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FILED MAR 6 1986

SENATE FILE 2247
BY COMMITTEE ON HUMAN RESOURCES
(formerly SSB 2143)
approved (p. 588)

Passed Senate, Date 3-10-86 (p. 802) Passed House, Date _____
Vote: Ayes 45 Nays 1 Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the disclosure of mental health information
2 and providing an effective date.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
SENATE FILE 2247

S-5391

- 1 Amend Senate File 2247 as follows:
- 2 1. Page 1, by striking lines 16 through 23.
- 3 2. Page 2, by striking lines 11 through 17.
- 4 3. By striking page 2, line 35 through page 3,
- 5 line 16.
- 6 4. Page 4, lines 8 and 9, by striking the words
- 7 ", other than personal notes,".
- 8 5. Page 4, by striking lines 12 and 13 and
- 9 inserting the following: "mental health facility,".
- 10 6. Page 5, line 19, by striking the words "
- 11 other than personal notes,".
- 12 7. Page 6, by striking lines 1 and 2 and
- 13 inserting the following: "a mental health facility".
- 14 8. Page 6, by striking line 13 and inserting the
- 15 following:
- 16 "1. An individual or an individual's legal
- 17 representative shall be informed that mental health
- 18 information".
- 19 9. Page 6, line 14, by striking the word "an" and
- 20 inserting the following: "the".
- 21 10. Page 6, line 35, by striking the words "
- 22 other than personal notes,".
- 23 11. Page 7, line 12, by striking the words "
- 24 other than personal notes,".
- 25 12. Page 7, line 13, by inserting after the
- 26 figure "229.25," the following: "230.20,".
- 27 13. Page 7, line 18, by striking the words "
- 28 other than personal notes,".
- 29 14. Page 7, line 21, by striking the words "
- 30 other than personal notes,".
- 31 15. By renumbering as necessary.

S-5391 Filed March 19, 1986

BY GENTLEMAN
Adopted 3/19 (p. 802)

1 Section 1. NEW SECTION. 228.1 DEFINITIONS.

2 As used in this chapter:

3 1. "Administrative information" means an individual's
4 name, identifying number, age, sex, address, dates and
5 character of professional services provided to the individual,
6 and fees for the professional services.

7 2. "Data collector" means a person, other than a mental
8 health professional or an employee of or agent for a mental
9 health facility, who regularly assembles or evaluates mental
10 health information.

11 3. "Diagnostic information" means a therapeutic charac-
12 terization of the type found in the diagnostic and statistical
13 manual of mental disorders of the American psychiatric as-
14 sociation or in a comparable professionally recognized
15 diagnostic manual.

16 4. "Disclose" means to communicate information in any
17 form, including oral, written, and recorded forms of any type.

18 5. "Legal representative" means for an individual eighteen
19 years of age or older, a person authorized in writing by the
20 individual to represent the individual in matters relating to
21 mental health information, and for an individual who is less
22 than eighteen years of age or has been adjudicated as
23 incompetent, the individual's parent or legal guardian.

24 6. "Mental health facility" means a community mental
25 health center, hospital, clinic, office, health care facility,
26 infirmary, or similar place in which professional services are
27 provided.

28 7. "Mental health information" means oral, written, or
29 recorded information which indicates the identity of an in-
30 dividual receiving professional services and which relates to
31 the diagnosis, course, or treatment of the individual's mental
32 or emotional condition.

33 8. "Mental health professional" means an individual who
34 has all of the following qualifications:

35 a. The individual holds at least a master's degree in a

1 mental health field, including but not limited to, psychology,
2 counseling and guidance, nursing, and social work, or the
3 individual is a physician and surgeon or an osteopathic
4 physician and surgeon.

5 b. The individual holds a current Iowa license if prac-
6 ticing in a field covered by an Iowa licensure law.

7 c. The individual has at least two years of post-degree
8 clinical experience, supervised by another mental health
9 professional, in assessing mental health needs and problems
10 and in providing appropriate mental health services.

11 9. "Personal notes" means a mental health service
12 provider's hypothesis relating to the mental or emotional
13 condition of an individual receiving professional services or
14 mental health information disclosed by a third party on the
15 condition that the information not be disclosed to the
16 individual receiving professional services or any other
17 person.

18 10. "Professional services" means diagnostic or treatment
19 services for a mental or emotional condition provided by a
20 mental health professional.

21 11. "Third-party payor" means a person which provides
22 accident and health benefits or medical, surgical, or hospital
23 benefits, whether on an indemnity, reimbursement, service, or
24 prepaid basis, including but not limited to, insurers,
25 nonprofit health service corporations, health maintenance
26 organizations, governmental agencies, and employers.

27 Sec. 2. NEW SECTION. 228.2 MENTAL HEALTH INFORMATION
28 DISCLOSURE PROHIBITED -- EXCEPTIONS -- RECORD OF DISCLOSURE.

29 1. Except as specifically authorized in section 228.3,
30 228.5, or 228.6, a mental health professional, data collector,
31 or employee or agent of a mental health professional, of a
32 data collector, or of or for a mental health facility shall
33 not disclose or permit the disclosure of mental health
34 information.

35 2. Except as specifically authorized in section 228.3,

1 228.5, or 228.6, an individual receiving professional services
2 in a group setting in a mental health facility shall not
3 disclose mental health information relating to another
4 individual receiving professional services in the group
5 setting.

6 3. A mental health professional or employee of or agent
7 for a mental health facility shall not maintain personal notes
8 as part of the record of mental health information of an
9 individual receiving professional services and shall not
10 disclose or permit the disclosure of personal notes, except to
11 the degree that the personal notes or information in the
12 personal notes is needed in litigation brought by the in-
13 dividual receiving professional services against the mental
14 health professional or employee of or agent for a mental
15 health facility on the grounds of professional malpractice or
16 disclosure in violation of this section.

17 4. Upon disclosure of mental health information pursuant
18 to section 228.3, 228.5, or 228.6, the person disclosing the
19 mental health information shall enter a notation on and
20 maintain the notation with the individual's record of mental
21 health information. The notation shall include all of the
22 following:

- 23 a. The date of the disclosure.
- 24 b. The name of the recipient of the mental health in-
25 formation.
- 26 c. A description of the contents of the disclosure.

27 The person disclosing the mental health information shall
28 give the recipient of the information a statement which in-
29 forms the recipient that disclosures may only be made pursuant
30 to the written authorization of an individual or an
31 individual's legal representative, or as otherwise provided in
32 chapter 228, that the unauthorized disclosure of mental health
33 information is unlawful, and that civil damages and criminal
34 penalties may be applicable to the unauthorized disclosure of
35 mental health information.

1 5. A recipient of mental health information shall not
2 disclose the information received, except as specifically
3 authorized for initial disclosure in section 228.3, 228.5, or
4 228.6.

5 Sec. 3. NEW SECTION. 228.3 VOLUNTARY DISCLOSURES.

6 1. An individual eighteen years of age or older or an
7 individual's legal representative may consent to the dis-
8 closure of mental health information, other than personal
9 notes, relating to the individual by a mental health
10 professional, data collector, or employee or agent of a mental
11 health professional, of a data collector, or of or for a
12 mental health facility, or by another individual receiving
13 professional services in a group setting with the individual,
14 by signing a voluntary written authorization. The
15 authorization shall:

16 a. Specify the nature of the mental health information to
17 be disclosed, the persons or type of persons authorized to
18 disclose the information, and the purposes for which the in-
19 formation may be used both at the time of the disclosure and
20 in the future.

21 b. Advise the individual of the individual's right to
22 inspect the disclosed mental health information at any time.

23 c. State that the authorization is subject to revocation
24 and state the conditions of revocation.

25 d. Specify the length of time for which the authorization
26 is valid and whether the authorization is renewable.

27 e. Contain the date on which the authorization was signed.

28 2. A copy of the authorization shall:

29 a. Be provided to the individual and to the person au-
30 thORIZING the disclosure.

31 b. Accompany all disclosures.

32 c. Be included in the individual's record of mental health
33 information.

34 3. A third-party payor may only request an individual
35 eighteen years of age or older or the individual's legal

1 representative to consent to the disclosure of the following
2 mental health information by a mental health professional or
3 an employee of or agent for a mental health facility if
4 necessary to determine the individual's entitlement to, or the
5 amount of, benefits payable for professional services provided
6 to the individual:

7 a. Administrative information.

8 b. Diagnostic information.

9 c. The individual's voluntary or involuntary treatment
10 status.

11 d. The estimated time during which treatment might con-
12 tinue.

13 If a third-party payor questions an individual's entitle-
14 ment to, or the amount of benefits payable for professional
15 services provided to the individual following disclosure of
16 the information in paragraphs "a" through "d", the third-party
17 payor may request the individual or the individual's legal
18 representative to consent to the disclosure of mental health
19 information, other than personal notes, to a mental health
20 professional, who is not affiliated with either the service
21 provider or the third-party payor, for the purpose of
22 conducting an independent review of the individual's record of
23 mental health information and the individual's entitlement to,
24 or the amount of benefits payable for professional services
25 provided to the individual. Mental health information
26 disclosed to the nonaffiliated mental health professional for
27 the purpose of the review shall not be disclosed to the third-
28 party payor.

29 Sec. 4. NEW SECTION. 228.4 REVOCATION OF DISCLOSURE
30 AUTHORIZATION.

31 An individual or an individual's legal representative may
32 revoke a prior authorization by providing a written revocation
33 to the recipient named in the authorization and to the mental
34 health professional, data collector, or employee or agent of a
35 mental health professional, of a data collector, or of or for

1 a mental health facility, or to the other individual receiving
2 professional services in a group setting with the individual
3 previously authorized to disclose the mental health
4 information. The revocation is effective upon receipt of the
5 written revocation by the person previously authorized to
6 disclose the mental health information. After the effective
7 revocation date, mental health information shall not be
8 disclosed pursuant to the revoked authorization. However,
9 mental health information previously disclosed pursuant to the
10 revoked authorization may be used for the purposes stated in
11 the original written authorization.

12 Sec. 5. NEW SECTION. 228.5 ADMINISTRATIVE DISCLOSURES.

13 1. Mental health information, other than personal notes,
14 relating to an individual may be disclosed to employees or
15 agents of or for the same mental health facility if and to the
16 extent necessary to facilitate the provision of professional
17 services to the individual.

18 2. If an individual eighteen years of age or older or an
19 individual's legal representative has received a written
20 notification that a fee is due a mental health professional or
21 a mental health facility and has failed to arrange for payment
22 of the fee within a reasonable time after the notification,
23 the mental health professional or mental health facility may
24 disclose administrative information necessary for the
25 collection of the fee to a person or agency providing
26 collection services.

27 If a civil action is filed for the collection of the fee,
28 additional mental health information shall not be disclosed in
29 the litigation, except to the extent necessary to respond to a
30 motion of the individual or the individual's legal
31 representative for greater specificity or to dispute a defense
32 or counterclaim.

33 3. A mental health professional or an employee of or agent
34 for a mental health facility may disclose mental health
35 information, other than personal notes, if necessary for the

1 purpose of conducting scientific research, management audits,
2 or program evaluations of the mental health professional or
3 mental health facility, to persons who have demonstrated and
4 provided written assurances of their ability to ensure
5 compliance with the requirements of this chapter. The persons
6 shall not identify, directly or indirectly, an individual in
7 any report of the research, audits, or evaluations, or
8 otherwise disclose individual identities in any manner.

9 Sec. 6. NEW SECTION. 228.6 COMPULSORY DISCLOSURES.

10 1. A mental health professional or an employee of or agent
11 for a mental health facility may disclose mental health
12 information, other than personal notes, if and to the extent
13 necessary, to meet the requirements of section 229.24, 229.25,
14 230.21, 230.25, 230.26, 230A.13, 232.74, or 232.147, or to
15 meet the compulsory reporting or disclosure requirements of
16 other state or federal law relating to the protection of human
17 health and safety.

18 2. Mental health information, other than personal notes,
19 acquired by a mental health professional pursuant to a court-
20 ordered examination may be disclosed pursuant to court rules.

21 3. Mental health information, other than personal notes,
22 may be disclosed by a mental health professional if and to the
23 extent necessary, to initiate or complete civil commitment
24 proceedings under chapter 229.

25 4. Mental health information may be disclosed in a civil
26 or administrative proceeding in which an individual eighteen
27 years of age or older or an individual's legal representative
28 or, in the case of a deceased individual, a party claiming or
29 defending through a beneficiary of the individual, offers the
30 individual's mental or emotional condition as an element of a
31 claim or a defense.

32 5. An individual eighteen years of age or older or an
33 individual's legal representative or any other party in a
34 civil, criminal, or administrative action, in which mental
35 health information has been or will be disclosed, may move the

1 court to denominate, style, or caption the names of all
2 parties as "JOHN OR JANE DOE" or otherwise protect the
3 anonymity of all of the parties.

4 Sec. 7. This Act, being deemed of immediate importance,
5 takes effect from and after its publication in The Anamosa
6 Journal-Eureka, a newspaper published in Anamosa, Iowa, and in
7 the Quad City Times, a newspaper published in Davenport, Iowa.

8 EXPLANATION

9 This bill establishes comprehensive regulations relating to
10 the disclosure of mental health information.

11 Section 1 establishes definitions.

12 Section 2 prohibits the disclosure of mental health
13 information by mental health professionals, data collectors,
14 mental health facilities, and their employees and agents, and
15 by individuals receiving professional services in a group
16 setting. However, other portions of the bill allow disclosure
17 under specified circumstances. The section also prohibits the
18 disclosure of personal notes, except in malpractice and dis-
19 closure violation cases, and requires that personal notes be
20 kept separately from other mental health information.

21 Section 2 also requires a notation to be made each time
22 mental health information is disclosed and prohibits
23 redissemination, except as authorized for initial disclosure.

24 Section 3 provides for voluntary disclosure of mental
25 health information, other than personal notes, by an adult or
26 a legal representative through the signing of a written
27 authorization, a copy of which is required to accompany all
28 disclosures. A third-party payor may only request the
29 disclosure of administrative and diagnostic information,
30 voluntary or involuntary treatment status, and estimated
31 duration of treatment. However, a third party may request
32 that additional mental health information be provided to a
33 nonaffiliated mental health professional for the purpose of
34 conducting an independent review of an individual's en-
35 titlement to benefits payable for professional services pro-

1 vided to the individual.

2 Section 4 provides that a disclosure authorization may be
3 revoked by furnishing a written revocation to the person
4 previously authorized to disclose information.

5 Section 5 provides that mental health information, other
6 than personal notes, may be disclosed within the same mental
7 health facility for the purposes of providing professional
8 services to an individual, and may be disclosed for research,
9 audit, or evaluation purposes if individual identities are not
10 disclosed. The section also provides that administrative
11 information may be disclosed for purposes of fee collection.

12 Section 6 provides that mental health information, other
13 than personal notes, may be disclosed as follows:

- 14 1. If necessary to comply with federal or state law.
- 15 2. In accordance with court rules if acquired pursuant to
16 a court-ordered examination.
- 17 3. If necessary to initiate or complete civil commitment
18 proceedings.
- 19 4. In a civil or administrative proceeding where the
20 individual's mental or emotional condition is offered as an
21 element of a claim or a defense.

22 Section 6 also provides for the protection of the anonymity
23 of parties in actions involving mental health information.

24 The bill is effective upon publication.

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SENATE FILE 2247
BY COMMITTEE ON HUMAN RESOURCES

(AS AMENDED AND PASSED BY THE SENATE MARCH 20, 1986)

- _____ - New Language by the Senate
- * - Language Stricken by the Senate

Passed Senate, Date 3-20-86 (p. 802) Passed House, Date 4-2-86 (p. 1130)
 Vote: Ayes 45 Nays 1 Vote: Ayes 94 Nays 0
 Approved April 15, 1986 (p. 1245)

A BILL FOR

1 An Act relating to the disclosure of mental health information
 2 and providing an effective date.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1588 JOURNAL OF THE SENATE 109th Day
 April 30, 1989

Ms. K. Marie Thayer
 Secretary of the Senate
 State Capitol Building
 LOCAL

Dear Ms. Thayer:

I certify that Senate File 2247 was published in the Quad-City Times, Davenport, Iowa, on April 21, 1986, and in The Anamosa Journal-Eureka, Anamosa, Iowa, on April 23, 1986.

Respectfully submitted,
 MARY JANE ODELL
 Secretary of State

S.F. 2247

1 Section 1. NEW SECTION. 228.1 DEFINITIONS.

2 As used in this chapter:

3 1. "Administrative information" means an individual's
4 name, identifying number, age, sex, address, dates and
5 character of professional services provided to the individual,
6 and fees for the professional services.

7 2. "Data collector" means a person, other than a mental
8 health professional or an employee of or agent for a mental
9 health facility, who regularly assembles or evaluates mental
10 health information.

11 3. "Diagnostic information" means a therapeutic charac-
12 terization of the type found in the diagnostic and statistical
13 manual of mental disorders of the American psychiatric as-
14 sociation or in a comparable professionally recognized
15 diagnostic manual.

* 16 4. "Mental health facility" means a community mental
17 health center, hospital, clinic, office, health care facility,
18 infirmary, or similar place in which professional services are
19 provided.

20 5. "Mental health information" means oral, written, or
21 recorded information which indicates the identity of an in-
22 dividual receiving professional services and which relates to
23 the diagnosis, course, or treatment of the individual's mental
24 or emotional condition.

25 6. "Mental health professional" means an individual who
26 has all of the following qualifications:

27 a. The individual holds at least a master's degree in a
28 mental health field, including but not limited to, psychology,
29 counseling and guidance, nursing, and social work, or the
30 individual is a physician and surgeon or an osteopathic
31 physician and surgeon.

32 b. The individual holds a current Iowa license if prac-
33 ticing in a field covered by an Iowa licensure law.

34 c. The individual has at least two years of post-degree
35 clinical experience, supervised by another mental health

1 professional, in assessing mental health needs and problems
2 and in providing appropriate mental health services.

* 3 7. "Professional services" means diagnostic or treatment
4 services for a mental or emotional condition provided by a
5 mental health professional.

6 8. "Third-party payor" means a person which provides
7 accident and health benefits or medical, surgical, or hospital
8 benefits, whether on an indemnity, reimbursement, service, or
9 prepaid basis, including but not limited to, insurers,
10 nonprofit health service corporations, health maintenance
11 organizations, governmental agencies, and employers.

12 Sec. 2. NEW SECTION. 228.2 MENTAL HEALTH INFORMATION
13 DISCLOSURE PROHIBITED -- EXCEPTIONS -- RECORD OF DISCLOSURE.

14 1. Except as specifically authorized in section 228.3,
15 228.5, or 228.6, a mental health professional, data collector,
16 or employee or agent of a mental health professional, of a
17 data collector, or of or for a mental health facility shall
18 not disclose or permit the disclosure of mental health
19 information.

* 20 2. Upon disclosure of mental health information pursuant
21 to section 228.3, 228.5, or 228.6, the person disclosing the
22 mental health information shall enter a notation on and
23 maintain the notation with the individual's record of mental
24 health information. The notation shall include all of the
25 following:

26 a. The date of the disclosure.

27 b. The name of the recipient of the mental health in-
28 formation.

29 c. A description of the contents of the disclosure.

30 The person disclosing the mental health information shall
31 give the recipient of the information a statement which in-
32 forms the recipient that disclosures may only be made pursuant
33 to the written authorization of an individual or an
34 individual's legal representative, or as otherwise provided in
35 chapter 228, that the unauthorized disclosure of mental health

1 information is unlawful, and that civil damages and criminal
2 penalties may be applicable to the unauthorized disclosure of
3 mental health information.

4 3. A recipient of mental health information shall not
5 disclose the information received, except as specifically
6 authorized for initial disclosure in section 228.3, 228.5, or
7 228.6.

8 Sec. 3. NEW SECTION. 228.3 VOLUNTARY DISCLOSURES.

9 1. An individual eighteen years of age or older or an
10 individual's legal representative may consent to the dis-
* 11 closure of mental health information relating to the
12 individual by a mental health professional, data collector, or
13 employee or agent of a mental health professional, of a data
14 collector, or of or for a mental health facility, by signing a
15 voluntary written authorization. The authorization shall:

16 a. Specify the nature of the mental health information to
17 be disclosed, the persons or type of persons authorized to
18 disclose the information, and the purposes for which the in-
19 formation may be used both at the time of the disclosure and
20 in the future.

21 b. Advise the individual of the individual's right to
22 inspect the disclosed mental health information at any time.

23 c. State that the authorization is subject to revocation
24 and state the conditions of revocation.

25 d. Specify the length of time for which the authorization
26 is valid and whether the authorization is renewable.

27 e. Contain the date on which the authorization was signed.

28 2. A copy of the authorization shall:

29 a. Be provided to the individual and to the person au-
30 thorizing the disclosure.

31 b. Accompany all disclosures.

32 c. Be included in the individual's record of mental health
33 information.

34 3. A third-party payor may only request an individual
35 eighteen years of age or older or the individual's legal

1 representative to consent to the disclosure of the following
2 mental health information by a mental health professional or
3 an employee of or agent for a mental health facility if
4 necessary to determine the individual's entitlement to, or the
5 amount of, benefits payable for professional services provided
6 to the individual:

7 a. Administrative information.

8 b. Diagnostic information.

9 c. The individual's voluntary or involuntary treatment
10 status.

11 d. The estimated time during which treatment might con-
12 tinue.

13 If a third-party payor questions an individual's entitle-
14 ment to, or the amount of benefits payable for professional
15 services provided to the individual following disclosure of
16 the information in paragraphs "a" through "d", the third-party
17 payor may request the individual or the individual's legal
18 representative to consent to the disclosure of mental health
* 19 information to a mental health professional, who is not
20 affiliated with either the service provider or the third-party
21 payor, for the purpose of conducting an independent review of
22 the individual's record of mental health information and the
23 individual's entitlement to, or the amount of benefits payable
24 for professional services provided to the individual. Mental
25 health information disclosed to the nonaffiliated mental
26 health professional for the purpose of the review shall not be
27 disclosed to the third-party payor.

28 Sec. 4. NEW SECTION. 228.4 REVOCATION OF DISCLOSURE
29 AUTHORIZATION.

30 An individual or an individual's legal representative may
31 revoke a prior authorization by providing a written revocation
32 to the recipient named in the authorization and to the mental
33 health professional, data collector, or employee or agent of a
34 mental health professional, of a data collector, or of or for
35 a mental health facility previously authorized to disclose the

1 mental health information. The revocation is effective upon
2 receipt of the written revocation by the person previously
3 authorized to disclose the mental health information. After
4 the effective revocation date, mental health information shall
5 not be disclosed pursuant to the revoked authorization.
6 However, mental health information previously disclosed
7 pursuant to the revoked authorization may be used for the
8 purposes stated in the original written authorization.

9 Sec. 5. NEW SECTION. 228.5 ADMINISTRATIVE DISCLOSURES.

10 1. An individual or an individual's legal representative
11 shall be informed that mental health information relating to
12 the individual may be disclosed to employees or agents of or
13 for the same mental health facility if and to the extent
14 necessary to facilitate the provision of professional services
15 to the individual.

16 2. If an individual eighteen years of age or older or an
17 individual's legal representative has received a written
18 notification that a fee is due a mental health professional or
19 a mental health facility and has failed to arrange for payment
20 of the fee within a reasonable time after the notification,
21 the mental health professional or mental health facility may
22 disclose administrative information necessary for the
23 collection of the fee to a person or agency providing
24 collection services.

25 If a civil action is filed for the collection of the fee,
26 additional mental health information shall not be disclosed in
27 the litigation, except to the extent necessary to respond to a
28 motion of the individual or the individual's legal
29 representative for greater specificity or to dispute a defense
30 or counterclaim.

31 3. A mental health professional or an employee of or agent
32 for a mental health facility may disclose mental health
* 33 information if necessary for the purpose of conducting
34 scientific research, management audits, or program evaluations
35 of the mental health professional or mental health facility,

1 to persons who have demonstrated and provided written
2 assurances of their ability to ensure compliance with the
3 requirements of this chapter. The persons shall not identify,
4 directly or indirectly, an individual in any report of the
5 research, audits, or evaluations, or otherwise disclose
6 individual identities in any manner.

7 Sec. 6. NEW SECTION. 228.6 COMPULSORY DISCLOSURES.

8 1. A mental health professional or an employee of or agent
9 for a mental health facility may disclose mental health
* 10 information if and to the extent necessary, to meet the
11 requirements of section 229.24, 229.25, 230.20, 230.21,
12 230.25, 230.26, 230A.13, 232.74, or 232.147, or to meet the
13 compulsory reporting or disclosure requirements of other state
14 or federal law relating to the protection of human health and
15 safety.

* 16 2. Mental health information acquired by a mental health
17 professional pursuant to a court-ordered examination may be
18 disclosed pursuant to court rules.

* 19 3. Mental health information may be disclosed by a mental
20 health professional if and to the extent necessary, to
21 initiate or complete civil commitment proceedings under
22 chapter 229.

23 4. Mental health information may be disclosed in a civil
24 or administrative proceeding in which an individual eighteen
25 years of age or older or an individual's legal representative
26 or, in the case of a deceased individual, a party claiming or
27 defending through a beneficiary of the individual, offers the
28 individual's mental or emotional condition as an element of a
29 claim or a defense.

30 5. An individual eighteen years of age or older or an
31 individual's legal representative or any other party in a
32 civil, criminal, or administrative action, in which mental
33 health information has been or will be disclosed, may move the
34 court to denominate, style, or caption the names of all
35 parties as "JOHN OR JANE DOE" or otherwise protect the

1 anonymity of all of the parties.

2 Sec. 7. This Act, being deemed of immediate importance,
3 takes effect from and after its publication in The Anamosa
4 Journal-Eureka, a newspaper published in Anamosa, Iowa, and in
5 the Quad City Times, a newspaper published in Davenport, Iowa.

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SSB 2143

SSB 2143

HUMAN RESOURCES: Gentleman, Chair: Murphy and Hannon

Now SF 2277

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
HUMAN RESOURCES BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the disclosure of mental health information
2 and providing an effective date.

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4 name, identifying number, age, sex, address, dates and
5 character of professional services provided to the individual,
6 and fees for the professional services.

7 2. "Data collector" means a person, other than a mental
8 health professional or an employee of or agent for a mental
9 health facility, who regularly assembles or evaluates mental
10 health information.

11 3. "Diagnostic information" means a therapeutic charac-
12 terization of the type found in the diagnostic and statistical
13 manual of mental disorders of the American psychiatric as-
14 sociation or in a comparable professionally recognized
15 diagnostic manual.

16 4. "Disclose" means to communicate information in any
17 form, including oral, written, and recorded forms of any type.

18 5. "Legal representative" means for an individual eighteen
19 years of age or older, a person authorized in writing by the
20 individual to represent the individual in matters relating to
21 mental health information, and for an individual who is less
22 than eighteen years of age or has been adjudicated as
23 incompetent, the individual's parent or legal guardian.

24 6. "Mental health facility" means a community mental
25 health center, hospital, clinic, office, health care facility,
26 infirmary, or similar place in which professional services are
27 provided.

28 7. "Mental health information" means oral, written, or
29 recorded information which indicates the identity of an in-
30 dividual receiving professional services and which relates to
31 the diagnosis, course, or treatment of the individual's mental
32 or emotional condition.

33 8. "Mental health professional" means an individual who
34 has all of the following qualifications:

35 a. The individual holds at least a master's degree in a

1 mental health field, including but not limited to, psychology,
2 counseling and guidance, nursing, and social work, or the
3 individual is a physician and surgeon or an osteopathic
4 physician and surgeon.

5 b. The individual holds a current Iowa license if prac-
6 ticing in a field covered by an Iowa licensure law.

7 c. The individual has at least two years of post-degree
8 clinical experience, supervised by another mental health
9 professional, in assessing mental health needs and problems
10 and in providing appropriate mental health services.

11 9. "Personal notes" means a mental health service
12 provider's hypothesis relating to the mental or emotional
13 condition of an individual receiving professional services or
14 mental health information disclosed by a third party on the
15 condition that the information not be disclosed to the
16 individual receiving professional services or any other
17 person.

18 10. "Professional services" means diagnostic or treatment
19 services for a mental or emotional condition provided by a
20 mental health professional.

21 11. "Third-party payor" means a person which provides
22 accident and health benefits or medical, surgical, or hospital
23 benefits, whether on an indemnity, reimbursement, service, or
24 prepaid basis, including but not limited to, insurers,
25 nonprofit health service corporations, health maintenance
26 organizations, governmental agencies, and employers.

27 Sec. 2. NEW SECTION. 228.2 MENTAL HEALTH INFORMATION
28 DISCLOSURE PROHIBITED -- EXCEPTIONS -- RECORD OF DISCLOSURE.

29 1. Except as specifically authorized in section 228.3,
30 228.5, or 228.6, a mental health professional, data collector,
31 or employee or agent of a mental health professional, of a
32 data collector, or of or for a mental health facility shall
33 not disclose or permit the disclosure of mental health
34 information.

35 2. Except as specifically authorized in section 228.3,

1 228.5, or 228.6, an individual receiving professional services
2 in a group setting in a mental health facility shall not
3 disclose mental health information relating to another
4 individual receiving professional services in the group
5 setting.

6 3. A mental health professional or employee of or agent
7 for a mental health facility shall not maintain personal notes
8 as part of the record of mental health information of an
9 individual receiving professional services and shall not
10 disclose or permit the disclosure of personal notes, except to
11 the degree that the personal notes or information in the
12 personal notes is needed in litigation brought by the in-
13 dividual receiving professional services against the mental
14 health professional or employee of or agent for a mental
15 health facility on the grounds of professional malpractice or
16 disclosure in violation of this section.

17 4. Upon disclosure of mental health information pursuant
18 to section 228.3, 228.5, or 228.6, the person disclosing the
19 mental health information shall enter a notation on and
20 maintain the notation with the individual's record of mental
21 health information. The notation shall include all of the
22 following:

23 a. The date of the disclosure.

24 b. The name of the recipient of the mental health in-
25 formation.

26 c. A description of the contents of the disclosure.

27 The person disclosing the mental health information shall
28 give the recipient of the information a statement which in-
29 forms the recipient that disclosures may only be made pursuant
30 to the written authorization of an individual or an
31 individual's legal representative, or as otherwise provided in
32 chapter 228, that the unauthorized disclosure of mental health
33 information is unlawful, and that civil damages and criminal
34 penalties may be applicable to the unauthorized disclosure of
35 mental health information.

1 5. A recipient of mental health information shall not
2 disclose the information received, except as specifically
3 authorized for initial disclosure in section 228.3, 228.5, or
4 228.6.

5 Sec. 3. NEW SECTION. 228.3 VOLUNTARY DISCLOSURES.

6 1. An individual eighteen years of age or older or an
7 individual's legal representative may consent to the dis-
8 closure of mental health information, other than personal
9 notes, relating to the individual by a mental health
10 professional, data collector, or employee or agent of a mental
11 health professional, of a data collector, or of or for a
12 mental health facility, or by another individual receiving
13 professional services in a group setting with the individual,
14 by signing a voluntary written authorization. The
15 authorization shall:

16 a. Specify the nature of the mental health information to
17 be disclosed, the persons or type of persons authorized to
18 disclose the information, and the purposes for which the in-
19 formation may be used both at the time of the disclosure and
20 in the future.

21 b. Advise the individual of the individual's right to
22 inspect the disclosed mental health information at any time.

23 c. State that the authorization is subject to revocation
24 and state the conditions of revocation.

25 d. Specify the length of time for which the authorization
26 is valid and whether the authorization is renewable.

27 e. Contain the date on which the authorization was signed.

28 2. A copy of the authorization shall:

29 a. Be provided to the individual and to the person au-
30 thORIZING the disclosure.

31 b. Accompany all disclosures.

32 c. Be included in the individual's record of mental health
33 information.

34 3. A third-party payor may only request an individual
35 eighteen years of age or older or the individual's legal

1 representative to consent to the disclosure of the following
2 mental health information by a mental health professional or
3 an employee of or agent for a mental health facility if
4 necessary to determine the individual's entitlement to, or the
5 amount of, benefits payable for professional services provided
6 to the individual:

7 a. Administrative information.

8 b. Diagnostic information.

9 c. The individual's voluntary or involuntary treatment
10 status.

11 d. The estimated time during which treatment might con-
12 tinue.

13 If a third-party payor questions an individual's entitle-
14 ment to, or the amount of benefits payable for professional
15 services provided to the individual following disclosure of
16 the information in paragraphs "a" through "d", the third-party
17 payor may request the individual or the individual's legal
18 representative to consent to the disclosure of mental health
19 information, other than personal notes, to a mental health
20 professional, who is not affiliated with either the service
21 provider or the third-party payor, for the purpose of
22 conducting an independent review of the individual's record of
23 mental health information and the individual's entitlement to,
24 or the amount of benefits payable for professional services
25 provided to the individual. Mental health information
26 disclosed to the nonaffiliated mental health professional for
27 the purpose of the review shall not be disclosed to the third-
28 party payor.

29 Sec. 4. NEW SECTION. 228.4 REVOCATION OF DISCLOSURE
30 AUTHORIZATION.

31 An individual or an individual's legal representative may
32 revoke a prior authorization by providing a written revocation
33 to the recipient named in the authorization and to the mental
34 health professional, data collector, or employee or agent of a
35 mental health professional, of a data collector, or of or for

1 a mental health facility, or to the other individual receiving
2 professional services in a group setting with the individual
3 previously authorized to disclose the mental health
4 information. The revocation is effective upon receipt of the
5 written revocation by the person previously authorized to
6 disclose the mental health information. After the effective
7 revocation date, mental health information shall not be
8 disclosed pursuant to the revoked authorization. However,
9 mental health information previously disclosed pursuant to the
10 revoked authorization may be used for the purposes stated in
11 the original written authorization.

12 Sec. 5. NEW SECTION. 228.5 ADMINISTRATIVE DISCLOSURES.

13 1. Mental health information, other than personal notes,
14 relating to an individual may be disclosed to employees or
15 agents of or for the same mental health facility if and to the
16 extent necessary to facilitate the provision of professional
17 services to the individual.

18 2. If an individual eighteen years of age or older or an
19 individual's legal representative has received a written
20 notification that a fee is due a mental health professional or
21 a mental health facility and has failed to arrange for payment
22 of the fee within a reasonable time after the notification,
23 the mental health professional or mental health facility may
24 disclose administrative information necessary for the
25 collection of the fee to a person or agency providing
26 collection services.

27 If a civil action is filed for the collection of the fee,
28 additional mental health information shall not be disclosed in
29 the litigation, except to the extent necessary to respond to a
30 motion of the individual or the individual's legal
31 representative for greater specificity or to dispute a defense
32 or counterclaim.

33 3. A mental health professional or an employee of or agent
34 for a mental health facility may disclose mental health
35 information, other than personal notes, if necessary for the

1 purpose of conducting scientific research, management audits,
2 or program evaluations of the mental health professional or
3 mental health facility, to persons who have demonstrated and
4 provided written assurances of their ability to ensure
5 compliance with the requirements of this chapter. The persons
6 shall not identify, directly or indirectly, an individual in
7 any report of the research, audits, or evaluations, or
8 otherwise disclose individual identities in any manner.

9 Sec. 6. NEW SECTION. 228.6 COMPULSORY DISCLOSURES.

10 1. A mental health professional or an employee of or agent
11 for a mental health facility may disclose mental health
12 information, other than personal notes, if and to the extent
13 necessary, to meet the requirements of section 229.24, 229.25,
14 230.21, 230.25, 230.26, 230A.13, 232.74, or 232.147, or to
15 meet the compulsory reporting or disclosure requirements of
16 other state or federal law relating to the protection of human
17 health and safety.

18 2. Mental health information, other than personal notes,
19 acquired by a mental health professional pursuant to a court-
20 ordered examination may be disclosed pursuant to court rules.

21 3. Mental health information, other than personal notes,
22 may be disclosed by a mental health professional if and to the
23 extent necessary, to initiate or complete civil commitment
24 proceedings under chapter 229.

25 4. Mental health information may be disclosed in a civil
26 or administrative proceeding in which an individual eighteen
27 years of age or older or an individual's legal representative
28 or, in the case of a deceased individual, a party claiming or
29 defending through a beneficiary of the individual, offers the
30 individual's mental or emotional condition as an element of a
31 claim or a defense.

32 5. An individual eighteen years of age or older or an
33 individual's legal representative or any other party in a
34 civil, criminal, or administrative action, in which mental
35 health information has been or will be disclosed, may move the

1 court to denominate, style, or caption the names of all
2 parties as "JOHN OR JANE DOE" or otherwise protect the
3 anonymity of all of the parties.

4 Sec. 7. This Act, being deemed of immediate importance,
5 takes effect from and after its publication in The Anamosa
6 Journal-Eureka, a newspaper published in Anamosa, Iowa, and in
7 the Quad City Times, a newspaper published in Davenport, Iowa.

8 EXPLANATION

9 This bill establishes comprehensive regulations relating to
10 the disclosure of mental health information.

11 Section 1 establishes definitions.

12 Section 2 prohibits the disclosure of mental health
13 information by mental health professionals, data collectors,
14 mental health facilities, and their employees and agents, and
15 by individuals receiving professional services in a group
16 setting. However, other portions of the bill allow disclosure
17 under specified circumstances. The section also prohibits the
18 disclosure of personal notes, except in malpractice and dis-
19 closure violation cases, and requires that personal notes be
20 kept separately from other mental health information.

21 Section 2 also requires a notation to be made each time
22 mental health information is disclosed and prohibits
23 redissemination, except as authorized for initial disclosure.

24 Section 3 provides for voluntary disclosure of mental
25 health information, other than personal notes, by an adult or
26 a legal representative through the signing of a written
27 authorization, a copy of which is required to accompany all
28 disclosures. A third-party payor may only request the
29 disclosure of administrative and diagnostic information,
30 voluntary or involuntary treatment status, and estimated
31 duration of treatment. However, a third party may request
32 that additional mental health information be provided to a
33 nonaffiliated mental health professional for the purpose of
34 conducting an independent review of an individual's en-
35 titlement to benefits payable for professional services pro-

1 vided to the individual.

2 Section 4 provides that a disclosure authorization may be
3 revoked by furnishing a written revocation to the person
4 previously authorized to disclose information.

5 Section 5 provides that mental health information, other
6 than personal notes, may be disclosed within the same mental
7 health facility for the purposes of providing professional
8 services to an individual, and may be disclosed for research,
9 audit, or evaluation purposes if individual identities are not
10 disclosed. The section also provides that administrative
11 information may be disclosed for purposes of fee collection.

12 Section 6 provides that mental health information, other
13 than personal notes, may be disclosed as follows:

- 14 1. If necessary to comply with federal or state law.
- 15 2. In accordance with court rules if acquired pursuant to
16 a court-ordered examination.
- 17 3. If necessary to initiate or complete civil commitment
18 proceedings.
- 19 4. In a civil or administrative proceeding where the
20 individual's mental or emotional condition is offered as an
21 element of a claim or a defense.

22 Section 6 also provides for the protection of the anonymity
23 of parties in actions involving mental health information.

24 The bill is effective upon publication.

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SENATE FILE 2247

AN ACT

RELATING TO THE DISCLOSURE OF MENTAL HEALTH INFORMATION AND
PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. NEW SECTION. 228.1 DEFINITIONS.

As used in this chapter:

1. "Administrative information" means an individual's name, identifying number, age, sex, address, dates and character of professional services provided to the individual, and fees for the professional services.

2. "Data collector" means a person, other than a mental health professional or an employee of or agent for a mental health facility, who regularly assembles or evaluates mental health information.

3. "Diagnostic information" means a therapeutic characterization of the type found in the diagnostic and statistical manual of mental disorders of the American psychiatric association or in a comparable professionally recognized diagnostic manual.

4. "Mental health facility" means a community mental health center, hospital, clinic, office, health care facility, infirmary, or similar place in which professional services are provided.

5. "Mental health information" means oral, written, or recorded information which indicates the identity of an individual receiving professional services and which relates to the diagnosis, course, or treatment of the individual's mental or emotional condition.

6. "Mental health professional" means an individual who has all of the following qualifications:

a. The individual holds at least a master's degree in a mental health field, including but not limited to, psychology,

counseling and guidance, nursing, and social work, or the individual is a physician and surgeon or an osteopathic physician and surgeon.

b. The individual holds a current Iowa license if practicing in a field covered by an Iowa licensure law.

c. The individual has at least two years of post-degree clinical experience, supervised by another mental health professional, in assessing mental health needs and problems and in providing appropriate mental health services.

7. "Professional services" means diagnostic or treatment services for a mental or emotional condition provided by a mental health professional.

8. "Third-party payor" means a person which provides accident and health benefits or medical, surgical, or hospital benefits, whether on an indemnity, reimbursement, service, or prepaid basis, including but not limited to, insurers, nonprofit health service corporations, health maintenance organizations, governmental agencies, and employers.

Sec. 2. NEW SECTION. 228.2 MENTAL HEALTH INFORMATION DISCLOSURE PROHIBITED -- EXCEPTIONS -- RECORD OF DISCLOSURE.

1. Except as specifically authorized in section 228.3, 228.5, or 228.6, a mental health professional, data collector, or employee or agent of a mental health professional, of a data collector, or of or for a mental health facility shall not disclose or permit the disclosure of mental health information.

2. Upon disclosure of mental health information pursuant to section 228.3, 228.5, or 228.6, the person disclosing the mental health information shall enter a notation on and maintain the notation with the individual's record of mental health information. The notation shall include all of the following:

a. The date of the disclosure.

b. The name of the recipient of the mental health information.

c. A description of the contents of the disclosure.

The person disclosing the mental health information shall give the recipient of the information a statement which informs the recipient that disclosures may only be made pursuant to the written authorization of an individual or an individual's legal representative, or as otherwise provided in chapter 228, that the unauthorized disclosure of mental health information is unlawful, and that civil damages and criminal penalties may be applicable to the unauthorized disclosure of mental health information.

3. A recipient of mental health information shall not disclose the information received, except as specifically authorized for initial disclosure in section 228.3, 228.5, or 228.6.

Sec. 3. NEW SECTION. 228.3 VOLUNTARY DISCLOSURES.

1. An individual eighteen years of age or older or an individual's legal representative may consent to the disclosure of mental health information relating to the individual by a mental health professional, data collector, or employee or agent of a mental health professional, of a data collector, or of or for a mental health facility, by signing a voluntary written authorization. The authorization shall:

- a. Specify the nature of the mental health information to be disclosed, the persons or type of persons authorized to disclose the information, and the purposes for which the information may be used both at the time of the disclosure and in the future.
 - b. Advise the individual of the individual's right to inspect the disclosed mental health information at any time.
 - c. State that the authorization is subject to revocation and state the conditions of revocation.
 - d. Specify the length of time for which the authorization is valid and whether the authorization is renewable.
 - e. Contain the date on which the authorization was signed.
2. A copy of the authorization shall:
- a. Be provided to the individual and to the person authorizing the disclosure.
 - b. Accompany all disclosures.

c. Be included in the individual's record of mental health information.

3. A third-party payor may only request an individual eighteen years of age or older or the individual's legal representative to consent to the disclosure of the following mental health information by a mental health professional or an employee or agent for a mental health facility if necessary to determine the individual's entitlement to, or the amount of, benefits payable for professional services provided to the individual:

- a. Administrative information.
- b. Diagnostic information.
- c. The individual's voluntary or involuntary treatment status.
- d. The estimated time during which treatment might continue.

If a third-party payor questions an individual's entitlement to, or the amount of benefits payable for professional services provided to the individual following disclosure of the information in paragraphs "a" through "d", the third-party payor may request the individual or the individual's legal representative to consent to the disclosure of mental health information to a mental health professional, who is not affiliated with either the service provider or the third-party payor, for the purpose of conducting an independent review of the individual's record of mental health information and the individual's entitlement to, or the amount of benefits payable for professional services provided to the individual. Mental health information disclosed to the nonaffiliated mental health professional for the purpose of the review shall not be disclosed to the third-party payor.

Sec. 4. NEW SECTION. 228.4 REVOCATION OF DISCLOSURE AUTHORIZATION.

An individual or an individual's legal representative may revoke a prior authorization by providing a written revocation to the recipient named in the authorization and to the mental

health professional, data collector, or employee or agent of a mental health professional, of a data collector, or of or for a mental health facility previously authorized to disclose the mental health information. The revocation is effective upon receipt of the written revocation by the person previously authorized to disclose the mental health information. After the effective revocation date, mental health information shall not be disclosed pursuant to the revoked authorization. However, mental health information previously disclosed pursuant to the revoked authorization may be used for the purposes stated in the original written authorization.

Sec. 5. NEW SECTION. 228.5 ADMINISTRATIVE DISCLOSURES.

1. An individual or an individual's legal representative shall be informed that mental health information relating to the individual may be disclosed to employees or agents of or for the same mental health facility if and to the extent necessary to facilitate the provision of professional services to the individual.

2. If an individual eighteen years of age or older or an individual's legal representative has received a written notification that a fee is due a mental health professional or a mental health facility and has failed to arrange for payment of the fee within a reasonable time after the notification, the mental health professional or mental health facility may disclose administrative information necessary for the collection of the fee to a person or agency providing collection services.

If a civil action is filed for the collection of the fee, additional mental health information shall not be disclosed in the litigation, except to the extent necessary to respond to a motion of the individual or the individual's legal representative for greater specificity or to dispute a defense or counterclaim.

3. A mental health professional or an employee of or agent for a mental health facility may disclose mental health information if necessary for the purpose of conducting

scientific research, management audits, or program evaluations of the mental health professional or mental health facility, to persons who have demonstrated and provided written assurances of their ability to ensure compliance with the requirements of this chapter. The persons shall not identify, directly or indirectly, an individual in any report of the research, audits, or evaluations, or otherwise disclose individual identities in any manner.

Sec. 6. NEW SECTION. 228.6 COMPULSORY DISCLOSURES.

1. A mental health professional or an employee of or agent for a mental health facility may disclose mental health information if and to the extent necessary, to meet the requirements of section 229.24, 229.25, 230.20, 230.21, 230.25, 230.26, 230A.13, 232.74, or 232.147, or to meet the compulsory reporting or disclosure requirements of other state or federal law relating to the protection of human health and safety.

2. Mental health information acquired by a mental health professional pursuant to a court-ordered examination may be disclosed pursuant to court rules.

3. Mental health information may be disclosed by a mental health professional if and to the extent necessary, to initiate or complete civil commitment proceedings under chapter 229.

4. Mental health information may be disclosed in a civil or administrative proceeding in which an individual eighteen years of age or older or an individual's legal representative or, in the case of a deceased individual, a party claiming or defending through a beneficiary of the individual, offers the individual's mental or emotional condition as an element of a claim or a defense.

5. An individual eighteen years of age or older or an individual's legal representative or any other party in a civil, criminal, or administrative action, in which mental health information has been or will be disclosed, may move the court to denominate, style, or caption the names of all

parties as "JOHN OR JANE DOE" or otherwise protect the anonymity of all of the parties.

Sec. 7. This Act, being deemed of immediate importance, takes effect from and after its publication in The Anamosa Journal-Eureka, a newspaper published in Anamosa, Iowa, and in the Quad City Times, a newspaper published in Davenport, Iowa.

ROBERT T. ANDERSON
President of the Senate

DONALD D. AVENSON
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2247, Seventy-first General Assembly.

K. MARIE THAYER
Secretary of the Senate

Approved April 15, 1986

TERRY E. BRANSTAD
Governor