

# Outline

## Overview/Confidentiality of Mental Health Records

- When and to Whom Records Can Be Released
- Mandatory Disclosure Requirements
- Alcohol/Drug and AIDS/HIV Treatment Records
- Necessary Documentation

## HIPAA 101 - Federal Confidentiality Regulations

- What Is HIPAA Today?
- How Do I Comply with the Regulations?
- What Are "Psychotherapy Notes"?
- When May I Release Records?
- How Much Paperwork Will This Be for My Office?

## Responding to Subpoenas, Court Orders and Law Enforcement

- Subpoenas; Types of Subpoenas; Duty to Respond; Time Limits
- Search Warrants & Court Orders
- Authority to Obtain Information
- Investigations
- Development of Policies and Procedures to Respond

## Balance the Rights of Minors & Parents

- Minors' Rights
- Age of Majority
- Access to Records
- Rights of Minors to Refuse/Consent to Medication and Treatment
- Alcohol, Drug Abuse and Treatment Issues for Minors
- Parental Rights
- Custodial and Divorce Factors
- Child Abuse Allegations
- Custodial vs. Non-Custodial Parent's Rights to Records

## Voluntary and Involuntary Mental Health Commitments

- Reasons to Use a Voluntary Commitment or an Involuntary Commitment
- Grounds for an Involuntary Commitment: Dangerousness (as Defined by Statute)
- Mental Illness
- Procedures

## Professional Ethics and Boundary Issues

- Consent Elements and Competency Issues
- Medication: Right to Refuse
- Restraints and Seclusion
- Individual's Legal Rights
- Informed Consent
- Boundary Issues: Where the Lines Are Blurred
- Prescribing Practices
- Board of Health Professionals Investigation - Disciplinary Proceedings

## Legal Liabilities of the Professional

- Duty to Warn Issues
- Professional Obligations and Standards
- Fraud & Abuse Issues
- Billing & Coding Errors
- Documentation
- Compliance with Contradictory Laws

### 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.

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## Legal Issues in Behavioral Health in Maryland:

### Legal and Ethical Considerations

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## Legal Issues in Behavioral Health in Maryland:

### Legal and Ethical Considerations

- Court Orders: Must You Appear?
- When Not to Release Your Documentation
- Prevent Liability and Avoid Paying Damages
- Protect Your Credentials/ License
- Do's And Don'ts of Documentation
- Why and When to Call an Attorney
- Avoid the Litigation Hot Seat

**6.25 ETHICS  
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# Objectives

1. Establish practices for ensuring HIPAA compliance to protect client's privacy and minimize risk of litigation.
2. Compare the different requirements for release of protected health information via subpoenas and court orders.
3. Explore the legal and ethical considerations for the treatment of minor populations in Maryland with regard to age of consent, confidentiality and custody concerns.
4. Differentiate between the processes for voluntary and involuntary commitment for treatment and determine the clinician's role in each.
5. Develop policies on ethical issues such as restraints, seclusion and informed consent.
6. Designate the treatment provider's responsibilities relating to mental health issues and duty to warn law in Maryland.

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# Legal Issues in Behavioral Health in Maryland: Legal and Ethical Considerations

Without the proper legal awareness needed to stay in compliance, you may face grave legal and financial consequences. This seminar will show you how to continue to help the people you’ve been trained to help while still protecting yourself from many legal pitfalls. If you attend only one seminar this year, make it this one.

Join attorney Lois Fenner for an entertaining and enlightening day and leave with a greater understanding of the latest Maryland laws as they relate to behavioral health. You will take home practical strategies to minimize and manage legal and ethical risks and you will learn how to immediately implement these risk reducing strategies into your practice.

## Speaker

**LOIS FENNER, R.N., M.S., Attorney at Law**, is an honor graduate of the University of Maryland Graduate School of Nursing, Undergraduate School of Nursing and University of Maryland Law School. She is an attorney admitted to practice before the United States Supreme Court, a Registered Nurse and a Certified Clinical Specialist. Ms. Fenner is a founding member of The American Nurse Attorneys Association, past president of the Monumental Bar Association, member of the Women’s Bar Association, Phi Kappa Phi and Sigma Theta Tau Honor Societies and the National Exchange Club. She has been recognized by the Alliance of Black Women Attorneys with the Distinguished Women in Law Award; the Baltimore Marketing Association Harold Young Leadership Award, and the Baltimore County Diversity Award. Additionally, she is a three-time recipient of the *Daily Record’s* Top 100 Women in Maryland award and was inducted into the Circle of Excellence. Attorney Fenner has been recognized as a *Baltimore Business Journals* Who’s Who in Law and was selected as one of the Super Lawyers twice. Her practice focuses on medical litigation and health care including medical malpractice, personal injury, accreditation, wrongful death, Professional Board and licensure issues. She is a recognized educator and lecturer throughout the country providing realistic and current information in dynamic presentations.

Speaker Disclosures:

Financial: Lois A. Fenner is in private practice. She receives a speaking honorarium from PESI, Inc.

Non-financial: Lois A. Fenner has no relevant non-financial relationships to disclose.

**Target Audience:** Social Workers • Counselors • Psychologists • Marriage & Family Therapists  
AODA Professionals • Health Information Managers • Medical Records Professionals • Nurses

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*If your profession is not listed, please contact your licensing board to determine your continuing education requirements and check for reciprocal approval. For other credit inquiries not specified below, or questions on home study credit availability, please contact [cepesi@pesi.com](mailto:cepesi@pesi.com) or 800-844-8260 before the event.*

*Materials that are included in this course may include interventions and modalities that are beyond the authorized practice of mental health professionals. As a licensed professional, you are responsible for reviewing the scope of practice, including activities that are defined in law as beyond the boundaries of practice in accordance with and in compliance with your professions standards.*

*PESI, Inc. offers continuing education programs and products under the brand names PESI, PESI Healthcare, PESI Rehab and Psychotherapy Networker.*

**Ethics:** This seminar includes 6.25 hours of state specific ethics instruction. If ethics is not specified within your licensing board’s approval statement below, please contact your board to determine the applicability and amount of ethics allowed.

**Addiction Counselors:** This course has been approved by PESI, Inc., as a NAADAC Approved Education Provider, for 6.0 CE in the Legal, Ethical, and Professional Development skill group. NAADAC Provider #77553. PESI, Inc. is responsible for all aspects of their programming. Full attendance is required; no partial credit will be awarded for partial attendance.

**Counselors:** This intermediate activity consists of 6.25 clock hours of continuing education instruction. Credit requirements and approvals vary per state board regulations. Please save the course outline, the certificate of completion you receive from the activity and contact your state board or organization to determine specific filing requirements.

**Maryland Counselors:** CE credit is available. This course is approved for 6.0 clock hours of continuing education instruction for Maryland Counselors. The Maryland Board of Professional Counselors recognizes courses and providers that are approved by NAADAC. A certificate of attendance will be awarded at the end of the program to counselors who complete the program evaluation, to submit to their state board. This course has been approved by PESI, Inc., as a NAADAC Approved Education Provider, for 6.0 CE in the Legal, Ethical, and Professional Development skill group. NAADAC Provider #77553. PESI, Inc. is responsible for all aspects of their programming.

**Marriage & Family Therapists:** This activity consists of 380 minutes of continuing education instruction. Credit requirements and approvals vary per state board regulations. You should save this course outline, the certificate of completion you receive from the activity and contact your state board or organization to determine specific filing requirements.

**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.

**Maryland Psychologists:** CE credit is available. This course consists of 6.0 continuing education credit hours for Maryland Psychologists. Pursuant to COMAR 10.36.02, the Maryland Board of Examiners of Psychologists accepts continuing education programs relevant to psychology from providers approved by the American Medical Association (AMA). This program is certified for a maximum of 6.0 AMA PRA Category 1 Credits™ by PESI as an accredited ACCME provider authorized to award credit by the AMA. PESI, Inc. is accredited by the Accreditation Council for Continuing Medical Education to provide continuing medical education for physicians.

**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 6.25 Clinical Practice continuing education credits. 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.

**Other Professions:** This activity qualifies for 380 minutes of instructional content as required by many national, state and local licensing boards and professional organizations. Save your course outline and certificate of completion, and contact your own board or organization for specific requirements.

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