

Senate File 2032 - Introduced

SENATE FILE 2032

BY McCOY

A BILL FOR

1 An Act relating to the disclosure of mental health information
2 for the purpose of patient care coordination, and including
3 effective date provisions.

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

DIVISION I

DISCLOSURE OF MENTAL HEALTH INFORMATION

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3 Section 1. Section 228.2, Code 2016, is amended to read as
4 follows:

5 **228.2 Mental health information disclosure prohibited —**
6 **exceptions — record of disclosure.**

7 1. Except as specifically authorized in subsection 4,
8 section 228.3, 228.5, 228.6, 228.7, or 228.8, or for the
9 purposes of care coordination as defined in section 135.154,
10 a mental health professional, data collector, or employee or
11 agent of a mental health professional, of a data collector, or
12 of or for a mental health facility shall not disclose or permit
13 the disclosure of mental health information.

14 2. *a.* Upon disclosure of mental health information pursuant
15 to subsection 4, section 228.3, 228.5, 228.6, 228.7, or 228.8,
16 or for the purposes of care coordination as defined in section
17 135.154, the person disclosing the mental health information
18 shall enter a notation on and maintain the notation with the
19 individual's record of mental health information, stating the
20 date of the disclosure and the name of the recipient of mental
21 health information.

22 *b.* The person disclosing the mental health information shall
23 give the recipient of the information a statement which informs
24 the recipient that disclosures may only be made pursuant to
25 the written authorization of an individual or an individual's
26 legal representative, or as otherwise provided in this chapter,
27 that the unauthorized disclosure of mental health information
28 is unlawful, and that civil damages and criminal penalties may
29 be applicable to the unauthorized disclosure of mental health
30 information.

31 3. A recipient of mental health information shall not
32 disclose the information received, except as specifically
33 authorized for initial disclosure in subsection 4, section
34 228.3, 228.5, 228.6, 228.7, or 228.8, or for the purposes of
35 care coordination as defined in section 135.154.

1 4. However, mental Mental health information may be
2 transferred at any time to another facility, physician, or
3 mental health professional in cases of a medical emergency or
4 if the individual or the individual's legal representative
5 requests the transfer in writing for the purposes of receipt of
6 medical or mental health professional services, at which time
7 the requirements of **subsection 2** shall be followed.

8 Sec. 2. EFFECTIVE UPON ENACTMENT. This division of this
9 Act, being deemed of immediate importance, takes effect upon
10 enactment.

11 DIVISION II

12 CONDITIONAL ENACTMENT

13 Sec. 3. Section 228.2, Code 2016, as amended in this Act,
14 is amended to read as follows:

15 **228.2 Mental health information disclosure prohibited —**
16 **exceptions — record of disclosure.**

17 1. Except as specifically authorized in subsection 4,
18 section 228.3, **228.5, 228.6, 228.7, or 228.8**, or for the
19 purposes of care coordination as defined in section ~~135.154~~
20 135D.2, a mental health professional, data collector, or
21 employee or agent of a mental health professional, of a data
22 collector, or of or for a mental health facility shall not
23 disclose or permit the disclosure of mental health information.

24 2. *a.* Upon disclosure of mental health information
25 pursuant to subsection 4, **section 228.3, 228.5, 228.6, 228.7,**
26 **or 228.8**, or for the purposes of care coordination as defined
27 in section ~~135.154~~ 135D.2, the person disclosing the mental
28 health information shall enter a notation on and maintain
29 the notation with the individual's record of mental health
30 information, stating the date of the disclosure and the name of
31 the recipient of mental health information.

32 *b.* The person disclosing the mental health information shall
33 give the recipient of the information a statement which informs
34 the recipient that disclosures may only be made pursuant to
35 the written authorization of an individual or an individual's

1 legal representative, or as otherwise provided in **this chapter**,
2 that the unauthorized disclosure of mental health information
3 is unlawful, and that civil damages and criminal penalties may
4 be applicable to the unauthorized disclosure of mental health
5 information.

6 3. A recipient of mental health information shall not
7 disclose the information received, except as specifically
8 authorized for initial disclosure in subsection 4, section
9 228.3, **228.5**, **228.6**, **228.7**, or **228.8**, or for the purposes of
10 care coordination as defined in section ~~135.154~~ 135D.2.

11 4. Mental health information may be transferred at any time
12 to another facility, physician, or mental health professional
13 in cases of a medical emergency or if the individual or the
14 individual's legal representative requests the transfer in
15 writing for the purposes of receipt of medical or mental health
16 professional services, at which time the requirements of
17 subsection 2 shall be followed.

18 Sec. 4. EFFECTIVE DATE. This division of this Act
19 takes effect upon the assumption of the administration and
20 governance, including but not limited to the assumption of the
21 assets and liabilities, of the Iowa health information network
22 by the designated entity. The department of public health
23 shall notify the Code editor of the date of such assumption by
24 the designated entity.

25

EXPLANATION

26 The inclusion of this explanation does not constitute agreement with
27 the explanation's substance by the members of the general assembly.

28 This bill relates to the disclosure of mental health
29 information for the purpose of the coordination of a patient's
30 care, and includes effective date provisions. The bill is
31 organized by divisions.

32 DIVISION I — DISCLOSURE OF MENTAL HEALTH INFORMATION.

33 Under current law, a mental health professional, data
34 collector, or employee or agent of a mental health
35 professional, or data collector, or of or for a mental health

1 facility, is prohibited from disclosing or permitting the
2 disclosure of certain mental health information, except as
3 specifically authorized by law. A recipient of mental health
4 information is also prohibited from disclosing mental health
5 information received, except as specifically authorized by law.
6 The bill amends these provisions to include in the exception
7 disclosures made by such persons for purposes of a patient's
8 care coordination, defined in Code section 135.154 as the
9 management of all aspects of a patient's care to improve health
10 care quality.

11 This division is effective upon enactment.

12 DIVISION II — CONDITIONAL ENACTMENT. 2015 Iowa Acts, ch
13 73 (HF 381), division I, creates a new Code chapter 135D which
14 provides for the administration and governance of an Iowa
15 health information network, currently under the authority of
16 the department of public health (DPH), by a nonprofit entity
17 to be designated by DPH through a competitive process. Code
18 chapter 135D will take effect only upon the assumption of the
19 administration and governance of the network by the designated
20 entity from DPH. HF 381 also contains certain transition
21 provisions, including the repeal of Code section 135.154, upon
22 assumption of the administration and governance of the Iowa
23 health information network by the designated entity.

24 This division amends Code section 228.2 to replace the
25 reference to the definition of care coordination in Code
26 section 135.154 with the corresponding reference to the
27 replacement definition in chapter 135D, contingent upon the
28 assumption of the designated entity of the administration and
29 governance of the network.