

MENTAL HEALTH PROCEDURES ACT - CONFIDENTIALITY OF RECORDS

Act of Jul. 7, 2022, P.L. 428, No. 32

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HB 1561

AN ACT

Amending the act of July 9, 1976 (P.L.817, No.143), entitled "An act relating to mental health procedures; providing for the treatment and rights of mentally disabled persons, for voluntary and involuntary examination and treatment and for determinations affecting those charged with crime or under sentence," in general provisions, further providing for definitions and for confidentiality of records.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 103.1 of the act of July 9, 1976 (P.L.817, No.143), known as the Mental Health Procedures Act, is amended by adding definitions to read:

Section 103.1. Definitions.--The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

\* \* \*

**"Business associate." As defined in 45 CFR 160.103 (relating to definitions).**

\* \* \*

**"Covered entity." As defined in 45 CFR 160.103.**

\* \* \*

**"Disclosure." As defined in 45 CFR 160.103 and includes redisclosures and rereleases of information.**

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**"Health care operations." As defined in 45 CFR 164.501 (relating to definitions).**

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**"Payment." As defined in 45 CFR 164.501.**

\* \* \*

**"Treatment." As defined in 45 CFR 164.501.**

**"Use." As defined in 45 CFR 160.103.**

Section 2. Section 111(a) of the act is amended to read:

Section 111. Confidentiality of Records.--(a) All documents concerning persons in treatment shall be kept confidential and, without the person's written consent, may not be released or their contents disclosed to anyone except:

- (1) those engaged in providing treatment for the person;
- (2) the county administrator, pursuant to section 110;
- (3) a court in the course of legal proceedings authorized by this act; [and]
- (4) pursuant to Federal rules, statutes and regulations governing disclosure of patient information where treatment is undertaken in a Federal agency[.]; and

**(5) a covered entity or a covered entity's business associate that makes the use, disclosure or request for disclosure in accordance with 45 CFR Pt. 164 Subpt. E (relating to privacy of individually identifiable health information).**

In no event, however, shall privileged communications, whether written or oral, be disclosed to anyone without such written consent. This shall not restrict the collection and analysis of clinical or statistical data by the department, the county

administrator or the facility so long as the use and dissemination of such data does not identify individual patients. Nothing herein shall be construed to conflict with section 8 of the act of April 14, 1972 (P.L.221, No.63), known as the "Pennsylvania Drug and Alcohol Abuse Control Act."

\* \* \*

Section 3. For the purpose of implementing the amendment of section 111(a) of the act regarding access to confidential documents of persons in treatment for a covered entity or a covered entity's business associate, the Secretary of Human Services shall promulgate regulations in accordance with the act of July 31, 1968 (P.L.769, No.240), referred to as the Commonwealth Documents Law, no later than 180 days after the effective date of this section.

Section 4. This act shall take effect immediately.

APPROVED--The 7th day of July, A.D. 2022.

TOM WOLF