

FILED MAR 3 1988

SENATE FILE 2284
BY COMMITTEE ON HUMAN RESOURCES

(formerly SSB 2252)
(Approved 3/26/88)

Passed Senate, Date 3/18-88 (p. 905) Passed House, Date 3/29/88 (p. 143)

Vote: Ayes 40 Nays 6 Vote: Ayes 94 Nays 0

Approved May 12, 1988

A BILL FOR

1 An Act relating to the disclosure of mental health information.

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

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SF 2284

1 Section 1. Section 228.1, subsection 1, Code 1987, is
2 amended to read as follows:

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, third-party payor
7 number of a patient, if known, name and location of the
8 facility where treatment is received, the date of the
9 individual's admission to the facility, and the name of the
10 individual's attending physician and attending mental health
11 professional.

12 Sec. 2. Section 228.2, subsection 2, unnumbered paragraph
13 1, and paragraphs a, b, and c, Code 1987, are amended to read
14 as follows:

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

22 a. ~~The date of the disclosure:~~

23 b. ~~The name of the recipient of the mental health in-~~
24 ~~formation:~~

25 c. ~~A description of the contents of the disclosure:~~

26 Sec. 3. Section 228.2, subsection 3, Code 1987, is amended
27 to read as follows:

28 3. A recipient of mental health information shall not
29 disclose the information received, except as specifically
30 authorized for initial disclosure in section 228.3, 228.5, or
31 228.6. However, mental health information may be transferred
32 at any time to another facility, physician, or mental health
33 professional in cases of an emergency or if the individual or
34 the individual's legal representative requests the transfer in
35 writing for the purposes of receipt of medical or professional

1 services, at which time the requirements of section 228.2,
2 subsection 2, shall be followed.

3 Sec. 4. Section 228.3, subsection 1, paragraph d, Code
4 1987, is amended to read as follows:

5 d. Specify the length of time for which the authorization
6 is valid ~~and whether the authorization is renewable.~~

7 Sec. 5. Section 228.3, subsection 2, Code 1987, is amended
8 to read as follows:

9 2. A copy of the authorization shall:

10 a. Be provided to the individual and or to the person
11 legal representative of the individual authorizing the
12 disclosure.

13 ~~b.--Accompany all disclosures--~~

14 e b. Be included in the individual's record of mental
15 health information.

16 Sec. 6. Section 228.3, subsection 3, unnumbered paragraph
17 2, Code 1987, is amended to read as follows:

18 If a third-party payor questions an individual's entitle-
19 ment to, or the amount of benefits payable for professional
20 services provided to the individual following disclosure of
21 the information in paragraphs "a" through "d", the third-party
22 payor may request the individual or the individual's legal
23 representative to consent to the disclosure of mental health
24 information to a mental health professional, who is not
25 affiliated with either the service provider or the third-party
26 payor, or to a utilization review agent or entity of the
27 third-party payor, for the purpose of conducting an
28 independent review of the individual's record of mental health
29 information and the individual's entitlement to, or the amount
30 of benefits payable for professional services provided to the
31 individual. Additional information that may be released under
32 this subsection includes the individual's history and
33 symptoms, the individual's treatment plan, medications
34 prescribed, therapies, updates to the treatment plan, future
35 treatment plans, and progress notes of the medical and nursing

1 teams. Mental health information disclosed to the
2 nonaffiliated mental health professional for the purpose of
3 the review shall not be disclosed to the third-party payor.

4 Sec. 7. Section 228.5, subsections 1 and 3, Code 1987, are
5 amended to read as follows:

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

12 3. A mental health professional or an employee of or agent
13 for a mental health facility may disclose mental health
14 information if necessary for the purpose of conducting
15 scientific and data research, management audits, or program
16 evaluations of the mental health professional or mental health
17 facility, to persons who have demonstrated and provided
18 written assurances of their ability to ensure compliance with
19 the requirements of this chapter. The persons shall not
20 identify, directly or indirectly, an individual in any report
21 of the research, audits, or evaluations, or otherwise disclose
22 individual identities in any manner. A disclosure under this
23 section is not subject to the requirements of section 228.2,
24 subsection 2, with the exception that a person receiving
25 mental health information under this section shall be provided
26 a statement prohibiting redisclosure of information unless
27 otherwise authorized by this chapter.

28 EXPLANATION

29 This bill explains the definition of administrative
30 information under the disclosure of mental health information
31 chapter. The bill also states the information to be included
32 on the record of disclosure of the individual's mental health
33 information, provides for disclosure of information when
34 transferred to another facility, physician, or mental health
35 professional under certain conditions, makes provision for the

1 inclusion of certain information in the copy of an
2 authorization for voluntary disclosure, and in certain
3 information released to a third-party payor, and prohibits
4 redisclosure of mental health information except as otherwise
5 provided in this chapter.

6 SUCCESSOR TO SSB 2252 (LSB 8400SC)

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SENATE FILE 2284

S-5282

1 Amend Senate File 2284 as follows:
2 1. Page 1, line 10, by striking the word "and"
3 and inserting the following: "or".
4 2. Page 1, line 33, by striking the word "an" and
5 inserting the following: "a medical".
6 3. Page 1, line 35, by inserting after the word
7 "or" the following: "mental health".
8 4. Page 2, lines 26 and 27, by striking the words
9 "or to a utilization review agent or entity of the
10 third-party payor," and inserting the following: "or
11 to a utilization and quality review entity of, or
12 contract with, the third-party payor,".

S-5282

Filed March 9, 1988

Adopted 3/15 (p. 808)

BY BEVERLY A. HANNON
CHARLES BRUNER
JULIA GENTLEMAN
LARRY MURPHY

SENATE FILE 2284

S-5433

1 Amend Senate File 2284 as follows:
2 1. Page 3, line 1, by inserting after the word
3 "teams." the following: "In evaluating the
4 information released in accordance with this section,
5 the independent mental health professional or
6 utilization review entity shall determine whether the
7 individual, otherwise entitled to benefits, received
8 treatment for a similar mental health condition prior
9 to the effective date of the third-party payor
10 coverage under which benefits are claimed. Benefits
11 may be denied on the basis of such information only if
12 professional services were provided prior to the
13 effective date of the third-party payor coverage, and
14 if the coverage so provides."

S-5433

Filed March 17, 1988

Adopted 3-18 (p. 905)

BY WILLIAM D. PALMER
BEVERLY A. HANNON

1 Amend Senate File 2284 as follows:

2 1. Page 3, by inserting after line 27 the
3 following:
4 "Sec. ____ Section 230.15, unnumbered paragraph 1,
5 Code 1987, is amended to read as follows:
6 A mentally ill person and a person legally liable
7 for the person's support remain liable for the support
8 of the mentally ill person as provided in this
9 section. Persons legally liable for the support of a
10 mentally ill person include the spouse of the mentally
11 ill person, any person bound by contract for support
12 of the mentally ill person, and, with respect to
13 mentally ill persons under eighteen years of age only,
14 the father and mother of the mentally ill person. The
15 county auditor, subject to the direction of the board
16 of supervisors, shall enforce the obligation created
17 in this section as to all sums advanced by the county.
18 The liability to the county incurred by a mentally ill
19 person or a person legally liable for the person's
20 support under this section is limited to an amount
21 equal to one hundred percent of the cost of care and
22 treatment of the mentally ill person at a state mental
23 health institute for one hundred twenty days of
24 hospitalization. This limit of liability may be
25 reached by payment of the cost of care and treatment
26 of the mentally ill person subsequent to a single
27 admission or multiple admissions to a state mental
28 health institute or, if the person is not discharged
29 as cured, subsequent to a single transfer or multiple
30 transfers to a county care facility pursuant to
31 section 227.11. After reaching this limit of
32 liability, a mentally ill person or a person legally
33 liable for the person's support is liable to the
34 county for the care and treatment of the mentally ill
35 person at a state mental health institute or, if
36 transferred but not discharged as cured, at a county
37 care facility in an amount ~~not in excess of the~~
38 ~~average minimum cost of the maintenance of a~~
39 ~~physically and mentally healthy individual residing in~~
40 ~~the individual's own home, which standard shall be~~
41 ~~established and may from time to time be revised by~~
42 ~~the department of human services determined by the~~
43 department of human services. All income and
44 resources available to such person shall be considered
45 in determining the amount for which such person is
46 liable. A monthly allowance for personal needs of the
47 mentally ill person equal to the amount permitted for
48 persons eligible for medical assistance under chapter
49 249A shall be determined. A lien imposed by section
50 230.25 shall not exceed the amount of the liability

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1 which may be incurred under this section on account of
2 any mentally ill person."

3 2. Title, line 1, by inserting after the word
4 "information" the following: ", and to the liability
5 for the cost of care and treatment for a mentally ill
6 person".

1 Section 1. Section 228.1, subsection 1, Code 1987, is
2 amended to read as follows:

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, third-party payor
7 number of a patient, if known, name and location of the
8 facility where treatment is received, the date of the
9 individual's admission to the facility, and the name of the
10 individual's attending physician or attending mental health
11 professional.

12 Sec. 2. Section 228.2, subsection 2, unnumbered paragraph
13 1, and paragraphs a, b, and c, Code 1987, are amended to read
14 as follows:

15 Upon disclosure of mental health information pursuant to
16 section 228.3, 228.5, or 228.6, the person disclosing the
17 mental health information shall enter a notation on and
18 maintain the notation with the individual's record of mental
19 health information, stating the date of the disclosure and the
20 name of the recipient of mental health information. The

21 ~~notation shall include all of the following:~~

22 ~~a. -- The date of the disclosure.~~

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

25 ~~c. -- A description of the contents of the disclosure.~~

26 Sec. 3. Section 228.2, subsection 3, Code 1987, is amended
27 to read as follows:

28 3. A recipient of mental health information shall not
29 disclose the information received, except as specifically
30 authorized for initial disclosure in section 228.3, 228.5, or
31 228.6. However, mental health information may be transferred
32 at any time to another facility, physician, or mental health
33 professional in cases of a medical emergency or if the
34 individual or the individual's legal representative requests
35 the transfer in writing for the purposes of receipt of medical

1 or mental health professional services, at which time the
2 requirements of section 228.2, subsection 2, shall be
3 followed.

4 Sec. 4. Section 228.3, subsection 1, paragraph d, Code
5 1987, is amended to read as follows:

6 d. Specify the length of time for which the authorization
7 is valid ~~and whether the authorization is renewable.~~

8 Sec. 5. Section 228.3, subsection 2, Code 1987, is amended
9 to read as follows:

10 2. A copy of the authorization shall:

11 a. Be provided to the individual and or to the person
12 legal representative of the individual authorizing the
13 disclosure.

14 ~~b.--Accompany all disclosures--~~

15 e b. Be included in the individual's record of mental
16 health information.

17 Sec. 6. Section 228.3, subsection 3, unnumbered paragraph
18 2, Code 1987, is amended to read as follows:

19 If a third-party payor questions an individual's entitle-
20 ment to, or the amount of benefits payable for professional
21 services provided to the individual following disclosure of
22 the information in paragraphs "a" through "d", the third-party
23 payor may request the individual or the individual's legal
24 representative to consent to the disclosure of mental health
25 information to a mental health professional, who is not
26 affiliated with either the service provider or the third-party
27 payor, or to a utilization and quality review entity of, or
28 contract with, the third-party payor, for the purpose of
29 conducting an independent review of the individual's record of
30 mental health information and the individual's entitlement to,
31 or the amount of benefits payable for professional services
32 provided to the individual. Additional information that may
33 be released under this subsection includes the individual's
34 history and symptoms, the individual's treatment plan,
35 medications prescribed, therapies, updates to the treatment

1 plan, future treatment plans, and progress notes of the
2 medical and nursing teams. In evaluating the information
3 released in accordance with this section, the independent
4 mental health professional or utilization review entity shall
5 determine whether the individual, otherwise entitled to
6 benefits, received treatment for a similar mental health
7 condition prior to the effective date of the third-party payor
8 coverage under which benefits are claimed. Benefits may be
9 denied on the basis of such information only if professional
10 services were provided prior to the effective date of the
11 third-party payor coverage, and if the coverage so provides.
12 Mental health information disclosed to the nonaffiliated
13 mental health professional for the purpose of the review shall
14 not be disclosed to the third-party payor.

15 Sec. 7. Section 228.5, subsections 1 and 3, Code 1987, are
16 amended to read as follows:

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

23 3. A mental health professional or an employee of or agent
24 for a mental health facility may disclose mental health
25 information if necessary for the purpose of conducting
26 scientific and data research, management audits, or program
27 evaluations of the mental health professional or mental health
28 facility, to persons who have demonstrated and provided
29 written assurances of their ability to ensure compliance with
30 the requirements of this chapter. The persons shall not
31 identify, directly or indirectly, an individual in any report
32 of the research, audits, or evaluations, or otherwise disclose
33 individual identities in any manner. A disclosure under this
34 section is not subject to the requirements of section 228.2,
35 subsection 2, with the exception that a person receiving

1 mental health information under this section shall be provided
2 a statement prohibiting redisclosure of information unless
3 otherwise authorized by this chapter.

4 SUCCESSOR TO SSB 2252 (LSB 8400SC)

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SENATE FILE 2284

H-5886

1 Amend the House amendment H-5877 to Senate File
2 2284 as amended, passed, and reprinted by the Senate,
3 as follows:

4 1. Page 3, by inserting after line 4, the
5 following:

6 " . Title page, line 1, by inserting after the
7 word "information" the following: "and providing a
8 penalty"."

By ADAMS of Hamilton

H-5886 FILED MARCH 24, 1988

Adopted 3/20 (p. 1142)

SENATE FILE 2284

H-5998

1 Amend the amendment, H-5877, to Senate File 2284 as
2 amended, passed, and reprinted by the Senate as
3 follows:

A 4 1. Page 1, line 14, by inserting after the word
5 "organization" the following: ", or to employees or
6 agents of a third-party payor or a peer review
7 organization,".

B 8 2. Page 1, by striking lines 35 and 36 and
9 inserting the following: "provided, to conduct an
10 audit of claims paid, or as otherwise authorized by
11 law."

12 3. Page 2, line 8, by inserting after the word
13 "Act" the following: ", or another organization of
14 licensed health care professionals performing
15 utilization and quality control review functions".

By ADAMS of Hamilton

H-5998 FILED MARCH 28, 1988

B-Adopted, A. w/ 5/29 (p. 1142)

SENATE FILE 2284

H-5877

1 Amend Senate File 2284 as amended, passed, and
2 reprinted by the Senate as follows:

3 1. Page 1, by inserting before line 1, the
4 following:

5 "Section 1. NEW SECTION. 228.7 DISCLOSURES FOR
6 CLAIMS ADMINISTRATION AND PEER REVIEW -- SAFEGUARDS --
7 PENALTY.

8 1. Mental health information may be disclosed, in
9 accordance with the prior written consent of the
10 patient or the patient's legal representative, by a
11 mental health professional, data collector, or
12 employee or agent of a mental health professional, a
13 data collector, or a mental health facility to a
14 third-party payor or to a peer review organization if
15 the third-party payor or the peer review organization
16 has filed a written statement with the commissioner of
17 insurance in which the filer agrees to:

18 a. Instruct its employees and agents to maintain
19 the confidentiality of mental health information and
20 of the penalty for unauthorized disclosure.

21 b. Comply with the limitations on use and
22 disclosure of the information specified in subsection
23 2 of this section.

24 c. Destroy the information when it is no longer
25 needed for the purposes specified in subsection 2 of
26 this section.

27 2. An employee or agent of a third-party payor or
28 of a peer review organization shall not use mental
29 health information or disclose mental health
30 information to any person, except to the extent
31 necessary to administer claims submitted or to be
32 submitted for payment to the third-party payor, to
33 conduct a utilization and quality control review of
34 mental health care services provided or proposed to be
35 provided, or as otherwise authorized by law or by
36 court order.

37 3. An employee or agent of a third-party payor or
38 a peer review organization who willfully uses or
39 discloses mental health information in violation of
40 subsection 2 of this section is guilty of a serious
41 misdemeanor, and, notwithstanding section 903.1, the
42 sentence for a person convicted under this subsection
43 is a fine not to exceed five hundred dollars in the
44 case of a first offense, and not to exceed five
45 thousand dollars in the case of each subsequent
46 offense."

47 2. Page 1, by inserting after line 11 the
48 following:

49 "Sec. ____ . Section 228.1, Code 1987, is amended by
50 adding the following new subsection:

H-5877

Page 2

1 NEW SUBSECTION. 9. "Peer review organization"
 2 means a utilization and quality control peer review
 3 organization that has a contract with the federal
 4 secretary of health and human services pursuant to
 5 Title XI, part B, of the federal Social Security Act
 6 to review health care services paid for in whole or in
 7 part under the Medicare program established by Title
 8 XVIII of the federal Social Security Act."

9 3. Page 1, by striking lines 12 through 25 and
 10 inserting the following:

11 "Sec. ____ . Section 228.2, Code 1987, is amended to
 12 read as follows:

13 228.2 MENTAL HEALTH INFORMATION DISCLOSURE
 14 PROHIBITED -- EXCEPTIONS --RECORD OF DISCLOSURE.

15 1. Except as specifically authorized in section
 16 228.3, 228.5, or 228.6, or 228.7, a mental health
 17 professional, data collector, or employee or agent of
 18 a mental health professional, of a data collector, or
 19 of or for a mental health facility shall not disclose
 20 or permit the disclosure of mental health information.

21 2. Upon disclosure of mental health information
 22 pursuant to section 228.3, 228.5, or 228.6, or 228.7,
 23 the person disclosing the mental health information
 24 shall enter a notation on and maintain the notation
 25 with the individual's record of mental health
 26 information, stating the date of the disclosure and
 27 the name of the recipient of mental health
 28 information. ~~The notation shall include all of the~~
 29 ~~following:~~

30 a:--~~The date of the disclosure.~~

31 b:--~~The name of the recipient of the mental health~~
 32 ~~information.~~

33 c:--~~A description of the contents of the~~
 34 ~~disclosure.~~

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

45 3. A recipient of mental health information shall
 46 not disclose the information received, except as
 47 specifically authorized for initial disclosure in
 48 section 228.3, 228.5, or 228.6, or 228.7."

49 4. By striking page 2, line 17 through page 3,
 50 line 14.

Page 3

1 5. Page 4, by inserting after line 3 the
 2 following:

3 "Sec. ____ . Section 228.3, subsection 3, Code 1987,
 4 is amended by striking the subsection."

By COMMITTEE ON HUMAN RESOURCES

Adopted as amended by 5436 & 5496 B 3/29 Fey of Scott, Chairperson

H-5877 FILED MARCH 24, 1988 (p 1143)

HOUSE AMENDMENT TO
SENATE FILE 2284

5709

1 Amend Senate File 2284 as amended, passed, and
2 reprinted by the Senate as follows:

3 1. Page 1, by inserting before line 1, the
4 following:

5 "Section 1. NEW SECTION. 228.7 DISCLOSURES FOR
6 CLAIMS ADMINISTRATION AND PEER REVIEW -- SAFEGUARDS --
7 PENALTY.

8 1. Mental health information may be disclosed, in
9 accordance with the prior written consent of the
10 patient or the patient's legal representative, by a
11 mental health professional, data collector, or
12 employee or agent of a mental health professional, a
13 data collector, or a mental health facility to a
14 third-party payor or to a peer review organization if
15 the third-party payor or the peer review organization
16 has filed a written statement with the commissioner of
17 insurance in which the filer agrees to:

18 a. Instruct its employees and agents to maintain
19 the confidentiality of mental health information and
20 of the penalty for unauthorized disclosure.

21 b. Comply with the limitations on use and
22 disclosure of the information specified in subsection
23 2 of this section.

24 c. Destroy the information when it is no longer
25 needed for the purposes specified in subsection 2 of
26 this section.

27 2. An employee or agent of a third-party payor or
28 of a peer review organization shall not use mental
29 health information or disclose mental health
30 information to any person, except to the extent
31 necessary to administer claims submitted or to be
32 submitted for payment to the third-party payor, to
33 conduct a utilization and quality control review of
34 mental health care services provided or proposed to be
35 provided, to conduct an audit of claims paid, or as
36 otherwise authorized by law.

37 3. An employee or agent of a third-party payor or
38 a peer review organization who willfully uses or
39 discloses mental health information in violation of
40 subsection 2 of this section is guilty of a serious
41 misdemeanor, and, notwithstanding section 903.1, the
42 sentence for a person convicted under this subsection
43 is a fine not to exceed five hundred dollars in the
44 case of a first offense, and not to exceed five
45 thousand dollars in the case of each subsequent
46 offense."

47 2. Page 1, by inserting after line 11 the
48 following:

49 "Sec. ____ . Section 228.1, Code 1987, is amended by
50 adding the following new subsection:

1 NEW SUBSECTION. 9. "Peer review organization"
2 means a utilization and quality control peer review
3 organization that has a contract with the federal
4 secretary of health and human services pursuant to
5 Title XI, part B, of the federal Social Security Act
6 to review health care services paid for in whole or in
7 part under the Medicare program established by Title
8 XVIII of the federal Social Security Act, or another
9 organization of licensed health care professionals
10 performing utilization and quality control review
11 functions."

12 3. Page 1, by striking lines 12 through 25 and
13 inserting the following:

14 "Sec. . Section 228.2, Code 1987, is amended to
15 read as follows:

16 228.2 MENTAL HEALTH INFORMATION DISCLOSURE
17 PROHIBITED -- EXCEPTIONS --RECORD OF DISCLOSURE.

18 1. Except as specifically authorized in section
19 228.3, 228.5, or 228.6, or 228.7, a mental health
20 professional, data collector, or employee or agent of
21 a mental health professional, of a data collector, or
22 of or for a mental health facility shall not disclose
23 or permit the disclosure of mental health information.

24 2. Upon disclosure of mental health information
25 pursuant to section 228.3, 228.5, or 228.6, or 228.7,
26 the person disclosing the mental health information
27 shall enter a notation on and maintain the notation
28 with the individual's record of mental health
29 information, stating the date of the disclosure and
30 the name of the recipient of mental health
31 information. ~~The notation shall include all of the~~
32 ~~following:~~

33 a. ~~The date of the disclosure.~~

34 b. ~~The name of the recipient of the mental health~~
35 ~~information.~~

36 c. ~~A description of the contents of the~~
37 ~~disclosure.~~

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

48 3. A recipient of mental health information shall
49 not disclose the information received, except as
50 specifically authorized for initial disclosure in

SENATE 12
APRIL 4, 1988

5709 Page 3

1 section 228.3, 228.5, or 228.6, or 228.7."

2 4. By striking page 2, line 17 through page 3,
3 line 14.

4 5. Page 4, by inserting after line 3 the
5 following:

6 "Sec. ____ . Section 228.3, subsection 3, Code 1987,
7 is amended by striking the subsection."

8 6. Title page, line 1, by inserting after the
9 word "information" the following: "and providing a
10 penalty".

S-5709

Filed March 31, 1988

Senate amended 4/6 (5709) (y. 1988)

RECEIVED FROM THE HOUSE

SENATE FILE 2284

1 Amend the House amendments, S-5709, to Senate File
2 2284, as amended, passed, and reprinted by the Senate,
3 as follows:

4 1. Page 1, by inserting after line 36 the
5 following:

6 "Employees of a self-insured employer, and agents
7 of a self-insured employer which have not filed a
8 statement with the commissioner of insurance pursuant
9 to subsection 1, shall not be granted routine or
10 ongoing access to mental health information unless the
11 employees or agents have signed a statement indicating
12 that they are aware that the information shall not be
13 used or disclosed except as provided in this
14 subsection and that they are aware of the penalty for
15 unauthorized disclosure."

16 2. Page 1, by inserting after line 46, the
17 following:

18 "_____. Page 1, line 1, by striking the words
19 "subsection 1, Code 1987, is" and inserting the
20 following: "subsections 1 and 8, Code 1987, are"."

21 _____ Page 1, by inserting after line 11, the
22 following:

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

31 4. Page 1, line 50, by striking the word
32 "subsection" and inserting the following:
33 "subsections".

34 5. Page 2, by inserting after line 11, the
35 following:

36 "NEW SUBSECTION. 10. "Self-insured employer"
37 means a person which provides accident and health
38 benefits or medical, surgical, or hospital benefits on
39 a self-insured basis to its own employees or to
40 employees of an affiliated company or companies and
41 which does not otherwise provide accident and health
42 benefits or medical, surgical, or hospital benefits.""

S-1090

Filed April 6, 1988

ADOPTED

BY BEVERLY A. HANNON

SENATE AMENDMENT TO HOUSE AMENDMENT TO
SENATE FILE 2284

H-6267

1 Amend the House amendment, S-5709, to Senate File
2 2284, as amended, passed, and reprinted by the Senate,
3 as follows:

4 1. Page 1, by inserting after line 36 the
5 following:

6 "Employees of a self-insured employer, and agents
7 of a self-insured employer which have not filed a
8 statement with the commissioner of insurance pursuant
9 to subsection 1, shall not be granted routine or
10 ongoing access to mental health information unless the
11 employees or agents have signed a statement indicating
12 that they are aware that the information shall not be
13 used or disclosed except as provided in this
14 subsection and that they are aware of the penalty for
15 unauthorized disclosure."

16 2. Page 1, by inserting after line 46, the
17 following:

18 "____. Page 1, line 1, by striking the words
19 "subsection 1, Code 1987, is" and inserting the
20 following: "subsections 1 and 8, Code 1987, are"."

21 _____. Page 1, by inserting after line 11, the
22 following:

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

31 4. Page 1, line 50, by striking the word
32 "subsection" and inserting the following:
33 "subsections".

34 5. Page 2, by inserting after line 11, the
35 following:

36 "NEW SUBSECTION. 10. "Self-insured employer"
37 means a person which provides accident and health
38 benefits or medical, surgical, or hospital benefits on
39 a self-insured basis to its own employees or to
40 employees of an affiliated company or companies and
41 which does not otherwise provide accident and health
42 benefits or medical, surgical, or hospital benefits."

RECEIVED FROM THE SENATE

H-6267 FILED APRIL 6, 1988

James Stewart

LSP

HANNON, CH.

SSB 2252

BRUNER

HUMAN RESOURCES

SSB 2252

---AN

Hand

HUMAN RESOURCES: Hannon, Chair; Bruner and Gentleman

SENATE FILE 2284
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.
BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 228.1, subsection 1, Code 1987, is
2 amended to read as follows:

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, third-party payor
7 number of a patient, if known, name and location of the
8 facility where treatment is received, the date of the
9 individual's admission to the facility, and the name of the
10 individual's attending physician and attending mental health
11 professional.

12 Sec. 2. Section 228.2, subsection 2, unnumbered paragraph
13 1, and paragraphs a, b, and c, Code 1987, are amended to read
14 as follows:

15 Upon disclosure of mental health information pursuant to
16 section 228.3, 228.5, or 228.6, the person disclosing the
17 mental health information shall enter a notation on and
18 maintain the notation with the individual's record of mental
19 health information, stating the date of the disclosure and the
20 name of the recipient of mental health information. The

21 ~~notation shall include all of the following:~~

22 ~~a. The date of the disclosure.~~

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

25 ~~c. A description of the contents of the disclosure.~~

26 Sec. 3. Section 228.2, subsection 3, Code 1987, is amended
27 to read as follows:

28 3. A recipient of mental health information shall not
29 disclose the information received, except as specifically
30 authorized for initial disclosure in section 228.3, 228.5, or
31 228.6. However, mental health information may be transferred
32 at any time to another facility, physician, or mental health
33 professional in cases of an emergency or if the individual or
34 the individual's legal representative requests the transfer in
35 writing for the purposes of receipt of medical or professional

1 services, at which time the requirements of section 228.2,
2 subsection 2, shall be followed.

3 Sec. 4. Section 228.3, subsection 1, paragraph d, Code
4 1987, is amended to read as follows:

5 d. Specify the length of time for which the authorization
6 is valid ~~and whether the authorization is renewable.~~

7 Sec. 5. Section 228.3, subsection 2, Code 1987, is amended
8 to read as follows:

9 2. A copy of the authorization shall:

10 a. Be provided to the individual ~~and~~ or to the person
11 legal representative of the individual authorizing the
12 disclosure.

13 ~~b.--Accompany all disclosures--~~

14 e b. Be included in the individual's record of mental
15 health information.

16 Sec. 6. Section 228.3, subsection 3, unnumbered paragraph
17 2, Code 1987, is amended to read as follows:

18 If a third-party payor questions an individual's entitle-
19 ment to, or the amount of benefits payable for professional
20 services provided to the individual following disclosure of
21 the information in paragraphs "a" through "d", the third-party
22 payor may request the individual or the individual's legal
23 representative to consent to the disclosure of mental health
24 information to a mental health professional, who is not
25 affiliated with either the service provider or the third-party
26 payor, or to a utilization review agent or entity of the
27 third-party payor, for the purpose of conducting an
28 independent review of the individual's record of mental health
29 information and the individual's entitlement to, or the amount
30 of benefits payable for professional services provided to the
31 individual. Additional information that may be released under
32 this subsection includes the individual's history and
33 symptoms, the individual's treatment plan, medications
34 prescribed, therapies, updates to the treatment plan, future
35 treatment plans, and progress notes of the medical and nursing

1 teams. Mental health information disclosed to the
2 nonaffiliated mental health professional for the purpose of
3 the review shall not be disclosed to the third-party payor.

4 Sec. 7. Section 228.5, subsections 1 and 3, Code 1987, are
5 amended to read as follows:

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

12 3. A mental health professional or an employee of or agent
13 for a mental health facility may disclose mental health
14 information if necessary for the purpose of conducting
15 scientific and data research, management audits, or program
16 evaluations of the mental health professional or mental health
17 facility, to persons who have demonstrated and provided
18 written assurances of their ability to ensure compliance with
19 the requirements of this chapter. The persons shall not
20 identify, directly or indirectly, an individual in any report
21 of the research, audits, or evaluations, or otherwise disclose
22 individual identities in any manner. A disclosure under this
23 section is not subject to the requirements of section 228.2,
24 subsection 2, with the exception that a person receiving
25 mental health information under this section shall be provided
26 a statement prohibiting redisclosure of information unless
27 otherwise authorized by this chapter.

28 EXPLANATION

29 This bill explains the definition of administrative
30 information under the disclosure of mental health information
31 chapter. The bill also states the information to be included
32 on the record of disclosure of the individual's mental health
33 information, provides for disclosure of information when
34 transferred to another facility, physician, or mental health
35 professional under certain conditions, makes provision for the

1 inclusion of certain information in the copy of an
2 authorization for voluntary disclosure, and in certain
3 information released to a third-party payor, and prohibits
4 redisclosure of mental health information except as otherwise
5 provided in this chapter.

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SENATE FILE 2284

AN ACT
RELATING TO THE DISCLOSURE OF MENTAL HEALTH INFORMATION AND
PROVIDING A PENALTY.

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

Section 1. NEW SECTION. 228.7 DISCLOSURES FOR CLAIMS
ADMINISTRATION AND PEER REVIEW -- SAFEGUARDS -- PENALTY.

1. Mental health information may be disclosed, in accordance with the prior written consent of the patient or the patient's legal representative, by a mental health professional, data collector, or employee or agent of a mental health professional, a data collector, or a mental health facility to a third-party payor or to a peer review organization if the third-party payor or the peer review organization has filed a written statement with the commissioner of insurance in which the filer agrees to:

a. Instruct its employees and agents to maintain the confidentiality of mental health information and of the penalty for unauthorized disclosure.

b. Comply with the limitations on use and disclosure of the information specified in subsection 2 of this section.

c. Destroy the information when it is no longer needed for the purposes specified in subsection 2 of this section.

2. An employee or agent of a third-party payor or of a peer review organization shall not use mental health

information or disclose mental health information to any person, except to the extent necessary to administer claims submitted or to be submitted for payment to the third-party payor, to conduct a utilization and quality control review of mental health care services provided or proposed to be provided, to conduct an audit of claims paid, or as otherwise authorized by law.

Employees of a self-insured employer, and agents of a self-insured employer which have not filed a statement with the commissioner of insurance pursuant to subsection 1, shall not be granted routine or ongoing access to mental health information unless the employees or agents have signed a statement indicating that they are aware that the information shall not be used or disclosed except as provided in this subsection and that they are aware of the penalty for unauthorized disclosure.

3. An employee or agent of a third-party payor or a peer review organization who willfully uses or discloses mental health information in violation of subsection 2 of this section is guilty of a serious misdemeanor, and, notwithstanding section 903.1, the sentence for a person convicted under this subsection is a fine not to exceed five hundred dollars in the case of a first offense, and not to exceed five thousand dollars in the case of each subsequent offense.

Sec. 2. Section 228.1, subsections 1 and 8, Code 1987, are amended to read as follows:

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, third-party payor number of a patient, if known, name and location of the facility where treatment is received, the date of the individual's admission to the facility, and the name of the individual's attending physician or attending 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 self-insured employers.

Sec. 3. Section 228.1, Code 1987, is amended by adding the following new subsections:

NEW SUBSECTION. 9. "Peer review organization" means a utilization and quality control peer review organization that has a contract with the federal secretary of health and human services pursuant to Title XI, part B, of the federal Social Security Act to review health care services paid for in whole or in part under the Medicare program established by Title XVIII of the federal Social Security Act, or another organization of licensed health care professionals performing utilization and quality control review functions.

NEW SUBSECTION. 10. "Self-insured employer" means a person which provides accident and health benefits or medical, surgical, or hospital benefits on a self-insured basis to its own employees or to employees of an affiliated company or companies and which does not otherwise provide accident and health benefits or medical, surgical, or hospital benefits.

Sec. 4. Section 228.2, Code 1987, is amended to read as follows:

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, or 228.7, 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, or 228.7, 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, stating the date of the disclosure and the name of the recipient 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 this chapter, 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, or 228.7.

Sec. 5. Section 228.2, subsection 3, Code 1987, is amended to read as follows:

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. However, mental health information may be transferred at any time to another facility, physician, or mental health professional in cases of a medical emergency or if the individual or the individual's legal representative requests the transfer in writing for the purposes of receipt of medical or mental health professional services, at which time the

requirements of section 228.2, subsection 2, shall be followed.

Sec. 6. Section 228.3, subsection 1, paragraph d, Code 1987, is amended to read as follows:

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

Sec. 7. Section 228.3, subsection 2, Code 1987, is amended to read as follows:

2. A copy of the authorization shall:

a. Be provided to the individual and or to the person legal representative of the individual authorizing the disclosure.

~~b--Accompany all disclosures--~~

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

Sec. 8. Section 228.5, subsections 1 and 3, Code 1987, are amended to read as follows:

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 administrative and professional services to the individual.

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 and data 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. A disclosure under this section is not subject to the requirements of section 228.2,

subsection 2, with the exception that a person receiving mental health information under this section shall be provided a statement prohibiting redisclosure of information unless otherwise authorized by this chapter.

Sec. 9. Section 228.3, subsection 3, Code 1987, is amended by striking the subsection.

JO ANN ZIMMERMAN
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 2284, Seventy-second General Assembly.

JOHN F. DWYER
Secretary of the Senate

Approved _____, 1988

TERRY E. BRANSTAD
Governor

SF 2284