

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1561 Session of 2021

INTRODUCED BY FARRY, SCHLOSSBERG, CUTLER, PICKETT, SAPPEY, N. NELSON, McNEILL, HANBIDGE, THOMAS, RYAN, WHEELAND, BURGOS, HOHENSTEIN, T. DAVIS, DELLOSO, R. BROWN, MILLARD, ROZZI, OWLETT, SANCHEZ, SCHLEGEL CULVER, A. DAVIS, PASHINSKI, O'MARA, WARNER, MADDEN, NEILSON, CIRESI, JOZWIAK, POLINCHOCK, C. WILLIAMS AND WHITE, JUNE 7, 2021

AS REPORTED FROM COMMITTEE ON HUMAN SERVICES, HOUSE OF REPRESENTATIVES, AS AMENDED, OCTOBER 26, 2021

AN ACT

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

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

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

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

16 * * *

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

1 * * *

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

3 * * *

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

6 * * *

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

9 * * *

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

11 * * *

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

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

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

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

19 (1) those engaged in providing treatment for the person;

20 (2) the county administrator, pursuant to section 110;

21 (3) a court in the course of legal proceedings authorized by
22 this act; [and]

23 (4) pursuant to Federal rules, statutes and regulations
24 governing disclosure of patient information where treatment is
25 undertaken in a Federal agency[.]; and

26 ~~(5) a covered entity or a covered entity's business~~ <--
27 ~~associate that:~~

28 ~~(i) makes the use, disclosure or request for disclosure in~~
29 ~~accordance with 45 CFR Pt. 164, Subpt. E (relating to privacy~~
30 ~~of individually identifiable health information); and~~

1 ~~(ii) makes the use, disclosure or request for disclosure for~~
2 ~~the purpose of treatment, payment or health care operations.~~

3 (5) A COVERED ENTITY OR A COVERED ENTITY'S BUSINESS <--
4 ASSOCIATE THAT MAKES THE USE, DISCLOSURE OR REQUEST FOR
5 DISCLOSURE IN ACCORDANCE WITH 45 CFR PT. 164 SUBPT. E (RELATING
6 TO PRIVACY OF INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION).

7 In no event, however, shall privileged communications, whether
8 written or oral, be disclosed to anyone without such written
9 consent. This shall not restrict the collection and analysis of
10 clinical or statistical data by the department, the county
11 administrator or the facility so long as the use and
12 dissemination of such data does not identify individual
13 patients. Nothing herein shall be construed to conflict with
14 section 8 of the act of April 14, 1972 (P.L.221, No.63), known
15 as the "Pennsylvania Drug and Alcohol Abuse Control Act."

16 * * *

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

25 Section 4. This act shall take effect immediately.