

# Outline

## Privacy, Confidentiality and Disclosure of Mental Health Information in Pennsylvania

- Constitutional right to privacy and mental health information
- Inpatient and outpatient mental health services and the Mental Health Procedures Act - what survives HIPAA
- HIPAA as amended by the HITECH act and as a base line National Privacy, Confidentiality and Disclosure Code
- Informed Consent and the duty to explain the limits of confidentiality under state board regulations, including psychologists and recently enacted regulations for SW, MFT, and LPCs
- Balancing the rights of children, adolescents and parents; the Minor's Consent Act as amended by Act 147; rights of adolescents to control the release of the record

## Special Issues

- Social media and devices: Legal and ethical considerations for agencies and private practitioners – policy considerations
- Shared legal custody and control of mental health information under Act 147 and the newly enacted Child Custody Law (Act 112 of 2010)
- Legal Guardianship

## Discovery Demands, Law Suits, and Audits

- Professional licensure and privileged communications: Your legal and ethical duties as a private practitioner
- Subpoenas and court orders: Duty to respond
- Electronic discovery and implications for disclosure of mental health information and social media
- Responding to investigations and audits

## HITECH Act and Breach Notification Rules

- Standards and enforcement penalties under the HITECH Act
- Who is covered and what is a "breach"?
- Who must be notified and how to notify?

## Legal Liabilities of the Professional

- Duty to Warn Issues\Professional Obligations and Standards
- Fraud & Abuse Issues
- Billing & Coding Errors
- Documentation

# Objectives

1. Explain the potential role of mental health professionals in legal proceedings related to client care.
2. Identify client confidentiality issues and when clinicians are obligated to disclose protected health information.
3. Navigate the legal and ethical issues related with the use of technology as related to clinical practice.
4. Articulate the role and responsibility of the treatment provider as related to duty to warn law in Pennsylvania.
5. Compare the different requirements for release of protected health information via subpoenas and court orders.
6. Summarize the standards and enforcement penalties under the HITECH Act.

## Live Webcast Schedule (Times listed in Eastern)

**8:00** Program begins  
**11:50-1:00** Lunch Break  
**4:00** Program ends

There will be two 15-min breaks (mid-morning & mid-afternoon).  
Actual lunch and break start times are at the discretion of the speaker.  
A more detailed schedule is available upon request.

**Target Audience:** Psychologists • Counselors  
Social Workers • Marriage and Family Therapists  
Risk Managers • Addiction Professionals • Case Managers  
Nurses

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## MENTAL HEALTH & THE LAW 2020

### What you need to know to provide quality client services with confidence

- Legal and Professional Considerations
- Privacy, Confidentiality and Disclosure
- Social Media and Devices – Legal & Ethical Issues
  - Guardianship & Custody
- Discovery Demands, Lawsuits, Audits
  - HITECH Act
  - Duty to Warn

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guardianship, commitment, practical legal options-and more, that will help you stay on top of issues that arise in everyday clinical situations.

## Speaker

**Renee H. Martin, JD, RN, MSN**, exclusively practices health care law and advises both individual and institutional behavioral health care providers on regulatory and transactional matters including patient safety and quality of care, fraud and abuse, reimbursement, compliance, and the development of corporate compliance plans. A significant portion of her practice centers on HIPAA compliance and informational privacy. She has represented numerous providers facing OCR audits and investigations and has brought each to a successful conclusion. As a registered nurse with over 15 years of clinical experience, she is uniquely qualified to assist clients in risk management, quality of care, and patient safety issues. Ms. Martin frequently writes and speaks nationally on a variety of health law issues.

Ms. Martin received her Diploma in Nursing from Bryn Mawr Hospital in 1977, B.S.N. *magna cum laude* from Neumann College in 1982, her M.S.N. *magna cum laude* from Villanova University in 1988, where she was listed in "Who's Who in American Nursing," and her J.D. from Villanova University School of Law in 1994, where she was a member of the Moot Court Board.

Ms. Martin is admitted to practice in Pennsylvania and is a registered nurse in the Commonwealth of Pennsylvania. She is a member of the American and the Pennsylvania Bar Associations. She is a member of the firm of Dilworth Payson, LP.

Speaker Disclosures:

Financial: Renee H. Martin is Of Counsel in its Health Care Practice Group for Dilworth Paxson, LLP. She receives a speaking honorarium from PESI, Inc.

Non-financial: Renee H. Martin is a member of the American Bar Association; and the Pennsylvania Bar Association.



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As a mental health professional, you not only deal with critical clinical matters with your clients – you must also stay up-to-date on seemingly **ever-changing laws and procedures**. Keeping up-to-date is essential in order to protect your clients and yourself. At this comprehensive one-day seminar you will gain an understanding of confidentiality, risk management, recent legislation and trends in mental health law in Pennsylvania,



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**Pennsylvania Marriage & Family Therapists:** The Pennsylvania State Board of Social Workers, Marriage and Family Therapists and Professional Counselors accepts many national association CE approvals, several of which PESI offers. For a full list, please see your State Board regulations at <https://www.dos.pa.gov/ProfessionalLicensing/BoardsCommissions/>. This Intermediate activity consists of 6.25 clock hours of continuing education instruction.

**Nurses, Nurse Practitioners, and Clinical Nurse Specialists:** PESI, Inc. is accredited as a provider of nursing continuing professional development by the American Nurses Credentialing Center's Commission on Accreditation. Nurses in full attendance will earn 6.25 contact hours. Partial contact hours will be awarded for partial attendance.

**Pennsylvania Psychologists:** CE credit is available. PESI, Inc. is approved by the Pennsylvania State Board of Psychology to offer continuing education for psychologists. Provider #PSY000211. PESI maintains responsibility for the program(s). This program qualifies for 6.25 continuing education hours.

**Social Workers:** PESI, Inc., #1062, is approved to offer social work continuing education by the Association of Social Work Boards (ASWB) Approved Continuing Education (ACE) program. Organizations, not individual courses, are approved as ACE providers. State and provincial regulatory boards have the final authority to determine whether an individual course may be accepted for continuing education credit. PESI, Inc. maintains responsibility for this course. ACE provider approval period: January 27, 2020 - January 27, 2023. Social Workers completing this course receive 2.25 Clinical Practice and 4.0 Ethics continuing education credits. No more than 6.25 total CE hours may be awarded for this activity. Course Level: Intermediate. Full attendance is required; no partial credits will be offered for partial attendance. A certificate of attendance will be awarded at the end of the program to social workers who complete the program evaluation.

**Pennsylvania Social Workers:** The Pennsylvania State Board of Social Workers, Marriage and Family Therapists and Professional Counselors accepts many national association CE approvals, several of which PESI offers. For a full list, please see your State Board regulations at <https://www.dos.pa.gov/ProfessionalLicensing/BoardsCommissions/>. This Intermediate activity consists of 6.25 clock hours of continuing education instruction.

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