

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

Senate Bill 187

BY SENATORS TAKUBO, FACEMIRE, JEFFRIES AND

WOELFEL

[Introduced February 8, 2017; referred
to the Committee on Health and Human Resources; and
then to the Committee on the Judiciary]

1 A BILL to amend and reenact §27-3-1 of the Code of West Virginia, 1931, as amended, relating
2 to confidentiality of medical records for patients' physical, mental or emotional conditions.

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.C.
22 §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) For treatment or internal review purposes, to staff of the mental health facility where
26 the patient is being cared for or to other health professionals involved in treatment of the patient;
27 and

28 ~~(7) Without the patient's consent as provided for under the Privacy Rule of the federal~~
29 ~~Health Insurance Portability and Accountability Act of 1996, 45 C.F.R. §164.506, for thirty days~~
30 ~~from the date of admission to a mental health facility if: (i) The provider makes a good faith effort~~
31 ~~to obtain consent from the patient or legal representative prior to disclosure; (ii) the minimum~~
32 ~~information necessary is released for a specifically stated purpose; and (iii) prompt notice of the~~
33 ~~disclosure, the recipient of the information and the purpose of the disclosure is given to the patient~~
34 ~~or legal representative~~

35 (7) Without the patient's authorization pursuant to, and as provided for, under the federal
36 Privacy Rule of the Health Insurance Portability and Accountability Act of 1996 and the disclosure
37 provisions of 45 CFR §164.506.

NOTE: The purpose of this bill is to provide for confidentiality of medical records for patients' physical, mental or emotional conditions.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.