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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2015

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A N A C T

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

Introduced By: Senators Miller, Sheehan, Ottiano, Sosnowski, and Nesselbush

Date Introduced: March 24, 2015

Referred To: Senate Health & Human Services

(OHHS)

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. [Effective January 1,**
4 **2015.]** -- (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, or in the course of court proceedings. The consent
11 of the patient, or his or her guardian, must be obtained before information or records may be
12 disclosed by a professional person employed by a facility to a professional person not employed
13 by the facility who does not have the medical responsibility for the patient's care.

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

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

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

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

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

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

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

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

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

34 (12) To the RIte Care health plans for any child enrolled in RIte Care.

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

3 (14) To the department of behavioral healthcare, developmental disabilities and hospitals,
4 in order to carry out its functions as described in this title, and rules promulgated pursuant to this
5 title. These functions include, but are not restricted to, enforcement of the mental health law and
6 investigations into reportable incidents and complaints.

7 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 DISABILITY AND
HOSPITALS -- MENTAL HEALTH LAW

1 This act would authorize the department of behavioral healthcare, developmental
2 disabilities and hospitals to receive medical information in order to carry out its functions in
3 executing the laws relating to admission and custody of the mentally disabled as described in
4 chapter 5 of title 40.1, including enforcement of mental health law and investigations.

5 This act would take effect upon passage.

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