

2013 -- S 0348

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LC01241
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

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A N A C T

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

Introduced By: Senator Maryellen Goodwin

Date Introduced: February 13, 2013

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

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

3 **40.1-5-26. Disclosure of confidential information and records.** -- (a) The fact of
4 admission or certification and all information and records compiled, obtained, or maintained in
5 the course of providing services to persons under this chapter shall be confidential.

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

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

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

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

16 (4) To the extent necessary for a recipient to make a claim, or for a claim to be made on
17 behalf of a recipient for aid, insurance, or medical assistance to which he or she may be entitled.

18 (5) To proper medical authorities for the purpose of providing emergency medical

1 treatment where the person's life or health are in immediate jeopardy.

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

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

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

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

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

27 (11) To the department of children, youth, and families or the department's contracted
28 designee pursuant to section 42-72-5.2(2) for children hospitalized for psychiatric services and
29 such placement is supported by the department or for a child who may be discharged from an
30 acute care facility to an out-of-home placement supported by the department, for the purpose of
31 effective care planning.

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

33 [\(c\) No personal diary, journal or similar writing composed by a patient of any hospital in](#)
34 [this state prior to December 31, 1899, obtained and/or maintained by said hospital or successor](#)

1 [entity, shall be deemed confidential information or records for purposes of this section whether or](#)
2 [not said diary, journal or similar writing is maintained or held as a medical record.](#)

3 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

1 This act would exempt from the confidentiality of health care act any personal diary,
2 journal or similar writing composed by any patient of any hospital in the state prior to December
3 31, 1899, even if the hospital or successor entity of the hospital incorporated the writing into its
4 own medical records for the patient.

5 This act would take effect upon passage.

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