

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

535E0031

## SENATE BILL NO. 3

Introduced by: Senators Ham and Madden and Representatives McCoy, Monroe, and Slaughter at the request of Interim Judiciary Committee

1 FOR AN ACT ENTITLED, An Act to revise the health information privacy rule-making  
2 authority of the director of insurance to include nonpublic personal financial information.

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

4 Section 1. That § 58-2-40 be amended to read as follows:

5 58-2-40. The director of insurance shall promulgate rules pursuant to chapter 1-26, to  
6 protect the privacy of personally identifiable health care and medical information, data, and  
7 records and nonpublic personal financial information. The rules shall cover health care and  
8 medical information, data, and records and nonpublic personal financial information collected,  
9 used, or disclosed by any person licensed or registered under Title 58 ~~or~~, any person with whom  
10 such licensees or registrants contract, or any claimant or beneficiary of products or services of  
11 licensees if the products or services are primarily used for personal, family, or household  
12 purposes, and shall include all health care and medical information, data, and records received  
13 by or in the possession of the Division of Insurance. The rules may include the following:

14 (1) Definition of terms;

15 (2) Standards for the protection of the privacy and confidentiality of personally

- 1 identifiable health care information and medical records and nonpublic personal  
2 financial information;
- 3 (3) Rules for the collection, use, storage, security, disclosure, release, and disposal of  
4 health care and medical information, data, and records and nonpublic personal  
5 financial information in all forms, including printed material, plastic media, audio,  
6 video, and computerized and electronic transmissions;
- 7 (4) Rules regarding the sale and exchange of health care and medical information, data,  
8 and records and nonpublic personal financial information;
- 9 (5) Rules to define the responsibilities and limitations of those needing or requiring access  
10 to health care and medical information, data, and records and nonpublic personal  
11 financial information;
- 12 (6) Rules for procedures and documents required for the release or transfer of health care  
13 and medical information, data, and records, including the identity of any person who  
14 may release such information and records and under what conditions and provisions  
15 of the law, as needed to protect the privacy of personally identifiable health care and  
16 medical information, data, and records and nonpublic personal financial information;
- 17 (7) Rules for the collection, use, storage, security, disclosure, distribution, release, and  
18 disposal of health care information and medical records and nonpublic personal  
19 financial information obtained, used, or held in connection with the operation,  
20 maintenance, or review of insurance certificates, contracts, policies, and plans, and  
21 health maintenance organizations, subject to the jurisdiction of the director of  
22 insurance;
- 23 (8) Rules requiring a licensee to provide notice to individuals about its privacy policies  
24 and practices;

- 1       (9) Rules describing the conditions under which a licensee may disclose nonpublic  
2       personal health information and nonpublic personal financial information about  
3       individuals to affiliates and nonaffiliated third parties;
- 4       (10) Rules to provide protection to individuals who use authorized methods to prevent the  
5       use or disclosure of their nonpublic financial or health information; and
- 6       (11) Rules providing methods for individuals to prevent a licensee from disclosing  
7       nonpublic personal health information and nonpublic personal financial information.