

**PENNSYLVANIA DRUG AND ALCOHOL ABUSE CONTROL ACT - CONFIDENTIALITY
OF RECORDS**

Act of Jul. 7, 2022, P.L. 430, No. 33

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HB 1563

AN ACT

Amending the act of April 14, 1972 (P.L.221, No.63), entitled "An act establishing the Pennsylvania Advisory Council on Drug and Alcohol Abuse; imposing duties on the Department of Health to develop and coordinate the implementation of a comprehensive health, education and rehabilitation program for the prevention and treatment of drug and alcohol abuse and drug and alcohol dependence; providing for emergency medical treatment; providing for treatment and rehabilitation alternatives to the criminal process for drug and alcohol dependence; and making repeals," further providing for definitions and for confidentiality of records.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 2(b) of the act of April 14, 1972 (P.L.221, No.63), known as the Pennsylvania Drug and Alcohol Abuse Control Act, is amended by adding definitions to read:

Section 2. Definitions:

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(b) As used in this act:

"Business associate" means "business associate" as defined in 45 CFR 160.103 (relating to definitions).

* * *

"Covered entity" means "covered entity" as defined in 45 CFR 160.103.

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"Disclosure" means "disclosure" as defined in 45 CFR 160.103 and includes redisclosures and rereleases of information.

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"Federally assisted" means receiving Federal assistance as provided in 42 CFR 2.12(b) (relating to applicability).

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"Health care operations" means "health care operations" as defined in 45 CFR 164.501 (relating to definitions).

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"Payment" means "payment" as defined in 45 CFR 164.501.

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"Program" means "program" as defined in 42 CFR 2.11 (relating to definitions).

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"Treatment" means "treatment" as defined in 45 CFR 164.501.

"Use" means "use" as defined in 45 CFR 160.103.

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Section 2. Section 8(b) and (c)(1) and (2) of the act are amended and the section is amended by adding a subsection to read:

Section 8. Confidentiality of Records.--* * *

(b) [All patient] **(1) Patient** records (including all records relating to any commitment proceeding), **except patient records subject to subsection (d)**, prepared or obtained pursuant to this

act, and all information contained therein, [shall remain confidential, and may be disclosed only with the patient's consent and only] **may not be disclosed without the patient's consent, except:**

(i) to medical personnel exclusively for purposes of diagnosis and treatment of the patient [or];

(ii) to government or other officials exclusively for the purpose of obtaining benefits due the patient as a result of his drug or alcohol abuse or drug or alcohol dependence except that in emergency medical situations where the patient's life is in immediate jeopardy, patient records may be released without the patient's consent to proper medical authorities solely for the purpose of providing medical treatment to the patient[.]; **or**

(iii) to a covered entity or a covered entity's business associate that makes the use, disclosure or request for disclosure in accordance with 45 CFR Pt. 164 Subpt. E (relating to privacy of individually identifiable health information).

(2) Disclosure may be made for purposes unrelated to such treatment or benefits only upon an order of a court of common pleas after application showing good cause therefor. In determining whether there is good cause for disclosure, the court shall weigh the need for the information sought to be disclosed against the possible harm of disclosure to the person to whom such information pertains, the physician-patient relationship, and to the treatment services, and may condition disclosure of the information upon any appropriate safeguards. No such records or information may be used to initiate or substantiate criminal charges against a patient under any circumstances.

(c) (1) Except as provided under **subsection (d) and** section 12(b), patient records and all information contained therein relating to drug or alcohol abuse or drug or alcohol dependence prepared or obtained by a private practitioner, hospital, clinic, drug rehabilitation or drug treatment center shall remain confidential and may [be disclosed only] **not be disclosed without a patient's consent except:**

(i) when the patient is of the age of majority [and consents to the disclosure]; or

(ii) if the patient is a minor, the patient consents to treatment under section 12(a) [and consents to the disclosure]. A minor patient who does not consent to medical treatment or counseling under section 12(a) may consent to the disclosure of records and information.

(2) Records and information subject to disclosure in accordance with paragraph (1) shall only be disclosed:

(i) to medical personnel exclusively for purposes of diagnosis and treatment of the patient;

(ii) to the parent or legal guardian of a minor or any other designee for which the patient has provided consent; [or]

(iii) to government or other officials exclusively for the purpose of obtaining benefits due the patient as a result of his drug or alcohol abuse or drug or alcohol dependence[.]; **or**

(iv) to a covered entity or a covered entity's business associate that makes the use, disclosure or request for disclosure in accordance with 45 CFR Pt. 164 Subpt. E.

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(d) Notwithstanding any other provision of law, patient records of a federally assisted program subject to 42 CFR Pt. 2 (relating to confidentiality of substance use disorder patient records) and all information contained in such patient records shall remain confidential and may be disclosed only as permitted by 42 CFR Pt. 2 and other applicable Federal law.

Section 3. The Department of Drug and Alcohol Programs shall not have the authority to promulgate or enforce a regulation that

restricts any disclosure of records or information that is permitted by this act.

Section 4. This act shall take effect immediately.

APPROVED--The 7th day of July, A.D. 2022.

TOM WOLF