Health & Safety Code, § 252.126	Texas Department of Human Services	Report, record, or working paper used or developed in an investigation involving alleged abuse or neglect in an intermediate care facility for the mentally retarded.	No express penalty for wrongful disclosure; however, Public Information Act makes wrongful disclosure a misdemeanor and official misconduct.
Health & Safety Code, § 252.128	State courts	Only communication deemed within attorney-client privileged may be excluded as privileged communication in proceeding regarding alleged abuse or neglect in an intermediate care facility for the mentally retarded.	None.
Health & Safety Code, § 252.134	Texas Department of Human Services	Unless specified by rule of Texas Board of Human Services, reports of residential deaths submitted by facilities to department.	No express penalty for wrongful disclosure; however, Public Information Act makes wrongful disclosure a misdemeanor and official misconduct.
Health & Safety Code, § 281.0517	Hospital districts in counties with at least 190,000 population	Certain information involving financial planning and relating to a bid to provide a service or product line to be provided by an integrated health care system.	No express penalty for wrongful disclosure; however, Public Information Act makes wrongful disclosure a misdemeanor and official misconduct.
Health & Safety Code, § 311.037	Texas Department of Health	Certain data regarding a specific patient and certain financial data submitted to the department by hospitals under the hospital data reporting and collection system.	Punishment for wrongful disclosure is a Class B misdemeanor.
Health & Safety Code, § 361.037	Texas Natural Resources Conservation Commission	All records and information obtained by the commission regarding hazardous waste management and control that the executive director concludes are trade secrets.	No express penalty for wrongful disclosure; however, Public Information Act makes wrongful disclosure a misdemeanor and official misconduct.
Health & Safety Code, § 361.182	Texas Natural Resources Conservation Commission	All records and information obtained by the commission regarding the release of hazardous material at a hazardous waste facility that the executive director concludes are trade secrets.	No express penalty for wrongful disclosure; however, Public Information Act makes wrongful disclosure a misdemeanor and official misconduct.