

**SENATE AMENDMENT 1,  
TO 2007 SENATE BILL 246**

February 28, 2008 – Offered by COMMITTEE ON HEALTH, HUMAN SERVICES, INSURANCE,  
AND JOB CREATION.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 3, line 14: after that line insert:

3 **“SECTION 3e.** 51.01 (11m) of the statutes is created to read:

4 51.01 **(11m)** “Licensed mental health professional” has the meaning given in  
5 s. 632.89 (1) (dm).

6 **SECTION 3g.** 51.30 (1) (b) of the statutes is amended to read:

7 51.30 **(1) (b)** “Treatment records” include the registration and all other records  
8 that are created in the course of providing services to individuals for mental illness,  
9 developmental disabilities, alcoholism, or drug dependence and that are maintained  
10 by the department; by county departments under s. 51.42 or 51.437 and their staffs,  
11 and; by treatment facilities; or by psychologists licensed under s. 455.04 (1) or  
12 licensed mental health professionals who are not affiliated with a county department  
13 or treatment facility. Treatment records do not include notes or records maintained

1 for personal use by an individual providing treatment services for the department,  
2 a county department under s. 51.42 or 51.437, or a treatment facility, if the notes or  
3 records are not available to others.

4 **SECTION 3i.** 51.30 (8) of the statutes is amended to read:

5 51.30 (8) GRIEVANCES. Failure to comply with any provisions of this section may  
6 be processed as a grievance under s. 51.61 (5), except that the grievance resolution  
7 procedure options required under s. 457.04 (8) apply to failures to comply by a  
8 licensed mental health professional who is not affiliated with a county department  
9 or treatment facility. However, use of the grievance procedure is not required before  
10 bringing any civil action or filing a criminal complaint under this section.

11 **SECTION 3k.** 51.61 (1) (y) of the statutes is created to read:

12 51.61 (1) (y) Have the right, if provided services by a licensed mental health  
13 professional, to receive from the professional a copy of the grievance resolution  
14 procedure option that the professional makes available to the patient, as required  
15 under s. 457.04 (8).

16 **SECTION 3m.** 51.61 (2) of the statutes is amended to read:

17 51.61 (2) A patient's rights guaranteed under sub. (1) (p) to (t) may be denied  
18 for cause after review by the director of the facility, and may be denied when  
19 medically or therapeutically contraindicated as documented by the patient's  
20 physician or, licensed psychologist, or licensed mental health professional in the  
21 patient's treatment record. The individual shall be informed in writing of the  
22 grounds for withdrawal of the right and shall have the opportunity for a review of  
23 the withdrawal of the right in an informal hearing before the director of the facility  
24 or his or her designee. There shall be documentation of the grounds for withdrawal  
25 of rights in the patient's treatment record. After an informal hearing is held, a

1 patient or his or her representative may petition for review of the denial of any right  
2 under this subsection through the use of the grievance procedure provided in sub. (5)  
3 or, alternatively for review of the denial of a right by a licensed mental health  
4 professional, through the use of one of the grievance resolution procedure options  
5 under s. 457.04 (8). Alternatively, or in addition to the use of such the appropriate  
6 grievance procedure, a patient or his or her representative may bring an action under  
7 sub. (7).

8 **SECTION 3p.** 51.61 (5) (e) of the statutes is created to read:

9 51.61 (5) (e) A licensed mental health professional shall make available to each  
10 patient to whom the professional provides services a copy of the grievance resolution  
11 procedure option that the professional makes available to the patient, as required  
12 under s. 457.04 (8). Paragraphs (a) and (b) do not apply to this paragraph.

13 **SECTION 3r.** 51.61 (9) of the statutes is amended to read:

14 51.61 (9) ~~The~~ Except for grievance resolution procedure options required under  
15 s. 457.04 (8), the department shall promulgate rules to implement this section.

16 **SECTION 3t.** 457.04 (8) of the statutes is created to read:

17 457.04 (8) Practice clinical social work, marriage and family therapy, or  
18 professional counseling without making available to his or her client in writing one  
19 of the following options for a grievance resolution procedure:

20 (a) A written grievance resolution procedure that contains all of the following  
21 elements:

22 1. The name, address, and telephone number of, and any other contact  
23 information available for, the appropriate section of the examining board that is  
24 responsible for receiving a complaint and investigating and conducting a hearing  
25 under s. 457.26 (1).

1           2. The name, address, and telephone number of, and any other contact  
2 information available for, a person not involved in the services, therapy, or  
3 counseling giving rise to the complaint who would be available to receive and  
4 investigate a complaint.

5           3. The manner by which a client may present a complaint to a person identified  
6 in subd. 1. or 2.

7           4. The manner by which a client may appeal the resolution of a complaint  
8 presented in subd. 3.

9           5. Time limits for filing, processing, and appealing the resolution of a complaint  
10 presented under subd. 3.

11           6. Protections against retaliation for a client who presents a complaint under  
12 subd. 3. and for any person who assists the client to present a complaint under subd.  
13 3.

14           (b) A written grievance resolution procedure that complies with the rules  
15 promulgated under s. 51.61 (5) (b).

16           (c) A written grievance resolution procedure that is available to the credential  
17 holder through a professional association of which the credential holder is a  
18 member.”.

19           **2.** Page 3, line 24: delete that line and substitute “under s. 457.10, or a  
20 professional counselor who is licensed under s. 457.12.”.

21           **3.** Page 3, line 24: after that line insert:

22           “**SECTION 5m.** 632.89 (1) (e) 3. of the statutes is repealed and recreated to read:  
23           632.89 (1) (e) 3. A psychologist licensed under ch. 455.”.

