

OFFICE OF THE COUNTY COUNSEL

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LOS ANGELES, CALIFORNIA 90012

974-1826

January 25, 1982

John R. Elpers, M.D.
Director
Department of Mental Health
2415 West Sixth Street
Los Angeles, CA 90057

Re: Public Health Emergencies

Dear Dr. Elpers:

By letter dated December 17, 1981, you have asked this office the following question:

QUESTION

In the course of providing services under Division 5 (commencing with Section 5000) Welfare and Institutions Code, to either voluntary or involuntary recipients of services can Department of Mental Health employees disclose information on apparent or suspected environmental conditions posing an imminent threat to the health and safety of recipients of services or neighbors to other County departments or governmental agencies? If so, under what authority?

OPINION

Employees of the Department of Mental Health may disclose environmental public health information to other governmental agencies since the confidentiality section contained in Division 5 of the Welfare and Institutions applies solely to mental health patient information obtained while providing mental health services.

ANALYSIS

Section 5328 of the Welfare and Institutions Code reads, in pertinent part only:

"All information and records obtained in the course of providing services under . . . Division 5 (commencing with Section 5000) . . . shall be confidential . . ."

The intent of the legislature in adopting Section 5328 was to protect a broad scope of information pertaining to mental health patients. This section represents the legislature's recognition that disclosure of patient confidences would impair treatment in several ways. Whereas confidentiality encourages those requiring treatment to seek psychiatric assistance, disclosure would deter such patients because society tends to stigmatize those who seek such guidance. Again, confidentiality is essential in eliciting the full disclosure necessary for effective treatment. Further, confidentiality ensures the maintenance of patient trust in the treating psychiatrist whereas disclosure would destroy that interpersonal relationship by which treatment of this nature is effected. Tarasoff v. Regents of the University of California (1976) 17 C.3d 425; 131 Cal.Appr. 14; 551 P.2d 334 for further discussion.) The protected information, in order to ensure all of the above set forth purposes, would include all patient identifying information and all clinical records of treatment. This information would only be obtained and recorded during "the course of providing" mental health services.

With the foregoing in mind, it appears to us that the prohibition against disclosure of mental health information pursuant to Section 5328 does not apply to "information on apparent or suspected environmental conditions posing an environment threat to the health and safety of the recipients of services" or others for two reasons. First, environmental health information is not mental health information in that such information is not patient identifying nor treatment oriented. Secondly, in light of the facts as set forth in the Chief Administrative Office's report to the Board of Supervisors (copy attached and concurred in by your Department as the underlying facts which generated this opinion request), such information was not "obtained in the course of providing" mental health services but rather incident to the transport of the patients.

Therefore, environmental health information may be disclosed by employees of the Department of Mental Health to appropriate governmental agencies. Such information, however, must be transmitted without providing facts which might lead to the identification of a person as a mental health patient.

If we may be of further assistance with regard to this matter, please do not hesitate to contact this office.

Very truly yours,

JOHN H. LARSON
County Counsel

By *Marie C. Stephens*
MARIE C. STEPHENS
Deputy County Counsel

APPROVED AND RELEASED:

John H. Larson

JOHN H. LARSON
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MCS:lr