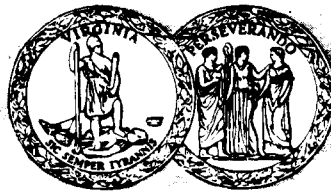


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STATE CORPORATION COMMISSION  
BUREAU OF INSURANCE

March 9, 1987

Administrative Letter 1987-3

TO: ALL INSURERS PROVIDING COVERAGE FOR MENTAL HEALTH BENEFITS IN VIRGINIA  
RE: CHAPTER 12 OF TITLE 37.1 OF THE CODE OF VIRGINIA (DISCLOSURE  
OF PATIENT INFORMATION TO THIRD PARTY PAYORS BY PROFESSIONALS)

It was recently brought to my attention that insurers may be collecting detailed information relating to an insured's illness and treatment which may be in excess of that required to settle the insurance claim. All insurers providing coverage for mental health benefits should be aware of the provisions of Chapter 12 of Title 37.1 (Virginia Code §37.1-225. et seq.). A copy of the pertinent sections of this law is attached to this letter for your information and records. This law should be read in conjunction with Chapter 6 of Title 38.2 (Virginia Code §38.2-600. et seq.).

By law, mental health professionals may only provide insurers with certain brief information on the patient's illness and treatment. If the insurer is unable to settle the claim based on the information provided, then a physician employed by the insurer may request additional information by stating the reasons therefor. An insurer may not, except in a few limited instances, disclose any information received from a mental health professional or treatment facility about an insured without the insured's expressed written consent. Violations of this law may subject both the mental health professional and the insurer to civil or criminal penalties.

Any questions concerning this Administrative Letter should be addressed, in writing, to P. A. Synnott, Jr., Deputy Commissioner for Market Regulation, at the above address.

Very truly yours,

Steven T. Foster  
Commissioner of Insurance

STF/csw

Enclosure

B. [Repealed.] (1976, c. 739; 1980, c. 582.)

§ 37.1-224: Not set out.

**Editor's note.** — Section 37.1-224 is a severability clause. See Acts 1976, c. 739.

## CHAPTER 12.

### DISCLOSURE OF PATIENT INFORMATION TO THIRD PARTY PAYORS BY PROFESSIONALS.

Sec.	Sec.
37.1-225. Definitions.	37.1-229. Form of consent.
37.1-226. Patient deemed to consent to disclosure of certain information.	37.1-230. Disclosure to patient of information released.
37.1-227. Disclosure of additional information.	37.1-231. Remedies and penalties.
37.1-228. Disclosure of information by third party payor prohibited; exceptions.	37.1-232. Federal law to govern in case of conflict.
	37.1-233. Inapplicability of chapter.

§ 37.1-225. **Definitions.** — As used in this chapter:

1. "**Professional**" means any individual authorized by law to engage in the diagnosis or treatment of a mental health, mental retardation, substance abuse or emotional condition, including a psychiatrist, psychologist, psychiatric social worker, physician, nurse, or other professional person providing mental health, mental retardation or substance abuse services.

2. "**Patient**" means a person who applies for service, consults, is examined, interviewed, treated or otherwise served to some extent by either a professional or by a treatment facility, or by both, with regard to a primarily mental or emotional condition or a social deprivation or dysfunction or a developmental disability of a mental or emotional order.

3. "**Patient identifying information**" means name, address, social security number or other information by which the identity of a patient can be determined with reasonable accuracy either directly or by access to other publicly available information.

4. "**Treatment facility**" means all mental health, mental retardation and substance abuse facilities, including facilities licensed pursuant to Chapter 8 (§ 37.1-179 et seq.) of Title 37.1 and hospitals licensed pursuant to § 32.1-126, clinics and training centers operated by the Department of Mental Health and Mental Retardation.

5. "**Third party payors**" means all third parties who provide by contract or by policy of insurance for the payment of treatment facility services, professional services or for a combination of such services. (1978, c. 632; 1980, c. 556.)

**Law Review.** — For survey of Virginia insurance law for the year 1977-1978, see 64 Va. L. Rev. 1477 (1978).

§ 37.1-226. **Patient deemed to consent to disclosure of certain information.** — A patient who has requested a professional to submit a bill to a third party payor for payment under a contract or policy of insurance covering such patient shall be deemed to have consented to the disclosure of the following information to such third party payor:

4. The inclusive dates of the records to be disclosed.  
 No consent shall be valid unless it is dated and signed by the person consenting. Any consent may be revoked except to the extent that action has already been taken in reliance on the consent. (1978, c. 632.)

§ 37.1-230. **Disclosure to patient of information released.** — Any patient who is the subject of information received by a third party payor pursuant to the provisions of this chapter may request and shall be entitled to receive from such third party payor a statement as to the substance of such information. Provided, however, if either the professional or the treatment facility, or both, have advised the third party payor that such information if given to the patient might adversely affect the patient's health, the third party payor shall provide such information to an attorney designated by the patient rather than to the patient. (1978, c. 632; 1980, c. 556.)

§ 37.1-231. **Remedies and penalties.** — A. Any person violating any provision of this chapter shall be liable in damages to any person injured by such violation. Punitive damages may be awarded in the event of multiple or continuous violations of this chapter.

B. Any person who willfully violates any provision of this chapter shall be guilty of a Class 2 misdemeanor.

C. Any violation of the provisions of this chapter may be enjoined at the suit of the person injured thereby. (1978, c. 632.)

**Cross reference.** — As to punishment for Class 2 misdemeanors, see § 18.2-11.

§ 37.1-232. **Federal law to govern in case of conflict.** — If any provision of federal law is in conflict with the requirements of this chapter, the federal law shall govern. (1978, c. 632.)

§ 37.1-233. **Inapplicability of chapter.** — The provisions of this chapter shall not apply to the underwriting of any application for insurance. (1978, c. 632.)

CHAPTER 13.  
 HUMAN RESEARCH.

Sec. 37.1-234. Definitions. 37.1-235. Informed consent. 37.1-236. Human research review committees. 37.1-237. Applicability of federal policies. 37.1-238. Regulations. 37.1-239. Advocacy Department for the	Sec. 37.1-240. Powers and duties of the Director. 37.1-241. General powers and duties of the Department.	Developmentally Disabled created; appointment of Director.
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§ 37.1-234. **Definitions.** — As used in this chapter unless the context requires otherwise:

1. "*Human research*" means any medical or psychological research which utilizes human subjects who may be exposed to the possibility of physical or psychological injury as a consequence of participation as subjects and which departs from the application of those established and accepted methods appro-