



Rep. Maurice A. West, II

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10400HB3286ham002

LRB104 11199 JRC 34490 a

1 AMENDMENT TO HOUSE BILL 3286

2 AMENDMENT NO. _____. Amend House Bill 3286 by replacing
3 everything after the enacting clause with the following:

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.

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

6 (d) Every patient shall have impartial access to services
7 without regard to race, religion, sex, ethnicity, age, sexual
8 orientation, gender identity, marital status, or other
9 disability.

10 (e) Patients shall be permitted the free exercise of
11 religion.

12 (f) Every patient's personal dignity shall be recognized
13 in the provision of services, and a patient's personal privacy
14 shall be assured and protected within the constraints of his
15 or her individual treatment.

16 (g) Treatment services shall be provided in the least
17 restrictive environment possible.

18 (h) Each patient receiving treatment services shall be
19 provided an individual treatment plan, which shall be
20 periodically reviewed and updated as mandated by
21 administrative rule.

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

26 (j) A person shall not be denied treatment solely because

1 he or she has withdrawn from treatment against medical advice
2 on a prior occasion or had prior treatment episodes.

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

6 (l) A patient in residential treatment shall be allowed to
7 conduct private telephone conversations with family and
8 friends unless clinically contraindicated.

9 (m) A patient in residential treatment shall be permitted
10 to send and receive mail without hindrance, unless clinically
11 contraindicated.

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

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

21 (p) Unless otherwise prohibited by State or federal law,
22 every patient shall be permitted to obtain from his or her own
23 physician, the treatment provider, or the treatment provider's
24 consulting physician complete and current information
25 concerning the nature of care, procedures, and treatment that
26 he or she will receive.

1 (q) A patient shall be permitted to refuse to participate
2 in any experimental research or medical procedure without
3 compromising his or her access to other, non-experimental
4 services. Before a patient is placed in an experimental
5 research or medical procedure, the provider must first obtain
6 his or her informed written consent or otherwise comply with
7 the federal requirements regarding the protection of human
8 subjects contained in 45 CFR Part 46.

9 (r) All medical treatment and procedures shall be
10 administered as ordered by a physician and in accordance with
11 all Department rules.

12 (s) Every patient in treatment shall be permitted to
13 refuse medical treatment and to know the consequences of such
14 action. Such refusal by a patient shall free the treatment
15 licensee from the obligation to provide the treatment.

16 (t) Unless otherwise prohibited by State or federal law,
17 every patient, patient's guardian, or parent, if the patient
18 is a minor, shall be permitted to inspect and copy all clinical
19 and other records kept by the intervention or treatment
20 licensee or by his or her physician concerning his or her care
21 and maintenance. The licensee or physician may charge a
22 reasonable fee for the duplication of a record.

23 (u) No owner, licensee, administrator, employee, or agent
24 of a licensed intervention or treatment program shall abuse or
25 neglect a patient. It is the duty of any individual who becomes
26 aware of such abuse or neglect to report it to the Department

1 immediately.

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

6 (w) All patients admitted to community-based treatment
7 facilities shall be considered voluntary treatment patients
8 and such patients shall not be contained within a locked
9 setting.

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

1 the patient or the patient's family or legal guardian.

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

5 (z) A person who is in need of services may apply for
6 voluntary admission in the manner and with the rights provided
7 for under regulations promulgated by the Department. If a
8 person is refused admission, then staff, subject to rules
9 promulgated by the Department, shall refer the person to
10 another facility or to other appropriate services.

11 (aa) No patient shall be denied services based solely on
12 HIV status. Further, records and information governed by the
13 AIDS Confidentiality Act and the AIDS Confidentiality and
14 Testing Code (77 Ill. Adm. Code 697) shall be maintained in
15 accordance therewith.

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

1 any successor federal statute or regulation.

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

4 (A) Veteran's Administration records.

5 (B) Information obtained by the Armed Forces.

6 (C) Information given to qualified service
7 organizations.

8 (D) Communications within a program or between a
9 program and an entity having direct administrative
10 control over that program.

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

14 (F) Reports under State law of incidents of
15 suspected child abuse and neglect; however,
16 confidentiality restrictions continue to apply to the
17 records and any follow-up information for disclosure
18 and use in civil or criminal proceedings arising from
19 the report of suspected abuse or neglect.

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

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

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

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

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

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

7 (F) In response to a request made under the
8 Domestic Violence Fatality Review Act but only to the
9 extent not otherwise subject to 42 CFR Part 2.

10 (3) The restrictions on disclosure and use of patient
11 information apply whether the holder of the information
12 already has it, has other means of obtaining it, is a law
13 enforcement or other official, has obtained a subpoena, or
14 asserts any other justification for a disclosure or use
15 that is not permitted by 42 CFR Part 2. Any court orders
16 authorizing disclosure of patient records under this Act
17 must comply with the procedures and criteria set forth in
18 42 CFR Sections 2.64 and 2.65. Except as authorized by a
19 court order granted under this Section, no record referred
20 to in this Section may be used to initiate or substantiate
21 any charges against a patient or to conduct any
22 investigation of a patient.

23 (4) The prohibitions of this subsection shall apply to
24 records concerning any person who has been a patient,
25 regardless of whether or when the person ceases to be a
26 patient.

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

4 (6) The Department shall prescribe regulations to
5 carry out the purposes of this subsection. These
6 regulations may contain such definitions, and may provide
7 for such safeguards and procedures, including procedures
8 and criteria for the issuance and scope of court orders,
9 as in the judgment of the Department are necessary or
10 proper to effectuate the purposes of this Section, to
11 prevent circumvention or evasion thereof, or to facilitate
12 compliance therewith.

13 (cc) Each patient shall be given a written explanation of
14 all the rights enumerated in this Section and a copy, signed by
15 the patient, shall be kept in every patient record. If a
16 patient is unable to read such written explanation, it shall
17 be read to the patient in a language that the patient
18 understands. A copy of all the rights enumerated in this
19 Section shall be posted in a conspicuous place within the
20 program where it may readily be seen and read by program
21 patients and visitors.

22 (dd) The program shall ensure that its staff is familiar
23 with and observes the rights and responsibilities enumerated
24 in this Section.

25 (ee) Licensed organizations shall comply with the right of
26 any adolescent to consent to treatment without approval of the

1 parent or legal guardian in accordance with the Consent by
2 Minors to Health Care Services Act.

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

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

8 Section 10. The Mental Health and Developmental
9 Disabilities Confidentiality Act is amended by changing
10 Section 7 as follows:

11 (740 ILCS 110/7) (from Ch. 91 1/2, par. 807)

12 Sec. 7. Review of therapist or agency; use of recipient's
13 record.

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

1 (b) When an agency which provides services is being
2 reviewed for purposes of funding, accreditation, reimbursement
3 or audit by a State or federal agency or accrediting body, a
4 recipient's record may be used by the person conducting the
5 review and personally identifiable information may be
6 disclosed without consent, provided that the personally
7 identifiable information is necessary to accomplish the
8 purpose of the review.

9 For the purpose of this subsection, an inspection
10 investigation or site visit by the United States Department of
11 Justice regarding compliance with a pending consent decree is
12 considered an audit by a federal agency.

13 (c) An independent team of experts under Brian's Law shall
14 be entitled to inspect and copy the records of any recipient
15 whose death is being examined by such a team pursuant to the
16 mortality review process authorized by Brian's Law.
17 Information disclosed under this subsection may not be
18 redisclosed without the written consent of one of the persons
19 identified in Section 4 of this Act.

20 (d) Staff and any designee of the Illinois Criminal
21 Justice Information Authority, members of the Ad Hoc Statewide
22 Domestic Violence Fatality Review Committee of the Illinois
23 Criminal Justice Information Authority Board, and the regional
24 domestic violence fatality review teams are entitled to
25 receive, inspect, copy, and share the records covered by this
26 Act of any recipient subject to a domestic violence fatality

1 review, including, but not limited to, a recipient who
2 experienced or caused a near-fatality or fatality related to
3 domestic violence, for the purposes of domestic violence
4 fatality review and in accordance with the responsibilities
5 required and authorized by the Domestic Violence Fatality
6 Review Act. Information disclosed under this Section is
7 subject to the confidentiality requirements of the Domestic
8 Violence Fatality Review Act.

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

10 Section 99. Effective date. This Act takes effect upon
11 becoming law."