

JAN 24 2007

A BILL FOR AN ACT

RELATING TO MENTAL HEALTH.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 334-5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§334-5 Confidentiality of records. All certificates,
4 applications, records, and reports made for the purposes of this
5 chapter and directly or indirectly identifying a person subject
6 hereto shall be kept confidential and shall not be disclosed by
7 any person except so far:

8 (1) [as] As the person identified, or the person's legal
9 guardian, consents~~[, or]~~;

10 (2) [as] As disclosure may be deemed necessary by the
11 director of health or by the administrator of a
12 private psychiatric or special treatment facility to
13 carry out this chapter~~[, or]~~;

14 (3) [as] As a court may direct upon its determination that
15 disclosure is necessary for the conduct of proceedings
16 before it and that failure to make the disclosure
17 would be contrary to the public interest~~[, or]~~;



1 (4) [as] As disclosure may be deemed necessary under the
2 federal Protection and Advocacy for Mentally Ill
3 Individuals Act of 1986, Public Law 99-319, to protect
4 and advocate the rights of persons with mental illness
5 who reside in facilities providing treatment or care [~~7~~
6 ~~ex~~];

7 (5) As disclosure is made by the person's health care
8 provider to another health care provider for the
9 purpose of continued care or treatment of the person;
10 or

11 (6) [as] As disclosure is made to the person's health care
12 insurer to obtain reimbursement for services rendered
13 to the person [~~7, except for records subject to Title 42~~
14 ~~Code of Federal Regulations Part 2, confidentiality of~~
15 ~~alcohol and drug abuse patient records~~]; provided that
16 disclosure shall be made only if the provider informs
17 the person that a reimbursement claim will be made to
18 the person's insurer, the person is afforded an
19 opportunity to pay the reimbursement directly, and the
20 person does not pay.

21 Nothing in this section shall preclude the application of more
22 stringent rules of confidentiality set forth for records covered



1 by title 42, part 2, Code of Federal Regulations, relating to
2 the confidentiality of alcohol and drug abuse patient records.

3 For the purposes of this section, "facilities" shall include,
4 but not be limited to, hospitals, nursing homes, community
5 facilities for mentally ill individuals, boarding homes, and
6 care homes.

7 Nothing in this section shall preclude disclosure, upon
8 proper inquiry, of any information relating to a particular
9 patient and not clearly adverse to the interests of the patient,
10 to the patient, the patient's family, legal guardian, or
11 relatives, nor, except as provided above, affect the application
12 of any other rule or statute of confidentiality. The use of the
13 information disclosed shall be limited to the purpose for which
14 the information was furnished."

15 SECTION 2. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 3. This Act shall take effect upon its approval.

18

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Report Title:

Mental Health Records; Confidentiality; Exceptions

Description:

Provides an exception to the confidentiality of mental health records and allows disclosure if it is made by the person's healthcare provider to another health care provider for the purpose of continued care or treatment.

