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ADMINISTRATIVE LAW JUDGE.

HOUSE COMMITTEE OF REFERENCE REPORT

Chair of Committee Date April 12, 2022
Committee on Public & Behavioral Health & Human Services.
After consideration on the merits, the Committee recommends the following:
HB22-1354 be amended as follows, and as so amended, be referred the Committee on <u>Appropriations</u> with favorab recommendation:
Amend printed bill, page 3, lines 2 and 3, strike "division employe training -".
Page 3, strike lines 5 through 8 and substitute "Means the following records pertaining to the claimant: (a) Psychological or psychiatric tests, including neuropsychological testing; (b) Other records prepared by or for a mental health provider; (c) Independent medical examination records and report that address psychological or psychiatric issues; (d) Division independent medical evaluation records and reports that address psychological or psychiatric issues; and (e) Records relating to the evaluation, diagnosis, of treatment of a substance use or abuse disorder." Page 3, line 15, after "treating" insert "or evaluating".
Page 3, strike lines 16 through 27 and substitute: "(3) (a) MENTAL HEALTH RECORDS PROVIDED PURSUANT TO SUBSECTION (2) OF THIS SECTION SHALL NOT BE DISCLOSED TO AN PERSON WHO IS NOT REASONABLY NECESSARY FOR THE MEDICAL EVALUATION, ADJUSTMENT, OR ADJUDICATION OF CLAIMS INVOLVING PSYCHOLOGICAL OR PSYCHIATRIC ISSUES UNLESS DISCLOSURE OTHERWISE DIRECTED BY ORDER OF THE DIRECTOR OR AND ADJUSTMENT.

(b) (I) AN INSURER MAY RELEASE INFORMATION FROM A

- 1 CLAIMANT'S MENTAL HEALTH RECORDS CONCERNING ANY WORK
- 2 RESTRICTIONS PLACED ON THE CLAIMANT TO THE CLAIMANT'S EMPLOYER,
- 3 SUPERVISOR, OR MANAGER, AND INFORMATION AS NECESSARY FOR THE
- 4 ADJUSTMENT AND ADJUDICATION OF A CLAIM, BUT SHALL NOT DISCLOSE
- 5 THE CLAIMANT'S ACTUAL MENTAL HEALTH RECORDS TO ANY THIRD PARTY
- 6 WHO IS NOT DIRECTLY INVOLVED IN MEDICALLY EVALUATING, ADJUSTING,
- 7 OR ADJUDICATING CLAIMS INVOLVING PSYCHOLOGICAL OR PSYCHIATRIC
- 8 ISSUES WITHOUT THE CONSENT OF THE CLAIMANT UNLESS DISCLOSURE IS
- 9 OTHERWISE ORDERED BY THE DIRECTOR OR AN ADMINISTRATIVE LAW
- 10 JUDGE.
- 11 (II) NOTWITHSTANDING SUBSECTION (3)(b)(I) OF THIS SECTION, IF
- 12 THE CLAIMANT'S MENTAL HEALTH PROVIDER OR PHYSICIAN OBJECTS TO
- 13 THE RELEASE OF MENTAL HEALTH RECORDS, THE INSURER SHALL NOT
- 14 DISCLOSE THE MENTAL HEALTH RECORDS TO A THIRD PARTY UNLESS
- 15 OTHERWISE ORDERED BY THE DIRECTOR OR AN ADMINISTRATIVE LAW
- 16 JUDGE.".

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- 17 Page 4, strike lines 1 and 2.
- Page 4, line 8, after "PROTECTED;" insert "AND".
- 19 Page 4, strike lines 9 through 27 and substitute:
- 20 "(II) (A) MAY DISCLOSE INFORMATION FROM THE CLAIMANT'S
- 21 MENTAL HEALTH RECORDS CONCERNING ANY WORK RESTRICTIONS PLACED
- 22 ON THE CLAIMANT TO THE CLAIMANT'S SUPERVISOR OR MANAGER AND
- 23 INFORMATION AS NECESSARY FOR THE ADJUSTMENT OR ADJUDICATION OF
- 24 A CLAIM, BUT SHALL NOT DISCLOSE THE CLAIMANT'S ACTUAL MENTAL
- 25 HEALTH RECORDS TO ANY THIRD PARTY WHO IS NOT DIRECTLY INVOLVED
- 26 IN MEDICALLY EVALUATING, ADJUSTING, OR ADJUDICATING CLAIMS
- 27 INVOLVING PSYCHOLOGICAL OR PSYCHIATRIC ISSUES WITHOUT THE
- 28 CONSENT OF THE CLAIMANT, UNLESS DISCLOSURE IS OTHERWISE ORDERED
- 29 BY THE DIRECTOR OR AN ADMINISTRATIVE LAW JUDGE.
 - (B) NOTWITHSTANDING SUBSECTION (3)(c)(II)(A) OF THIS SECTION, IF THE CLAIMANT'S MENTAL HEALTH PROVIDER OR PHYSICIAN OBJECTS TO THE RELEASE OF MENTAL HEALTH RECORDS, THE
- 32 OBJECTS TO THE RELEASE OF MENTAL HEALTH RECORDS, THE 33 SELF-INSURED EMPLOYER SHALL NOT DISCLOSE THE MENTAL HEALTH
- 34 RECORDS TO ANY THIRD PARTY UNLESS OTHERWISE ORDERED BY THE
- 35 DIRECTOR OR AN ADMINISTRATIVE LAW JUDGE.
- 36 (d) (I) A THIRD PARTY RECEIVING MENTAL HEALTH RECORDS
- 37 PURSUANT TO THIS SUBSECTION (3) SHALL NOT DISCLOSE THE CLAIMANT'S
- 38 ACTUAL MENTAL HEALTH RECORDS TO ANY PERSON WHO IS NOT DIRECTLY
- 39 INVOLVED IN MEDICALLY EVALUATING, ADJUSTING, OR ADJUDICATING

- 1 CLAIMS INVOLVING PSYCHOLOGICAL OR PSYCHIATRIC ISSUES WITHOUT THE 2 CONSENT OF THE CLAIMANT, UNLESS OTHERWISE ORDERED BY THE 3 DIRECTOR OR AN ADMINISTRATIVE LAW JUDGE.
- 4 (II) NOTWITHSTANDING SUBSECTION (3)(d)(I) OF THIS SECTION, IF 5 THE CLAIMANT'S MENTAL HEALTH PROVIDER OR PHYSICIAN OBJECTS TO
- 6 THE RELEASE OF MENTAL HEALTH RECORDS, THE THIRD PARTY SHALL NOT
- 7 DISCLOSE THE MENTAL HEALTH RECORDS TO ANY OTHER THIRD PARTY
- 8 UNLESS OTHERWISE ORDERED BY THE DIRECTOR OR AN ADMINISTRATIVE
- 9 LAW JUDGE.".
- 10 Page 5, strike lines 1 through 11.
- 11 Renumber succeeding subsection accordingly.
- 12 Page 6, line 14, strike "PROVIDER IN THIS STATE." and substitute
- 13 "PROVIDER.".

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