

SECOND REGULAR SESSION

HOUSE BILL NO. 1770

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE TOWNLEY.

Read 1st time January 31, 2002, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

4393L.01I

AN ACT

To repeal section 630.140, RSMo, and to enact in lieu thereof one new section relating to confidentiality of mental health records.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 630.140, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 630.140, to read as follows:

630.140. 1. Information and records compiled, obtained, prepared or maintained by the residential facility, day program operated, funded or licensed by the department or otherwise, specialized service, or by any mental health facility or mental health program in which people may be civilly detained pursuant to chapter 632, RSMo, in the course of providing services to either voluntary or involuntary patients, residents or clients shall be confidential **until fifty years after the death of such patients, residents, or clients.**

2. The facilities or programs shall disclose **confidential** information and records including medication given, dosage levels, and individual ordering such medication to the following upon their request:

- (1) The parent of a minor patient, resident or client;
- (2) The guardian or other person having legal custody of the patient, resident or client;
- (3) The attorney of a patient, resident or client who is a ward of the juvenile court, an alleged incompetent, an incompetent ward or a person detained under chapter 632, RSMo, as evidenced by court orders of the attorney's appointment;
- (4) An attorney or personal physician as authorized by the patient, resident or client;
- (5) Law enforcement officers and agencies, information about patients, residents or

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

17 clients committed pursuant to chapter 552, RSMo, but only to the extent necessary to carry out
18 the responsibilities of their office, and all such law enforcement officers shall be obligated to
19 keep such information confidential;

20 (6) The entity or agency authorized to implement a system to protect and advocate the
21 rights of persons with developmental disabilities under the provisions of 42 U.S.C. 6042. The
22 entity or agency shall be able to obtain access to the records of a person with developmental
23 disabilities who is a client of the entity or agency if such person has authorized the entity or
24 agency to have such access; and the records of any person with developmental disabilities who,
25 by reason of mental or physical condition is unable to authorize the entity or agency to have such
26 access, if such person does not have a legal guardian, conservator or other legal representative,
27 and a complaint has been received by the entity or agency with respect to such person or there
28 is probable cause to believe that such person has been subject to abuse or neglect. The entity or
29 agency obtaining access to a person's records shall meet all requirements for confidentiality as
30 set out in this section;

31 (7) The entity or agency authorized to implement a system to protect and advocate the
32 rights of persons with mental illness under the provisions of 42 U.S.C 10801 shall be able to
33 obtain access to the records of a patient, resident or client who by reason of mental or physical
34 condition is unable to authorize the system to have such access, who does not have a legal
35 guardian, conservator or other legal representative and with respect to whom a complaint has
36 been received by the system or there is probable cause to believe that such individual has been
37 subject to abuse or neglect. The entity or agency obtaining access to a person's records shall
38 meet all requirements for confidentiality as set out in this section. The provisions of this
39 subdivision shall apply to a person who has a significant mental illness or impairment as
40 determined by a mental health professional qualified under the laws and regulations of the state;

41 (8) To mental health coordinators, but only to the extent necessary to carry out their
42 duties under chapter 632, RSMo.

43 3. The facilities or services may disclose **confidential** information and records under any
44 of the following:

45 (1) As authorized by the patient, resident or client;

46 (2) To persons or agencies responsible for providing health care services to such patients,
47 residents or clients;

48 (3) To the extent necessary for a recipient to make a claim or for a claim to be made on
49 behalf of a recipient for aid or insurance;

50 (4) To qualified personnel for the purpose of conducting scientific research, management
51 audits, financial audits, program evaluations or similar studies; provided, that such personnel
52 shall not identify, directly or indirectly, any individual patient, resident or client in any report of

53 such research, audit or evaluation, or otherwise disclose patient, resident or client identities in
54 any manner;

55 (5) To the courts as necessary for the administration of chapter 211, RSMo, 475, RSMo,
56 552, RSMo, or 632, RSMo;

57 (6) To law enforcement officers or public health officers, but only to the extent necessary
58 to carry out the responsibilities of their office, and all such law enforcement and public health
59 officers shall be obligated to keep such information confidential;

60 (7) Pursuant to an order of a court or administrative agency of competent jurisdiction;

61 (8) To the attorney representing petitioners, but only to the extent necessary to carry out
62 their duties under chapter 632, RSMo;

63 (9) To the department of social services as necessary to report or have investigated
64 abuse, neglect, or rights violations of patients, residents, or clients;

65 (10) To a county board established pursuant to sections 205.968 to 205.972, RSMo 1986,
66 but only to the extent necessary to carry out their statutory responsibilities. The county board
67 shall not identify, directly or indirectly, any individual patient, resident or client.

68 4. The facility or program shall document the dates, nature, purposes and recipients of
69 any **confidential** records disclosed under this section and sections 630.145 and 630.150.

70 5. **Until fifty years after the death of the patient**, the records and files maintained in
71 any court proceeding under chapter 632, RSMo, shall be confidential and available only to the
72 patient, [his] **the patient's** attorney, guardian, or, in the case of a minor, to a parent or other
73 person having legal custody of the patient, and to the petitioner and [his] **the petitioner's**
74 attorney. In addition, the court may order the release or use of such **confidential** records or files
75 only upon good cause shown, and the court may impose such restrictions as the court deems
76 appropriate.

77 6. Nothing contained in this chapter shall limit the rights of discovery in judicial or
78 administrative procedures as otherwise provided for by statute or rule.

79 7. The fact of admission of a voluntary or involuntary patient to a mental health facility
80 under chapter 632, RSMo, may only be disclosed as specified in subsections 2 and 3 of this
81 section.