

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2022

A N A C T

RELATING TO BEHAVIORAL HEALTHCARE, DEVELOPMENTAL DISABILITIES AND  
HOSPITALS -- MENTAL HEALTH LAW

Introduced By: Representatives Cassar, Kislak, McNamara, Kazarian, and Bennett

Date Introduced: March 02, 2022

Referred To: House Health & Human Services

(BHDDH)

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 40.1-5-26 and 40.1-5-29 of the General Laws in Chapter 40.1-5  
2 entitled "Mental Health Law" are hereby amended to read as follows:

3 **40.1-5-26. Disclosure of confidential information and records.**

4 (a) The fact of admission or certification, and all information and records compiled,  
5 obtained, or maintained in the course of providing services to persons under this chapter, shall be  
6 confidential.

7 (b) Information and records may be disclosed only:

8 (1) To any person, with the written consent of the patient, or his or her guardian.

9 (2) In communications among qualified medical or mental health professionals in the  
10 provision of services or appropriate referrals for treatment, payment, or health care operations, or  
11 in the course of court proceedings. ~~The consent of the patient, or his or her guardian, must be  
12 obtained before information or records may be disclosed by a professional person employed by a  
13 facility to a professional person not employed by the facility who does not have the medical  
14 responsibility for the patient's care.~~

15 (3) When the person receiving services, or his or her guardian, designates persons to whom  
16 information or records may be released, or if the person is a minor, when his or her parents or  
17 guardian make the designation.

18 (4) To the extent necessary for a recipient to make a claim, or for a claim to be made on

1 behalf of a recipient, for aid, insurance, or medical assistance to which he or she may be entitled.

2 (5) To proper medical authorities for the purpose of providing emergency medical  
3 treatment where the person's life or health are in immediate jeopardy.

4 (6) For program evaluation and/or research, provided that the director adopts rules for the  
5 conduct of the evaluations and/or research. The rules shall include, but need not be limited to, the  
6 requirement that all evaluators and researchers must sign an oath of confidentiality, agreeing not to  
7 divulge, publish, or otherwise make known, to unauthorized persons or the public, any information  
8 obtained in the course of the evaluation or research regarding persons who have received services  
9 such that the person who received the services is identifiable.

10 (7) To the courts, and persons designated by judges thereof, in accordance with applicable  
11 rules of procedure. The records and files maintained in any court proceeding pursuant to this  
12 chapter shall be confidential and available only to the person who was the subject of the proceeding,  
13 or his or her attorney.

14 (8) To the state medical examiner in connection with the investigation of a fatality of a  
15 current or former patient to the extent necessary to assist the medical examiner in determining the  
16 cause of death.

17 (9) To the director of health in accordance with, and to the extent authorized by, the  
18 provisions of chapter 37.3 of title 5 and all applicable federal laws and regulations; provided,  
19 however, that with respect to any information obtained, the department complies with all state and  
20 federal confidentiality laws, including, but not limited to, chapter 37.3 of title 5 and specifically §  
21 5-37.3-4(c), and that the name, or names, of the patient, or patients, who is or are determined by  
22 the director of health to be immaterial to the request, inquiry, or investigation remain unidentifiable.  
23 Any treatment facility that provides information to the director of health in accord with a request  
24 under this subsection is not liable for wrongful disclosure arising out of any subsequent disclosure  
25 by the director of health.

26 (10) To a probate court of competent jurisdiction, petitioner, respondent, and/or their  
27 attorneys, when the information is contained within a decision-making assessment tool that  
28 conforms to the provisions of § 33-15-47.

29 (11) To the department of children, youth and families and/or the department's contracted  
30 designee for the purpose of facilitating effective care planning pursuant to § 42-72-5.2(2) and in  
31 accordance with applicable state and federal laws, for a child hospitalized for psychiatric services  
32 and such services are paid for in whole or in part by the state, or for a child who may be discharged  
33 from an acute-care facility to an out-of-home mental or behavioral health agency for services and  
34 when such services will be paid for in whole or in part by the state.

1 (12) To the RItE Care health plans for any child enrolled in RItE Care.

2 (13) To the NICS database for firearms disqualifying information provided that only  
3 individual identifying information required by § 40.1-5-8(l) is submitted.

4 [\(14\) To any vendor, agent, contractor, or designee who operates an electronic health record,](#)  
5 [health information exchange, or clinical management system for the purpose of sharing data with](#)  
6 [qualified medical or mental health professionals or designees.](#)

7 [\(c\) Written consent must be obtained by the patient, or his or her guardian, before](#)  
8 [disclosures for purposes other than those allowed in § 40.1-5.26\(b\).](#)

9 **40.1-5-29. Record of disclosure.**

10 When any disclosure of information or records is made, the physician in charge of the  
11 patient or the professional person in charge of the facility, or his or her designee, shall promptly  
12 cause to be entered into the patient's medical record the date and circumstances under which the  
13 disclosure was made, the names, and relationships to the patient, if any, of the person or agencies  
14 to whom the disclosure was made, and the information disclosed. [Disclosures occurring through](#)  
15 [automated electronic exchanges such as those facilitated by electronic health records or health](#)  
16 [information exchanges shall be recorded and made available to the patient by the applicable system](#)  
17 [operator upon the patient's request.](#)

18 SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO BEHAVIORAL HEALTHCARE, DEVELOPMENTAL DISABILITIES AND  
HOSPITALS -- MENTAL HEALTH LAW

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- 1           This act would amend provisions of law relative to the disclosure of confidential healthcare
- 2 records and the disclosure thereof occurring through electronic means.
- 3           This act would take effect upon passage.

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