

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

ENROLLED

Committee Substitute

for

Senate Bill 187

SENATORS TAKUBO, FACEMIRE, JEFFRIES AND WOELFEL,

original sponsors

[Passed April 7, 2017; in effect 90 days from passage]

OFFICE WEST VIRGINIA
SECRETARY OF STATE

2017 APR 25 P 4: 54

FILED

SB 187

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1 AN ACT to amend and reenact §27-3-1 of the Code of West Virginia, 1931, as amended, relating
2 generally to confidentiality of medical records for patients' physical, mental or emotional
3 conditions generally; eliminating disclosure exception for treatment or internal review
4 purposes; eliminating 30-day requirement; eliminating requirement that provider make
5 good faith effort to obtain consent from the patient or legal representative; eliminating
6 requirement that the minimum information necessary is released for a specifically stated
7 purpose; eliminating requirement that prompt notice of the disclosure, the recipient of the
8 information and the purpose of the disclosure is given to the patient or legal representative;
9 adopting provisions of federal law which pertain to disclosure of protected health
10 information; and providing for disclosure upon execution of a duly executed release in
11 compliance with the Health Insurance Portability and Accountability Act of 1996.

Be it enacted by the Legislature of West Virginia:

1 That §27-3-1 of the Code of West Virginia, 1931, as amended, be amended and reenacted
2 to read as follows:

ARTICLE 3. CONFIDENTIALITY.

§27-3-1. DEFINITION OF CONFIDENTIAL INFORMATION; DISCLOSURE.

1 (a) Communications and information obtained in the course of treatment or evaluation of
2 any client or patient are confidential information. Such confidential information includes the fact
3 that a person is or has been a client or patient, information transmitted by a patient or client or
4 family thereof for purposes relating to diagnosis or treatment, information transmitted by persons
5 participating in the accomplishment of the objectives of diagnosis or treatment, all diagnoses or
6 opinions formed regarding a client's or patient's physical, mental or emotional condition, any
7 advice, instructions or prescriptions issued in the course of diagnosis or treatment, and any record
8 or characterization of the matters hereinbefore described. It does not include information which
9 does not identify a client or patient, information from which a person acquainted with a client or

10 patient would not recognize such client or patient and uncoded information from which there is no
11 possible means to identify a client or patient.

12 (b) Confidential information shall not be disclosed, except:

13 (1) In a proceeding under section four, article five of this chapter to disclose the results of
14 an involuntary examination made pursuant to section two, three or four of said article;

15 (2) In a proceeding under article six-a of this chapter to disclose the results of an
16 involuntary examination made pursuant thereto;

17 (3) Pursuant to an order of any court based upon a finding that the information is
18 sufficiently relevant to a proceeding before the court to outweigh the importance of maintaining
19 the confidentiality established by this section;

20 (4) To provide notice to the federal National Instant Criminal Background Check System,
21 established pursuant to section 103(d) of the Brady Handgun Violence Prevention Act, 18 U. S.
22 C. §922, in accordance with article seven-a, chapter sixty-one of this code;

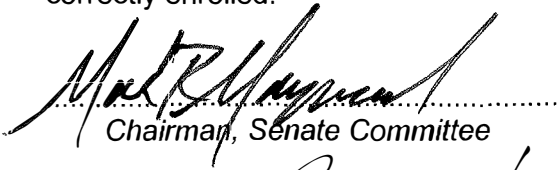
23 (5) To protect against a clear and substantial danger of imminent injury by a patient or
24 client to himself, herself or another;

25 (6) Pursuant to and as provided for under the federal privacy rule of the Health Insurance
26 Portability and Accountability Act of 1996 in 45 CFR §164.506; and

27 (7) Pursuant to and as provided for under the federal privacy rule of the Health Insurance
28 Portability and Accountability Act of 1996 in 45 CFR §164.512: *Provided*, That disclosures made
29 pursuant to 45 CFR §164.512(e) comply with subdivision (3) of this subsection.

30 (8) Upon execution of a duly executed release in compliance with the Health Insurance
31 Portability and Accountability Act of 1996.

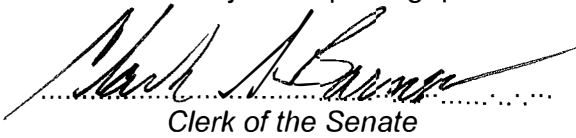
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.


Chairman, Senate Committee

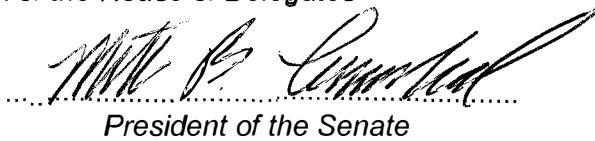

Chairman, House Committee

Originated in the Senate.

In effect 90 days from passage.


Clerk of the Senate


Clerk of the House of Delegates


President of the Senate

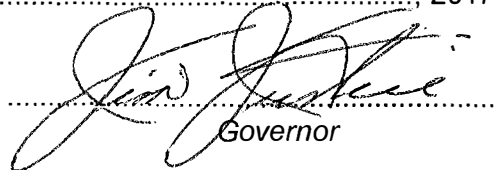

Speaker of the House of Delegates

OFFICE WEST VIRGINIA
SECRETARY OF STATE

2017 APR 25 P 4: 54

FILED

The within is approved this the 25th
Day of April, 2017.


Governor

PRESENTED TO THE GOVERNOR

APR 20 2017

Time 10:40 am