

By Mr. Petersen of Marblehead, petition of Douglas W. Petersen and other members of the General Court for legislation to provide for protection of consumer privacy in psychotherapy under the insurance laws of the Commonwealth. Insurance.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Four.

AN ACT PROVIDING FOR PROTECTION OF CONSUMER PRIVACY IN PSYCHOTHERAPY.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 175 of the General Laws is hereby
2 amended by inserting after section 110K the following section: —
3 Section 110L. For the purposes of this session the words
4 “patient” and “psychotherapist” shall have the same meanings as
5 in section twenty B of chapter two hundred and twenty-three.

6 In dealings between insurance companies and psychotherapists
7 the following provisions shall apply:

8 (1) Records maintained to document therapy sessions and
9 regarding personal and private information are the property of
10 the patient and psychotherapist jointly. Access to the records is
11 prohibited without the informed consent of the patient and with
12 the approval of the psychotherapist.

13 (2) Neither the insurance company or any agent or employee
14 shall intrude in the therapy relationship by demanding factual
15 information or any information deemed potentially damaging to
16 the patient. This information shall include but not be limited to
17 diagnosis, results of testing, background information, and
18 treatment plan. The disclosure of such information is an inherent
19 right of the patient at the moment he/she believes he/she has
20 begun the process of psychotherapy. No one is entitled to have
21 access to any information gathered during the psychotherapy
22 session without the explicit and written permission of the patient.

23 (3) The patient will not in any manner be coerced into granting
24 permission for disclosure, including but not limited to requests
25 by insurance companies, agencies of the criminal justice system,
26 and any part of the judicial system both civil and criminal. No
27 third party payor will withhold payment or refuse reimbursement
28 based solely on the patient's refusal to release records of
29 information including psychiatric diagnoses, the patient's refusal
30 to release records of information including psychiatric diagnoses.

31 (4) Before signing a release of information, the patient will be
32 fully informed about the purpose of the release.

33 For the purposes of monitoring the business management,
34 financing and quality of psychotherapy an insurance company,
35 its agents and employees have the right to know the following:

36 (1) that psychotherapy is being conducted by a licensed and
37 qualified psychotherapist in a therapeutic manner.

38 (2) that the patient is satisfied with the treatment and believes
39 that it is appropriately addressing his/her problem.

40 (3) any and all qualifications, training, experience, and
41 orientation of the psychotherapist, including specialty areas.

1 SECTION 2. The second paragraph of section 20B of
2 chapter 233 of the General Laws, as appearing in the 1992 Official
3 Edition, is hereby amended by adding the following sentence: —
4 At the outset of any therapy which is the subject of this section,
5 the psychotherapists shall inform the patient of the provisions
6 hereof.