

# **WEST VIRGINIA LEGISLATURE**

**2017 REGULAR SESSION**

**ENROLLED**

**Committee Substitute**

**for**

**Senate Bill 187**

SENATORS TAKUBO, FACEMIRE, JEFFRIES AND WOELFEL,

*original sponsors*

[Passed April 7, 2017; in effect 90 days from passage]



1 AN ACT to amend and reenact §27-3-1 of the Code of West Virginia, 1931, as amended, relating  
2 generally to confidentiality of medical records for patients' physical, mental or emotional  
3 conditions generally; eliminating disclosure exception for treatment or internal review  
4 purposes; eliminating 30-day requirement; eliminating requirement that provider make  
5 good faith effort to obtain consent from the patient or legal representative; eliminating  
6 requirement that the minimum information necessary is released for a specifically stated  
7 purpose; eliminating requirement that prompt notice of the disclosure, the recipient of the  
8 information and the purpose of the disclosure is given to the patient or legal representative;  
9 adopting provisions of federal law which pertain to disclosure of protected health  
10 information; and providing for disclosure upon execution of a duly executed release in  
11 compliance with the Health Insurance Portability and Accountability Act of 1996.

*Be it enacted by the Legislature of West Virginia:*

1 That §27-3-1 of the Code of West Virginia, 1931, as amended, be amended and reenacted  
2 to read as follows:

**ARTICLE 3. CONFIDENTIALITY.**

**§27-3-1. DEFINITION OF CONFIDENTIAL INFORMATION; DISCLOSURE.**

1 (a) Communications and information obtained in the course of treatment or evaluation of  
2 any client or patient are confidential information. Such confidential information includes the fact  
3 that a person is or has been a client or patient, information transmitted by a patient or client or  
4 family thereof for purposes relating to diagnosis or treatment, information transmitted by persons  
5 participating in the accomplishment of the objectives of diagnosis or treatment, all diagnoses or  
6 opinions formed regarding a client's or patient's physical, mental or emotional condition, any  
7 advice, instructions or prescriptions issued in the course of diagnosis or treatment, and any record  
8 or characterization of the matters hereinbefore described. It does not include information which  
9 does not identify a client or patient, information from which a person acquainted with a client or

10 patient would not recognize such client or patient and uncoded information from which there is no  
11 possible means to identify a client or patient.

12 (b) Confidential information shall not be disclosed, except:

13 (1) In a proceeding under section four, article five of this chapter to disclose the results of  
14 an involuntary examination made pursuant to section two, three or four of said article;

15 (2) In a proceeding under article six-a of this chapter to disclose the results of an  
16 involuntary examination made pursuant thereto;

17 (3) Pursuant to an order of any court based upon a finding that the information is  
18 sufficiently relevant to a proceeding before the court to outweigh the importance of maintaining  
19 the confidentiality established by this section;

20 (4) To provide notice to the federal National Instant Criminal Background Check System,  
21 established pursuant to section 103(d) of the Brady Handgun Violence Prevention Act, 18 U. S.  
22 C. §922, in accordance with article seven-a, chapter sixty-one of this code;

23 (5) To protect against a clear and substantial danger of imminent injury by a patient or  
24 client to himself, herself or another;

25 (6) Pursuant to and as provided for under the federal privacy rule of the Health Insurance  
26 Portability and Accountability Act of 1996 in 45 CFR §164.506; and

27 (7) Pursuant to and as provided for under the federal privacy rule of the Health Insurance  
28 Portability and Accountability Act of 1996 in 45 CFR §164.512: *Provided*, That disclosures made  
29 pursuant to 45 CFR §164.512(e) comply with subdivision (3) of this subsection.

30 (8) Upon execution of a duly executed release in compliance with the Health Insurance  
31 Portability and Accountability Act of 1996.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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*Chairman, Senate Committee*

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*Chairman, House Committee*

Originated in the Senate.

In effect 90 days from passage.

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*Clerk of the Senate*

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*Clerk of the House of Delegates*

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*President of the Senate*

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*Speaker of the House of Delegates*

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The within ..... this the.....  
Day of ....., 2017.

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*Governor*