

House Bill 705

By: Representatives Dempsey of the 13th, Jasperse of the 11th, Gardner of the 57th, Oliver of the 82nd, Hatchett of the 150th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 1 of Title 37 of the Official Code of Georgia Annotated,
2 relating to general provisions relating to the governing and regulation of mental health, so
3 as to require a mental health care provider to provide periodic opportunities for a patient to
4 designate a family member or other individual he or she chooses as a person with whom the
5 provider may discuss the patient's medical condition and treatment plan; to provide
6 requirements for the authorization form; to provide for immunity; to provide for statutory
7 construction; to require continuing education; to provide for related matters; to repeal
8 conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 style="text-align:center">**SECTION 1.**

11 Article 1 of Chapter 1 of Title 37 of the Official Code of Georgia Annotated, relating to
12 general provisions relating to the governing and regulation of mental health, is amended by
13 adding a new Code section to read as follows:

14 "37-1-7.

15 (a) As used in this Code section, the term 'mental health care provider' means any
16 physician or psychologist who provides mental health treatment to a patient.

17 (b) A mental health care provider or the provider's agent shall provide, on the patient
18 information form or by electronic records, the opportunity for the patient to complete an
19 authorization form to designate a family member or other individual he or she chooses as
20 a person with whom the provider may discuss the patient's medical condition and treatment
21 plan. Such opportunity shall be provided as follows:

22 (1) For inpatient, emergency room, or residential care, such opportunity shall be
23 provided upon admission or transfer to the facility and upon discharge. So long as the
24 patient remains in the facility, the opportunity shall be repeated within 72 hours of
25 admission and seven days after admission; and

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26 (2) A patient in ambulatory or outpatient care shall be offered such opportunity upon
27 admission or transfer to the practitioner or entity that provides mental health treatment
28 and upon discharge or transfer from such practitioner or entity. So long as the patient
29 remains in the practitioner's or entity's care, such opportunity shall be repeated seven days
30 after admission, 30 days after admission, and quarterly thereafter.

31 (c) The authorization form provided for in subsection (b) of this Code section shall:

32 (1) Satisfy the requirements of Title 42 of the Code of Federal Regulations, relating to
33 public health, and the privacy rules of the federal Health Insurance Portability and
34 Accountability Act of 1996 (HIPAA);

35 (2) Include the following question in bold print and capitalized, whether provided on
36 paper or by electronic means: 'DO YOU WANT TO DESIGNATE A FAMILY
37 MEMBER OR OTHER INDIVIDUAL WITH WHOM THE PROVIDER MAY
38 DISCUSS YOUR MEDICAL CONDITION? IF YES, WHOM?';

39 (3) Include the expiration date of the authorization;

40 (4) Include the type of health information to be released, such as admission or discharge
41 only, medications, group or individual psychotherapy progress, housing arrangements,
42 or psychosocial rehabilitation progress notes; and

43 (5) Specify that the patient may revoke or modify an authorization with regard to any
44 family member or other individual designated by the patient in the authorization and that
45 such revocation or modification shall be in writing.

46 (d) A mental health care provider may disclose information pursuant to an authorization
47 unless the provider has actual knowledge that the authorization has been revoked or
48 modified.

49 (e) A mental health care provider who in good faith discloses information in accordance
50 with an authorization signed by a patient pursuant to this Code section shall not be subject
51 to civil liability, criminal liability, or disciplinary sanctions because of such disclosure.

52 (f) Nothing in this Code section shall be construed to:

53 (1) Require a mental health care provider to disclose information that he or she otherwise
54 may withhold or limit;

55 (2) Limit or prevent a mental health care provider from disclosing information without
56 written authorization from the patient if such disclosure is otherwise lawful or
57 permissible;

58 (3) Prohibit a mental health care provider from receiving and using information relevant
59 to the safe and effective treatment of the patient from family members; or

60 (4) Conflict with an individual's advance directive for health care.

61 (g) This Code section shall apply to all health records, including, but not limited to,
62 psychiatric, psychological, and other mental health records.

63 (h) All mental health care providers subject to the federal Health Insurance Portability and
64 Accountability Act of 1996 (HIPAA) shall complete continuing education for licensure
65 renewal in accordance with such provider's licensing board about how such law applies to
66 the disclosure of mental health information to family, friends, and other representatives of
67 a patient. Such continuing education shall conform to guidance established by the United
68 States Department of Health and Human Services, Office for Civil Rights, entitled 'HIPAA
69 Privacy Rule and Sharing Information Related to Mental Health,' dated February 20, 2014.'

70 **SECTION 2.**

71 All laws and parts of laws in conflict with this Act are repealed.