

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Substance Use Disorder Act is amended by
5 changing Section 30-5 as follows:

6 (20 ILCS 301/30-5)

7 Sec. 30-5. Patients' rights established.

8 (a) For purposes of this Section, "patient" means any
9 person who is receiving or has received early intervention,
10 treatment, or other recovery support services under this Act
11 or any category of service licensed as "intervention" under
12 this Act.

13 (b) No patient shall be deprived of any rights, benefits,
14 or privileges guaranteed by law, the Constitution of the
15 United States of America, or the Constitution of the State of
16 Illinois solely because of his or her status as a patient.

17 (c) Persons who have substance use disorders who are also
18 suffering from medical conditions shall not be discriminated
19 against in admission or treatment by any hospital that
20 receives support in any form supported in whole or in part by
21 funds appropriated to any State department or agency.

22 (d) Every patient shall have impartial access to services
23 without regard to race, religion, sex, ethnicity, age, sexual

1 orientation, gender identity, marital status, or other
2 disability.

3 (e) Patients shall be permitted the free exercise of
4 religion.

5 (f) Every patient's personal dignity shall be recognized
6 in the provision of services, and a patient's personal privacy
7 shall be assured and protected within the constraints of his
8 or her individual treatment.

9 (g) Treatment services shall be provided in the least
10 restrictive environment possible.

11 (h) Each patient receiving treatment services shall be
12 provided an individual treatment plan, which shall be
13 periodically reviewed and updated as mandated by
14 administrative rule.

15 (i) Treatment shall be person-centered, meaning that every
16 patient shall be permitted to participate in the planning of
17 his or her total care and medical treatment to the extent that
18 his or her condition permits.

19 (j) A person shall not be denied treatment solely because
20 he or she has withdrawn from treatment against medical advice
21 on a prior occasion or had prior treatment episodes.

22 (k) The patient in residential treatment shall be
23 permitted visits by family and significant others, unless such
24 visits are clinically contraindicated.

25 (l) A patient in residential treatment shall be allowed to
26 conduct private telephone conversations with family and

1 friends unless clinically contraindicated.

2 (m) A patient in residential treatment shall be permitted
3 to send and receive mail without hindrance, unless clinically
4 contraindicated.

5 (n) A patient shall be permitted to manage his or her own
6 financial affairs unless the patient or the patient's
7 guardian, or if the patient is a minor, the patient's parent,
8 authorizes another competent person to do so.

9 (o) A patient shall be permitted to request the opinion of
10 a consultant at his or her own expense, or to request an
11 in-house review of a treatment plan, as provided in the
12 specific procedures of the provider. A treatment provider is
13 not liable for the negligence of any consultant.

14 (p) Unless otherwise prohibited by State or federal law,
15 every patient shall be permitted to obtain from his or her own
16 physician, the treatment provider, or the treatment provider's
17 consulting physician complete and current information
18 concerning the nature of care, procedures, and treatment that
19 he or she will receive.

20 (q) A patient shall be permitted to refuse to participate
21 in any experimental research or medical procedure without
22 compromising his or her access to other, non-experimental
23 services. Before a patient is placed in an experimental
24 research or medical procedure, the provider must first obtain
25 his or her informed written consent or otherwise comply with
26 the federal requirements regarding the protection of human

1 subjects contained in 45 CFR Part 46.

2 (r) All medical treatment and procedures shall be
3 administered as ordered by a physician and in accordance with
4 all Department rules.

5 (s) Every patient in treatment shall be permitted to
6 refuse medical treatment and to know the consequences of such
7 action. Such refusal by a patient shall free the treatment
8 licensee from the obligation to provide the treatment.

9 (t) Unless otherwise prohibited by State or federal law,
10 every patient, patient's guardian, or parent, if the patient
11 is a minor, shall be permitted to inspect and copy all clinical
12 and other records kept by the intervention or treatment
13 licensee or by his or her physician concerning his or her care
14 and maintenance. The licensee or physician may charge a
15 reasonable fee for the duplication of a record.

16 (u) No owner, licensee, administrator, employee, or agent
17 of a licensed intervention or treatment program shall abuse or
18 neglect a patient. It is the duty of any individual who becomes
19 aware of such abuse or neglect to report it to the Department
20 immediately.

21 (v) The licensee may refuse access to any person if the
22 actions of that person are or could be injurious to the health
23 and safety of a patient or the licensee, or if the person seeks
24 access for commercial purposes.

25 (w) All patients admitted to community-based treatment
26 facilities shall be considered voluntary treatment patients

1 and such patients shall not be contained within a locked
2 setting.

3 (x) Patients and their families or legal guardians shall
4 have the right to present complaints to the provider or the
5 Department concerning the quality of care provided to the
6 patient, without threat of discharge or reprisal in any form
7 or manner whatsoever. The complaint process and procedure
8 shall be adopted by the Department by rule. The treatment
9 provider shall have in place a mechanism for receiving and
10 responding to such complaints, and shall inform the patient
11 and the patient's family or legal guardian of this mechanism
12 and how to use it. The provider shall analyze any complaint
13 received and, when indicated, take appropriate corrective
14 action. Every patient and his or her family member or legal
15 guardian who makes a complaint shall receive a timely response
16 from the provider that substantively addresses the complaint.
17 The provider shall inform the patient and the patient's family
18 or legal guardian about other sources of assistance if the
19 provider has not resolved the complaint to the satisfaction of
20 the patient or the patient's family or legal guardian.

21 (y) A patient may refuse to perform labor at a program
22 unless such labor is a part of the patient's individual
23 treatment plan as documented in the patient's clinical record.

24 (z) A person who is in need of services may apply for
25 voluntary admission in the manner and with the rights provided
26 for under regulations promulgated by the Department. If a

1 person is refused admission, then staff, subject to rules
2 promulgated by the Department, shall refer the person to
3 another facility or to other appropriate services.

4 (aa) No patient shall be denied services based solely on
5 HIV status. Further, records and information governed by the
6 AIDS Confidentiality Act and the AIDS Confidentiality and
7 Testing Code (77 Ill. Adm. Code 697) shall be maintained in
8 accordance therewith.

9 (bb) Records of the identity, diagnosis, prognosis or
10 treatment of any patient maintained in connection with the
11 performance of any service or activity relating to substance
12 use disorder education, early intervention, intervention,
13 training, or treatment that is regulated, authorized, or
14 directly or indirectly assisted by any Department or agency of
15 this State or under any provision of this Act shall be
16 confidential and may be disclosed only in accordance with the
17 provisions of federal law and regulations concerning the
18 confidentiality of substance use disorder patient records as
19 contained in 42 U.S.C. Sections 290dd-2 and 42 CFR Part 2, or
20 any successor federal statute or regulation.

21 (1) The following are exempt from the confidentiality
22 protections set forth in 42 CFR Section 2.12(c):

23 (A) Veteran's Administration records.

24 (B) Information obtained by the Armed Forces.

25 (C) Information given to qualified service
26 organizations.

1 (D) Communications within a program or between a
2 program and an entity having direct administrative
3 control over that program.

4 (E) Information given to law enforcement personnel
5 investigating a patient's commission of a crime on the
6 program premises or against program personnel.

7 (F) Reports under State law of incidents of
8 suspected child abuse and neglect; however,
9 confidentiality restrictions continue to apply to the
10 records and any follow-up information for disclosure
11 and use in civil or criminal proceedings arising from
12 the report of suspected abuse or neglect.

13 (2) If the information is not exempt, a disclosure can
14 be made only under the following circumstances:

15 (A) With patient consent as set forth in 42 CFR
16 Sections 2.1(b)(1) and 2.31, and as consistent with
17 pertinent State law.

18 (B) For medical emergencies as set forth in 42 CFR
19 Sections 2.1(b)(2) and 2.51.

20 (C) For research activities as set forth in 42 CFR
21 Sections 2.1(b)(2) and 2.52.

22 (D) For audit evaluation activities as set forth
23 in 42 CFR Section 2.53.

24 (E) With a court order as set forth in 42 CFR
25 Sections 2.61 through 2.67.

26 (F) In response to a request made under the

1 Domestic Violence Fatality Review Act but only to the
2 extent not otherwise subject to 42 CFR Part 2.

3 (3) The restrictions on disclosure and use of patient
4 information apply whether the holder of the information
5 already has it, has other means of obtaining it, is a law
6 enforcement or other official, has obtained a subpoena, or
7 asserts any other justification for a disclosure or use
8 that is not permitted by 42 CFR Part 2. Any court orders
9 authorizing disclosure of patient records under this Act
10 must comply with the procedures and criteria set forth in
11 42 CFR Sections 2.64 and 2.65. Except as authorized by a
12 court order granted under this Section, no record referred
13 to in this Section may be used to initiate or substantiate
14 any charges against a patient or to conduct any
15 investigation of a patient.

16 (4) The prohibitions of this subsection shall apply to
17 records concerning any person who has been a patient,
18 regardless of whether or when the person ceases to be a
19 patient.

20 (5) Any person who discloses the content of any record
21 referred to in this Section except as authorized shall,
22 upon conviction, be guilty of a Class A misdemeanor.

23 (6) The Department shall prescribe regulations to
24 carry out the purposes of this subsection. These
25 regulations may contain such definitions, and may provide
26 for such safeguards and procedures, including procedures

1 and criteria for the issuance and scope of court orders,
2 as in the judgment of the Department are necessary or
3 proper to effectuate the purposes of this Section, to
4 prevent circumvention or evasion thereof, or to facilitate
5 compliance therewith.

6 (cc) Each patient shall be given a written explanation of
7 all the rights enumerated in this Section and a copy, signed by
8 the patient, shall be kept in every patient record. If a
9 patient is unable to read such written explanation, it shall
10 be read to the patient in a language that the patient
11 understands. A copy of all the rights enumerated in this
12 Section shall be posted in a conspicuous place within the
13 program where it may readily be seen and read by program
14 patients and visitors.

15 (dd) The program shall ensure that its staff is familiar
16 with and observes the rights and responsibilities enumerated
17 in this Section.

18 (ee) Licensed organizations shall comply with the right of
19 any adolescent to consent to treatment without approval of the
20 parent or legal guardian in accordance with the Consent by
21 Minors to Health Care Services Act.

22 (ff) At the point of admission for services, licensed
23 organizations must obtain written informed consent, as defined
24 in Section 1-10 and in administrative rule, from each client,
25 patient, or legal guardian.

26 (Source: P.A. 102-813, eff. 5-13-22.)

1 Section 10. The Mental Health and Developmental
2 Disabilities Confidentiality Act is amended by changing
3 Section 7 as follows:

4 (740 ILCS 110/7) (from Ch. 91 1/2, par. 807)

5 Sec. 7. Review of therapist or agency; use of recipient's
6 record.

7 (a) When a therapist or agency which provides services is
8 being reviewed for purposes of licensure, statistical
9 compilation, research, evaluation, or other similar purpose, a
10 recipient's record may be used by the person conducting the
11 review to the extent that this is necessary to accomplish the
12 purpose of the review, provided that personally identifiable
13 data is removed from the record before use. Personally
14 identifiable data may be disclosed only in accordance with
15 Section 5 of this Act. Licensure and the like may not be
16 withheld or withdrawn for failure to disclose personally
17 identifiable data if consent is not obtained.

18 (b) When an agency which provides services is being
19 reviewed for purposes of funding, accreditation, reimbursement
20 or audit by a State or federal agency or accrediting body, a
21 recipient's record may be used by the person conducting the
22 review and personally identifiable information may be
23 disclosed without consent, provided that the personally
24 identifiable information is necessary to accomplish the

1 purpose of the review.

2 For the purpose of this subsection, an inspection
3 investigation or site visit by the United States Department of
4 Justice regarding compliance with a pending consent decree is
5 considered an audit by a federal agency.

6 (c) An independent team of experts under Brian's Law shall
7 be entitled to inspect and copy the records of any recipient
8 whose death is being examined by such a team pursuant to the
9 mortality review process authorized by Brian's Law.
10 Information disclosed under this subsection may not be
11 redisclosed without the written consent of one of the persons
12 identified in Section 4 of this Act.

13 (d) Staff and any designee of the Illinois Criminal
14 Justice Information Authority, members of the Ad Hoc Statewide
15 Domestic Violence Fatality Review Committee of the Illinois
16 Criminal Justice Information Authority Board, and the regional
17 domestic violence fatality review teams are entitled to
18 receive, inspect, copy, and share the records covered by this
19 Act of any recipient subject to a domestic violence fatality
20 review, including, but not limited to, a recipient who
21 experienced or caused a near-fatality or fatality related to
22 domestic violence, for the purposes of domestic violence
23 fatality review and in accordance with the responsibilities
24 required and authorized by the Domestic Violence Fatality
25 Review Act. Information disclosed under this Section is
26 subject to the confidentiality requirements of the Domestic

1 Violence Fatality Review Act.

2 (Source: P.A. 98-378, eff. 8-16-13.)

3 Section 99. Effective date. This Act takes effect upon
4 becoming law.