

**CHAPTER 1242****NONDISCLOSURE OF CONFIDENTIAL COMMUNICATIONS***H.F. 2430*

**AN ACT** adding mental health professionals and physician's assistants to the list of persons who are not required to disclose confidential communications in court proceedings.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 622.10, unnumbered paragraph 1, Code 1981, is amended to read as follows:

~~No~~ A practicing attorney, counselor, physician, surgeon, physician's assistant, mental health professional, or the stenographer or confidential clerk of any such person, who obtains ~~such~~ information by reason of ~~his the person's~~ employment, minister of the gospel or priest of any denomination shall not be allowed, in giving testimony, to disclose any confidential communication properly entrusted to ~~him the person in his the person's~~ professional capacity, and necessary and proper to enable ~~him the person~~ to discharge the functions of ~~his the person's~~ office according to the usual course of practice or discipline. ~~Such~~ The prohibition shall ~~does~~ not apply to cases where the person in whose favor the ~~same prohibition~~ is made waives the rights conferred; nor shall ~~such does the prohibition apply, as the same relates to physicians or surgeons, physician's assistants, mental health professionals,~~ or to the stenographer or confidential clerk of any ~~such physicians or surgeons, physician's assistants, or mental health professionals,~~ in a civil action to ~~recover damages for personal injuries or wrongful death~~ in which the condition of the person in whose favor ~~such the prohibition~~ is made is an element or factor of the claim or defense of ~~such the person or of any party claiming through or under such the person.~~ ~~Such~~ The evidence shall be ~~is~~ admissible upon trial of the action only as it relates to the condition alleged. If an adverse party desires the oral deposition, either discovery or evidentiary, of ~~any such a physician or surgeon, physician's assistant, or mental health professional~~ to which ~~such the prohibition would otherwise apply or the stenographer or confidential clerk of any such a physician or surgeon, physician's assistant, or mental health professional~~ or desires to call ~~any such a physician or surgeon, physician's assistant, or mental health professional~~ to which ~~such the prohibition would otherwise apply or the stenographer or confidential clerk of any such a physician or surgeon, physician's assistant, or mental health professional~~ as a witness at the trial of the action, ~~he the adverse party~~ shall file an application with the court for permission to do so. The court upon hearing, which shall not be ex parte, shall grant ~~such~~ permission unless the court finds that the evidence sought does not relate to the condition alleged and shall fix a reasonable fee to be paid to ~~such the physician or surgeon, physician's assistant, or mental health professional~~ by the party taking the deposition or calling the witness. For the purposes of this section, "mental health professional" means psychologists certified under chapter 154B, registered nurses licensed under chapter 152, or individuals holding at least a master's degree in social work or counseling and guidance.

Approved May 17, 1982