

STATE OF NEW YORK

8093

IN SENATE

January 5, 2024

Introduced by Sen. MAYER -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the executive law and the civil practice law and rules, in relation to sharing of certain information

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivision 2 of section 837-x of the executive law, as
2 amended and such section as renumbered by a chapter of the laws of 2023
3 amending the criminal procedure law, the executive law, the civil prac-
4 tice law and rules, the insurance law and the education law relating to
5 legally protected health activity providers, as proposed in legislative
6 bills numbers S.1066-B and A.1709-B, is amended to read as follows:

7 2. (a) No state or local government employee or entity or other person
8 acting on behalf of state or local government shall cooperate with or
9 provide information to any out-of-state individual or out-of-state agen-
10 cy or department regarding any legally protected health activity in this
11 state, or otherwise expend or use time, moneys, facilities, property,
12 equipment, personnel or other resources in furtherance of any investi-
13 gation or proceeding that seeks to impose civil or criminal liability or
14 professional sanctions upon a person or entity for any legally protected
15 health activity occurring in this state; except that the commissioner of
16 health may share deidentified information as strictly necessary to
17 respond to a public health emergency or an imminent threat to public
18 health, or to consult and cooperate with the appropriate agencies of the
19 federal government or of other states in accordance with the functions,
20 powers, and duties of the department as outlined under section two
21 hundred one of the public health law, and may share identified informa-
22 tion in such circumstances only when strictly necessary and with the
23 consent of the patient. For purposes of this section, "deidentified"
24 means that the information cannot identify or be made to identify or be
25 associated with a particular individual, directly or indirectly, and is
26 subject to technical safeguards and policies and procedures that prevent
27 reidentification, whether intentionally or unintentionally, of any indi-
28 vidual.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 **(b)** Nothing in this section shall prohibit the investigation of any
2 reproductive health services rendered in violation of the laws of this
3 state, provided that no information relating to any medical procedure
4 performed on a specific individual may be shared with an out-of-state
5 agency or any other individual. Nothing in this section shall prohibit
6 compliance with a valid, court-issued subpoena or warrant which does not
7 relate to a law seeking to impose civil or criminal liability or profes-
8 sional sanctions for a legally protected health activity, or in response
9 to the written request of a person who is the subject of such an inves-
10 tigation or proceeding, to the extent necessary, in each case, to
11 fulfill such request.

12 **(c) Nothing in this section shall prohibit disclosure of deidentified**
13 **information in compliance with federal grant reporting requirements or**
14 **other reporting requirements under federal law.**

15 **(d) This section shall not be construed to allow for the provision of**
16 **any information to any individual or out-of-state agency or department**
17 **which would not otherwise be available under state law.**

18 § 2. Paragraph 1 of subdivision (g) of section 3119 of the civil prac-
19 tice law and rules, as amended by a chapter of the laws of 2023 amending
20 the criminal procedure law, the executive law, the civil practice law
21 and rules, the insurance law and the education law relating to legally
22 protected health activity providers, as proposed in legislative bills
23 numbers S.1066-B and A.1709-B, is amended to read as follows:

24 (1) Out-of-state proceedings regarding legally protected health activ-
25 ities. Notwithstanding any other provisions of this section or any other
26 law, no court or county clerk shall issue a subpoena under this
27 section in connection with an out-of-state proceeding relating to any
28 legally protected health activity which occurred in this state, unless
29 such out-of-state proceeding (i) sounds in tort or contract, (ii) is
30 actionable, in an equivalent or similar manner, under the laws of this
31 state, and (iii) was brought by the patient who received reproductive
32 health services as defined in paragraph (a) of subdivision one of
33 section 570.17 of the criminal procedure law, or the patient's legal
34 representative, so long as the patient gives express consent **unless**
35 **express consent is not feasible due to patient injury or death.**

36 § 3. This act shall take effect on the same date and in the same
37 manner as a chapter of the laws of 2023 amending the criminal procedure
38 law, the executive law, the civil practice law and rules, the insurance
39 law and the education law relating to legally protected health activity
40 providers, as proposed in legislative bills numbers S.1066-B and
41 A.1709-B, takes effect.