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**Civil Rights & Judiciary Committee**

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**SB 5596**

**Brief Description:** Conforming disclosure restrictions for mental health counselors, marriage and family therapists, and social workers to the requirements of the Uniform Health Care Information Act.

**Sponsors:** Senators Trudeau, Frockt, Dhingra, Nobles and Wilson, C..

**Brief Summary of Bill**

- Authorizes mental health counselors, marriage and family therapists, or social workers to disclose health care information of a client under circumstances authorized by the Uniform Health Care Information Act (UHCIA).
- Requires mental health counselors, marriage and family therapists, or social workers to provide accurate disclosure information about the extent of confidentiality provided by the UHCIA.

**Hearing Date:** 2/22/22

**Staff:** Yelena Baker (786-7301).

**Background:**

Mental Health Counselors, Marriage and Family Therapists, and Social Workers.

A mental health counselor, marriage and family therapist, or social worker is a master's level professional licensed by the Department of Health (DOH) to provide client services which may include psychotherapy, diagnosis and treatment of behavioral health disorders, case management, advocacy, and counseling, according to the professional's specialization.

At the beginning of any program of treatment, a mental health counselor, marriage and family

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therapist, or social worker must provide a client with accurate disclosure information about the professional's practices. Information in this disclosure relates to the right of clients to refuse treatment, the client's choice of provider and treatment modality, and the extent of confidentiality provided by state law that regulates these professions.

A client's acknowledgment of the disclosure statement or information received by the professional when consulting the client in a professional capacity may not be disclosed without the client's written authorization unless:

- the client waives the privilege by bringing charges against the professional;
- the disclosure is in response to a subpoena from the DOH; or
- disclosure is in the context of civil commitment proceedings or is necessary to comply with mandatory reporting requirements related to abuse of children or vulnerable adults.

Additionally, information received by the professional may be disclosed to any individual without the client's authorization if the professional reasonably believes that disclosure will avoid or minimize an imminent danger to the health or safety of the client or any other individual. However, there is no obligation on the part of the professional to so disclose.

#### The Uniform Health Care Information Act.

The Uniform Health Care Information Act (UHCIA) prohibits a health care provider or their assistant, agent, or employee from disclosing health care information about a patient without the patient's written authorization that identifies the nature of the information to be disclosed and the persons to whom the information is to be disclosed. The UHCIA defines "health care" broadly as any care, service, or procedure that affects the structure or any function of the human body or diagnoses, treats, or maintains a patient's physical or mental condition.

The UHCIA contains exceptions which allow disclosure of health care information without a patient's written authorization, including but not limited to disclosures for:

- the provision of health care;
- quality assurance, peer review, or administrative, legal, financial, or actuarial services;
- research purposes;
- public health and law enforcement activities as required by law; and
- judicial proceedings.

Additionally, the UHCIA permits disclosure of health care information without written authorization to any person if the health care provider or health care facility believes, in good faith, that use or disclosure is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public, and the information is disclosed only to persons reasonably able to prevent or lessen the threat, including the target of the threat. However, there is no obligation under the UHCIA on the part of the provider or facility to so disclose.

#### **Summary of Bill:**

In addition to existing disclosure requirements, at the beginning of any program of treatment, a

mental health counselor, marriage and family therapist, or social worker must provide a client with accurate disclosure information about the extent of confidentiality provided by the UHCIA.

A client's acknowledgment of the disclosure statement or information received by the professional when consulting the client in a professional capacity may be disclosed, with or without written authorization, as authorized or required under the UHCIA.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.