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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1784 Session of  
2023

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INTRODUCED BY DALEY, SHUSTERMAN, MADDEN, VENKAT, BURGOS,  
HOHENSTEIN, HOWARD, PROBST, GUENST, SANCHEZ, BOYD, KINSEY,  
SCHLOSSBERG, BOROWSKI, KINKEAD AND OTTEN, OCTOBER 24, 2023

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REFERRED TO COMMITTEE ON JUDICIARY, OCTOBER 24, 2023

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AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the  
2 Pennsylvania Consolidated Statutes, in rules of evidence,  
3 providing for protection of reproductive health services  
4 records.

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

7 Section 1. Title 42 of the Pennsylvania Consolidated  
8 Statutes is amended by adding a section to read:

9 § 6152.2. Protection of reproductive health services records.

10 (a) Disclosures.--Notwithstanding any other provision of  
11 this subchapter or any other law of this Commonwealth and except  
12 as provided under subsections (c) and (d), in a civil action or  
13 proceeding, including a preliminary hearing, or in an  
14 investigation or a proceeding by a district attorney or an  
15 agency, a covered entity shall not disclose any of the following  
16 unless a patient or the patient's guardian or other authorized  
17 legal representative explicitly consents in writing to the  
18 disclosure:

1       (1) A communication made to the covered entity from the  
2 patient or the patient's guardian or other authorized legal  
3 representative relating to reproductive health care services  
4 that are permitted under the laws of this Commonwealth.

5       (2) Information obtained by personal examination of the  
6 patient relating to reproductive health care services that  
7 are permitted under the laws of this Commonwealth.

8       (b) Duties of covered entities.--A covered entity shall  
9 inform a patient or the patient's guardian or other authorized  
10 legal representative of the patient's right to withhold written  
11 consent to a disclosure specified under subsection (a).

12       (c) Exceptions.--The written consent of a patient or  
13 patient's guardian or other authorized legal representative  
14 shall not be required for a disclosure under subsection (a) if  
15 any of the following apply:

16       (1) The disclosure is authorized by the rules of court  
17 under section 1722 (relating to adoption of administrative  
18 and procedural rules).

19       (2) The disclosure is made by a covered entity to the  
20 covered entity's attorney or professional liability insurer  
21 or the insurer's agent for use in the defense of a claim made  
22 against the covered entity or when there is a reasonable  
23 belief that a claim will be made against the covered entity  
24 in a civil action or proceeding.

25       (3) The disclosure is made to the Department of State in  
26 connection with an investigation of a complaint if the  
27 disclosure is related to the complaint.

28       (4) The disclosure is made because child abuse, abuse of  
29 a senior citizen or abuse of an individual with physical or  
30 intellectual disabilities is known or is suspected in good

1 faith.

2 (d) Construction.--

3 (1) Nothing in this section shall be construed to impede  
4 the lawful sharing of medical records as permitted by Federal  
5 or State law or the rules of court under section 1722, except  
6 in the case of a subpoena commanding the production, copying  
7 or inspection of medical records relating to reproductive  
8 health care services.

9 (2) Nothing in this section shall be construed to  
10 supplant existing State law or regulations governing the  
11 disclosure requirements for confidential communications,  
12 records or information regarding any of the following:

13 (i) The provisions of section 5929 (relating to  
14 physicians not to disclose information).

15 (ii) The provisions of section 5944 (relating to  
16 confidential communications to psychiatrists or licensed  
17 psychologists), 5945 (relating to confidential  
18 communications to school personnel) or 5945.1 (relating  
19 to confidential communications with sexual assault  
20 counselors).

21 (iii) An individual subject to the act of July 9,  
22 1987 (P.L.220, No.39), known as the Social Workers,  
23 Marriage and Family Therapists and Professional  
24 Counselors Act.

25 (iv) An individual and a domestic violence  
26 counselor/advocate as defined in 23 Pa.C.S. § 6102  
27 (relating to definitions).

28 (v) A physician licensed to practice medicine under  
29 the act of December 20, 1985 (P.L.457, No.112), known as  
30 the Medical Practice Act of 1985, a physician licensed to

1 practice osteopathic medicine under the act of October 5,  
2 1978 (P.L.1109, No.261), known as the Osteopathic Medical  
3 Practice Act, or any other licensed health care  
4 practitioner or health care provider in a civil action or  
5 proceeding, including a preliminary hearing, or in an  
6 investigation or a proceeding by a district attorney or  
7 an agency.

8 (vi) The provisions of section 111 of the act of  
9 July 9, 1976 (P.L.817, No.143), known as the Mental  
10 Health Procedures Act, or section 8 of the act of April  
11 14, 1972 (P.L.221, No.63), known as the Pennsylvania Drug  
12 and Alcohol Abuse Control Act.

13 (e) Definitions.--As used in this section, the following  
14 words and phrases shall have the meanings given to them in this  
15 subsection:

16 "Agency." As defined in section 102 of the act of February  
17 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

18 "Covered entity." As defined in 45 CFR 160.103 (relating to  
19 definitions).

20 "Reproductive health care services." Medical, surgical,  
21 counseling or referral services relating to the human  
22 reproductive system, including services relating to pregnancy,  
23 contraception or the termination of pregnancy.

24 Section 2. This act shall take effect in 60 days.