

State of South Dakota

SEVENTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 1998

805B0427

HOUSE BILL NO. 1311

Introduced by: Representative Windhorst and Senator Rounds

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the release of health
2 care information.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. Except as specifically provided in §§ 19-13-9 to 19-13-11, inclusive, and 19-2-3
5 and 19-2-3.2, no person is required to disclose any health care information about an individual
6 pursuant to a compulsory legal process, including subpoenas, subpoenas duces tecum, and other
7 discovery requests, in any judicial, legislative, or administrative proceeding unless:

8 (1) The individual has consented in writing to the release of the information in response
9 to the compulsory process; or

10 (2) A certified court order is provided.

11 Section 2. Any person, releasing health care information in good faith pursuant to the
12 provisions of section 1 of this Act, is not liable for any injury or damage proximately resulting
13 from the release of the information.

14 Section 3. That § 19-13-8 be amended to read as follows:

15 19-13-8. The privilege described by § 19-13-7 may be claimed by the patient, ~~his~~ the patient's
16 guardian or conservator, or the personal representative or surviving spouse of a deceased patient.

- 1 The person who was the physician or psychotherapist at the time of the communication is
- 2 presumed to have authority to claim the privilege but only on behalf of the patient.