Enrolled
Committee Substitute for
Senate Bill 543

SENATORS TRUMP AND CLINE, original sponsors

[Passed March 7, 2018; if effect 90 days from passage]
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[Passed March 7, 2018; if effect 90 days from passage]
AN ACT to amend and reenact §27-3-1 of the Code of West Virginia, 1931, as amended, relating
generally to confidentiality of certain medical records; eliminating disclosure exception for
treatment or internal review purposes; eliminating 30-day requirement; eliminating
requirement that provider make good faith effort to obtain consent from the patient or legal
representative; eliminating requirement that the minimum information necessary is
released for a specifically stated purpose; eliminating requirement that prompt notice of
the disclosure, the recipient of the information, and the purpose of the disclosure is given
to the patient or legal representative; and adopting provisions of federal law which pertain
to disclosure of protected health information.

Be it enacted by the Legislature of West Virginia:

ARTICLE 3. CONFIDENTIALITY.

§27-3-1. Definition of confidential information; disclosure.

(a) Communications and information obtained in the course of treatment or evaluation of
any client or patient are confidential information. Such confidential information includes the fact
that a person is or has been a client or patient, information transmitted by a patient or client or
family thereof for purposes relating to diagnosis or treatment, information transmitted by persons
participating in the accomplishment of the objectives of diagnosis or treatment, all diagnoses or
opinions formed regarding a client’s or patient’s physical, mental, or emotional condition, any
advice, instructions, or prescriptions issued in the course of diagnosis or treatment, and any
record or characterization of the matters hereinbefore described. It does not include information
which does not identify a client or patient, information from which a person acquainted with a
client or patient would not recognize such client or patient, and de-identified information from
which there is no possible means to identify a client or patient.

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

(1) In a proceeding under §27-5-4 of this code to disclose the results of an involuntary
examination made pursuant to §27-5-2, §27-5-3, or §27-5-4 of this code;
(2) In a proceeding under §27-6A-1 et seq. of this code to disclose the results of an involuntary examination made pursuant thereto;

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

(4) To provide notice to the federal National Instant Criminal Background Check System, established pursuant to section 103(d) of the Brady Handgun Violence Prevention Act, 18 U.S.C. § 922, in accordance with §61-7A-1 et seq. of this code;

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

(6) Pursuant to and as provided for under the federal privacy rule of the Health Insurance Portability and Accountability Act of 1996 in 45 CFR §164, as amended under the Health Information Technology for Economic and Clinical Health Act of the American and the Omnibus Final Rule, 78 FR 5566; or

(7) In a proceeding held under §44A-3-17 of this code or as required by §44A-3-18 of this code.
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

The within is approved this the 27th Day of March, 2018.

Governor