

ACT 98

S.B. NO. 1802

A Bill for an Act Relating to Mental Health.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 334-1, Hawaii Revised Statutes, is amended by adding three new definitions to be appropriately inserted and to read as follows:

“Health care operations” means the services and activities conducted by an institution, facility, or agency licensed, certified, or otherwise authorized or permitted by law to provide medical or health services in the ordinary course of business, including case management and care coordination, quality assessment and improvement activities, medical reviews, and administrative activities.

“Health care provider” means an individual or entity licensed, certified, or otherwise authorized or permitted by law to provide medical or health services in the ordinary course of business or practice of a profession.

“Treatment summary” means a record of information including present history and physical examination, mental status examination, emergency department record, intake evaluation, eligibility determination, current medication list and prescription history, treatment plan, consultant reports, diagnosis and problem lists, recent laboratory and diagnostic testing, clinical or discharge summaries, and discharge instructions, or any combination of such information.”

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

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

- (1) ~~[as the]~~ The person identified, or the person’s legal guardian, consents~~[-or-]~~;
- (2) ~~[as disclosure]~~ Disclosure may be deemed necessary by the director of health or by the administrator of a private psychiatric or special treatment facility to carry out this chapter~~[-or-]~~;
- (3) ~~[as a]~~ A court may direct upon its determination that disclosure is necessary for the conduct of proceedings before it and that failure to make the disclosure would be contrary to the public interest~~[-or-]~~;
- (4) ~~[as disclosure]~~ Disclosure may be deemed necessary under the federal Protection and Advocacy for Mentally Ill Individuals Act of 1986, Public Law 99-319, to protect and advocate the rights of persons with mental illness who reside in facilities providing treatment or care~~[-or-]~~;
- (5) Disclosure of a person’s treatment summary from a previous five-year period from one health care provider to another may be deemed necessary for the purpose of continued care and treatment of the person, or for health care operations; provided that the health care provider seeking disclosure makes reasonable efforts to obtain advance consent from the person; or

- (6) ~~[as disclosure is]~~ Disclosures are made [to] between the person's health care ~~[insurer]~~ provider and payor to obtain reimbursement for services rendered to the person~~[-except for records subject to Title 42 Code of Federal Regulations Part 2, confidentiality of alcohol and drug abuse patient records]~~; provided that disclosure shall be made only if the provider informs the person that a reimbursement claim will be made to the person's ~~[insurer,]~~ payor, the person is afforded an opportunity to pay the reimbursement¹ directly, and the person does not pay.

Nothing in this section shall preclude the application of more restrictive rules of confidentiality set forth for records covered by Title 42, Part 2, Code of Federal Regulations, relating to the confidentiality of alcohol and drug abuse patient records. For the purposes of this section, "facilities" shall include~~[,]~~ but not be limited to~~[,]~~ hospitals, nursing homes, community facilities for mentally ill individuals, boarding homes, and care homes.

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

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

SECTION 4. This Act shall take effect upon approval.

(Approved May 23, 2008.)

Note

1. Prior to amendment "claim" appeared here.