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# A BILL FOR AN ACT

RELATING TO ADOLESCENT MENTAL HEALTH SERVICES.

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

1 SECTION 1. Section 323B-3, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

3 "(a) [~~Notwithstanding~~] Except as prohibited by section  
4 577-29(f), and notwithstanding any other law to the contrary,  
5 any use or disclosure of individually identifiable health  
6 information by any covered entity or business associate that is  
7 permitted by title 45 Code of Federal Regulations part 164,  
8 subpart E, shall be deemed to comply with all state laws  
9 relating to the use, disclosure, or confidentiality of such  
10 information."

11 SECTION 2. Section 577-29, Hawaii Revised Statutes, is  
12 amended to read as follows:

13 "**§577-29 Mental health services relating to minors;**  
14 **diagnosis, counseling, and related activities. (a)**  
15 Notwithstanding any other law to the contrary, a minor who is  
16 fourteen years of age or older may consent to mental health  
17 treatment or counseling services provided by a licensed mental



1 health professional if, in the opinion of the licensed mental  
2 health professional, the minor is mature enough to participate  
3 intelligently in the mental health treatment or counseling  
4 services; provided that the consent of the minor's parent or  
5 legal guardian shall be required to prescribe medication to the  
6 minor or to place the minor into an out-of-home or residential  
7 treatment program. It shall be a standard of care for a  
8 licensed mental health professional treating a minor to ask the  
9 minor if the minor wants the provision of mental health  
10 treatment or counseling services to be kept confidential from  
11 the minor's parent or guardian and explain to the minor what  
12 confidentiality means with regard to mental health services.

13 (b) The mental health treatment or counseling services  
14 provided to a minor as authorized by this section shall include  
15 involvement of the minor's parent or legal guardian, unless the  
16 licensed mental health professional, after consulting with the  
17 minor, determines that the involvement would be inappropriate.  
18 The licensed mental health professional shall state in the  
19 client record whether and when the treating clinician attempted  
20 to contact the minor's parent or legal guardian, and whether the  
21 attempt to contact was successful or unsuccessful, or the reason



1 why, in the treating licensed mental health professional's  
2 opinion, it would be inappropriate to contact the minor's parent  
3 or guardian.

4 (c) A minor may not abrogate consent provided by a parent  
5 or legal guardian on the minor's behalf. A parent or legal  
6 guardian may not abrogate consent given by the minor on the  
7 minor's own behalf.

8 (d) If a minor consents to receive mental health treatment  
9 or counseling services pursuant to this section, the minor shall  
10 not be liable for payment ~~[-]~~, including out-of-pocket payment.

11 (e) The minor's parent or legal guardian is not liable for  
12 ~~[payment]~~ out-of-pocket payments for mental health treatment or  
13 counseling services provided pursuant to this section unless the  
14 parent or guardian participates in the mental health treatment  
15 or counseling services, and then only for services rendered with  
16 the participation of the parent or guardian.

17 (f) A covered entity shall not disclose to the minor's  
18 parent or legal guardian who is a policyholder or other covered  
19 person, any billing information, including payments made by the  
20 covered entity for mental health treatment or counseling  
21 services provided pursuant to this section, if the minor



1 received the services without the consent or participation of  
2 the minor's parent or legal guardian.

3 [~~f~~] (g) As used in this section:

4 "Covered entity" has the same meaning as in title 45 Code  
5 of Federal Regulations section 160.103.

6 "Licensed mental health professional" means any of the  
7 following:

- 8 (1) A person licensed as a mental health counselor  
9 pursuant to chapter 453D;
- 10 (2) A person licensed as a marriage and family therapist  
11 pursuant to chapter 451J;
- 12 (3) A clinical social worker licensed pursuant to chapter  
13 467E;
- 14 (4) A person licensed as a psychologist pursuant to  
15 chapter 465;
- 16 (5) A board certified, or board eligible, licensed  
17 psychiatrist; or
- 18 (6) An advanced practice registered nurse licensed  
19 pursuant to chapter 457 who holds an accredited  
20 national certification in an advanced practice  
21 registered nurse psychiatric specialization.



1 "Mental health treatment or counseling services" means the  
2 provision of outpatient mental health treatment or counseling by  
3 a licensed mental health professional."

4 SECTION 3. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6 SECTION 4. This Act shall take effect upon its approval.

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**Report Title:**

Adolescent Mental Health Services; Payment Disclosure

**Description:**

Prohibits health plans and providers from disclosing to a policyholder or other covered person any payment or billing information for a minor's mental health services if the minor received the services without the consent or participation of the minor's parent or legal guardian. Specifies that licensed mental health professionals providing mental health treatment to a minor have a standard of care duty to ask the minor if the minor wants the provision of mental health care services to be kept confidential from the minor's parent or guardian and explain to the minor the meaning of confidential mental health care services. Clarifies that a minor is not responsible for out-of-pocket payments, regardless of parent or guardian participation in treatment or services received. Specifies that the minor's parent or legal guardian is not responsible for out-of-pocket payments for minor-initiated mental health treatment or counseling services, except in certain circumstances. (SD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

