

§1730-B. Limited authority of certain health care facilities to consent for entry into nonpublic areas and to access records

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Health care facility" has the same meaning as in Title 5, section 19201, subsection 2-B. [PL 2025, c. 770, §3 (NEW).]

B. "Law enforcement officer" has the same meaning as defined in Title 16, section 638, subsection 2 and includes a "federal officer" as defined in Title 25, section 1502-A, subsection 1. [PL 2025, c. 770, §3 (NEW).]

C. "Nonpublic area" means an area of a building or facility that the public is not free to enter or access and includes a restricted access area within a building or facility that is otherwise predominately open to the public. "Nonpublic area" also includes all areas within a building or facility during any time that the building or facility is closed for operation. [PL 2025, c. 770, §3 (NEW).]

D. "Protected health care information" has the same meaning as "health care information" as defined in section 1711-C, subsection 1, paragraph E and includes individually identifiable health care information, the disclosure of which is restricted by the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 and its implementing regulations. [PL 2025, c. 770, §3 (NEW).]

E. "State institution" has the same meaning as in Title 34-B, section 1001, subsection 8. [PL 2025, c. 770, §3 (NEW).]

[PL 2025, c. 770, §3 (NEW).]

2. Voluntary consent for entry into nonpublic areas prohibited. A person acting on behalf of a state institution may not provide voluntary consent permitting a law enforcement officer to enter a nonpublic area of the state institution for immigration enforcement purposes.

[PL 2025, c. 770, §3 (NEW).]

3. Voluntary consent to access protected health care information prohibited. A person acting on behalf of a state institution may not provide voluntary consent permitting a law enforcement officer to access protected health care information for immigration enforcement purposes. This subsection may not be construed to prevent a person acting on behalf of a state institution from disclosing protected health care information in response to a request from a law enforcement officer to the extent that the disclosure is required by a court order or by state or federal law.

[PL 2025, c. 770, §3 (NEW).]

4. Mandatory compliance activities. Notwithstanding subsection 2, if a state institution is required by federal law to permit a law enforcement officer to inspect specific records that do not contain protected health care information or to conduct interviews regarding the eligibility of noncitizens to work in the United States:

A. The state institution shall designate a nonpublic area within the state institution where federal immigration officials may conduct these inspections and interviews; and [PL 2025, c. 770, §3 (NEW).]

B. The state institution may permit law enforcement officers to access a specific location to verify eligibility for employment, if federal law requires that law enforcement officers be provided access to that specific location within the state institution when conducting these inspections and interviews. [PL 2025, c. 770, §3 (NEW).]

[PL 2025, c. 770, §3 (NEW).]

5. Required policy and guidance; licensure. Each state institution shall adopt the model policies and guidance published by the Attorney General under Title 5, section 200-O or establish equivalent policies and guidance as required by Title 5, section 200-O, subsection 2. Beginning January 1, 2027, the department may verify compliance with this requirement as part of any applicable initial licensure or license renewal process under this Title.

[PL 2025, c. 770, §3 (NEW).]

6. Violation; exemptions. The following provisions govern violations of this section.

A. Violations of this section are not subject to section 47, subsections 3 and 4. [PL 2025, c. 770, §3 (NEW).]

B. Prior to the date that a state institution adopts, or is required to adopt, whichever is earlier, a policy and guidance pursuant to Title 5, section 200-O, subsection 2, a person acting on behalf of the state institution does not violate subsection 2 or subsection 3 if the person provides voluntary consent permitting a law enforcement officer to enter a nonpublic area of a state institution or to access protected health care information for immigration purposes and if the person is acting in good faith. [PL 2025, c. 770, §3 (NEW).]

[PL 2025, c. 770, §3 (NEW).]

7. Other facilities. A health care facility or a facility providing residential or community supports for adults or children or a facility or program that provides health care, assisted living services, behavioral health services, services to persons with intellectual disabilities, autism spectrum disorder or acquired brain injuries or similar services that is not subject to subsection 5 may, but is not required to, adopt the model policies and guidance or an amendment to the model policies and guidance published by the Attorney General pursuant to Title 5, section 200-O, subsection 1.

[PL 2025, c. 770, §3 (NEW).]

REVISOR'S NOTE: §1730-B. Health Information Technology Fund (As enacted by PL 2025, c. 732, §1 is REALLOCATED TO TITLE 22, §1730-C)

SECTION HISTORY

PL 2025, c. 770, §3 (NEW).

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