

# 1995 SESSION

ENROLLED

## HOUSE JOINT RESOLUTION NO. 559

*Establishing a joint subcommittee to study the law applicable to confidentiality of the relationship between patient and mental health care provider.*

Agreed to by the House of Delegates, February 4, 1995

Agreed to by the Senate, February 21, 1995

WHEREAS, the patient-physician therapeutic relationship is based upon confidentiality of all communications by the patient with the corresponding duty upon the licensed mental health care provider not to disclose any confidential communication; and

WHEREAS, the disclosure of confidential information by licensed mental health care providers may harm the therapeutic relationship; and

WHEREAS, parties in civil actions have a general legal right to discover relevant and material information concerning the issues in the proceeding; and

WHEREAS, Virginia Code § 8.01-399 was enacted to balance the litigant's right to factual information with the patient's right to confidential diagnosis and treatment; and

WHEREAS, discovery of relevant, factual information may be obtained through various means and sources other than those which violate patient confidentiality; and

WHEREAS, not all licensed mental health care professions are included within the provisions of § 8.01-399; and

WHEREAS, § 8.01-399 may be in conflict with the Code of Ethics and Standards of Practice governing licensed mental health care professions; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That a joint subcommittee be established to (i) reexamine § 8.01-399 to determine if the law fairly and properly balances the rights of litigants to information relevant to their legal proceedings with the rights of patients to confidentiality in their patient-therapist relationship with their mental health care provider, (ii) determine whether the current statute is in conflict with professional ethical codes and standards of practice for licensed mental health care professions, (iii) determine whether the current statute contains adequate, effective and proper safeguards and restrictions to prevent disclosure of confidential patient information which may not be relevant in legal proceedings, (iv) determine whether all licensed mental health care providers should be included in this statute, (v) determine the impact of the statute on the delivery of mental health care services, including medical psychotherapy, and (vi) examine to determine if the statute should be limited to certain types of civil actions. The membership of the joint subcommittee shall be as follows: four members of the House of Delegates to be appointed by the Speaker of the House; and three members of the Senate to be appointed by the Senate Committee on Privileges and Elections.

The direct costs of this study shall not exceed \$3,150.

The Division of Legislative Services shall provide staff support for the study.

The joint subcommittee shall complete its work in time to submit its findings and recommendations to the Governor and the 1996 Session of the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.

Implementation of this resolution is subject to subsequent approval and certification by the Joint Rules Committee. The Committee may withhold expenditures or delay the period for the conduct of the study.

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