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## A BILL FOR AN ACT

RELATING TO MENTAL HEALTH.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Section 334-5, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "**§334-5 Confidentiality of records.** All certificates,  
4 applications, records, and reports made for the purposes of this  
5 chapter and directly or indirectly identifying a person subject  
6 hereto shall be kept confidential and shall not be disclosed by  
7 any person except so far as:

8           (1) [~~as the~~] The person identified, or the person's legal  
9 guardian, consents[ ~~or~~];

10          (2) [~~as disclosure~~] Disclosure may be deemed necessary by  
11 the director of health or by the administrator of a  
12 private psychiatric or special treatment facility to  
13 carry out this chapter[ ~~or~~];

14          (3) [~~as a~~] A court may direct upon its determination that  
15 disclosure is necessary for the conduct of proceedings  
16 before it and that failure to make the disclosure  
17 would be contrary to the public interest[ ~~or~~];



- 1           (4) ~~[as disclosure]~~ Disclosure may be deemed necessary  
2           under the federal Protection and Advocacy for Mentally  
3           Ill Individuals Act of 1986, Public Law 99-319, to  
4           protect and advocate the rights of persons with mental  
5           illness who reside in facilities providing treatment  
6           or care~~[, or as disclosure]~~;
- 7           (5) Disclosure of the person's record of diagnosis and  
8           prescribed medications is made by the person's most  
9           recent health care provider to a subsequent health  
10          care provider for the purpose of continued care or  
11          treatment; or
- 12          (6) Disclosure is made to the person's health care insurer  
13          to obtain reimbursement for services rendered to the  
14          person~~[, except for records subject to Title 42 Code~~  
15          ~~of Federal Regulations Part 2, confidentiality of~~  
16          ~~alcohol and drug abuse patient records]~~; provided that  
17          disclosure shall be made only if the provider informs  
18          the person that a reimbursement claim will be made to  
19          the person's insurer, the person is afforded an  
20          opportunity to pay the reimbursement directly, and the  
21          person does not pay.



1 Nothing in this section shall preclude the application of more  
2 restrictive rules of confidentiality set forth for records  
3 covered by Title 42, Part 2, Code of Federal Regulations,  
4 relating to the confidentiality of alcohol and drug abuse  
5 patient records. For the purposes of this section, "facilities"  
6 shall include~~[7]~~ but not be limited to~~[7]~~ hospitals, nursing  
7 homes, community facilities for mentally ill individuals,  
8 boarding homes, and care homes.

9       Nothing in this section shall preclude disclosure, upon  
10 proper inquiry, of any information relating to a particular  
11 patient and not clearly adverse to the interests of the patient,  
12 to the patient, the patient's family, legal guardian, or  
13 relatives, nor, except as provided above, affect the application  
14 of any other rule or statute of confidentiality. The use of the  
15 information disclosed shall be limited to the purpose for which  
16 the information was furnished."

17       SECTION 2. Statutory material to be repealed is bracketed  
18 and stricken. New statutory material is underscored.

19       SECTION 3. This Act shall take effect on January 1, 2112.



**Report Title:**

Mental Health Records; Confidentiality; Exceptions

**Description:**

Provides an exception to the confidentiality of mental health records and allows disclosure of diagnosis and prescription information if it is made by the person's most recent healthcare provider to a subsequent health care provider for the purpose of continued care or treatment. (SB1802 HD1)

