do not feel that they can be honest, the information gathered during an assessment or a treatment session may lack accuracy and reliability, which can lead to ineffective diagnosis and treatment. In extreme cases, if the reliability of the patient's account is significantly compromised, the treatment strategy that is chosen may be so ineffective that it may, in fact, result in a worsening of symptoms and an unintended poor prognosis. An earlier Colorado case, *Clark v. District Court*, 668 P.2d 3 (Colo. 1983), similarly emphasized the importance of the psychologist–patient privilege, not only equating it to the physician-patient privilege, but also asserting that confidentiality itself within the psychologist–patient relationship contributes to more effective assessment and treatment. *Clark* also established that the privilege applies not only to information provided during oral testimony but also to information requested during pretrial discovery.

Although not discussed in *Johnson*, on the federal level, *Jaffee v. Redmond*, 518 U.S. 1 (1996), set an important precedent related to the *Johnson* decision. In *Jaffee*, the Supreme Court of the United States established the psychotherapist–patient privilege as a legally recognized privilege under Fed. R. of Evid. 501 (1975) and further ruled that the privilege applies to communications between a psychologist and patient and also to the notes that a psychologist may take during sessions. During the same year that *Jaffee* was decided, the Health Insurance Portability and Accountability Act (HIPAA; Pub. L. No. 104-191(1996)) was enacted by the federal government. The Act covers many aspects of health care, but it places a great deal of emphasis on privacy and highlights the importance of confidentiality in health care transactions.

One exception to the evidentiary privilege protecting psychologist–patient communications is in the case of dangerous patients where warnings to third parties are necessary for public protection, as was the case in *Tarasoff v. Regents of University of California*, 551 P.2d 334 (Cal. 1976). However, even in such circumstances, this case highlighted the fact that confidentiality is not only a hallmark of the psychologist–patient relationship but that breaches of this confidentiality should be construed narrowly and not be made lightly.

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Funding of Mental Health Institutes

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Governor's Item Veto of Appropriations for Mental Health Institutes Did Not Exceed Constitutional Authority

In *Homan v. Branstad*, 887 N.W.2d 153 (Iowa 2016), the president of the public employee union and members of the general assembly brought suit against Governor Terry Branstad and Charles Palmer, the Director of Human Services, regarding closure of two mental health facilities in Iowa. They challenged the governor's item veto of appropriations for these institutes, claiming that he had exceeded the scope of constitutional and statutory authority. The district court granted the defendant's motion for summary judgment and dismissed the petition. The plaintiffs subsequently appealed, and the Supreme Court of Iowa affirmed the judgment of the district court in dismissing the petition.

Facts of the Case

During its 2015 session, the Iowa general assembly passed two bills intended to appropriate money from the state general fund for the operation of two mental health institutes operated by the state. Although the governor signed the bills, he vetoed the appropriations intended to fund the two institutes, because he did not feel it was in the best interests of patients, taxpayers, or the mental health system to continue operating them. The president of a public employee union and 20 state legislators brought suit against the governor and the director of human services, alleging that the actions taken by them exceeded the scope of their state constitutional and statutory authority. They further asserted that the governor's actions violated Iowa Code, §§ 226.1 and 218.1 (2015), arguing that it mandates the existence of the two mental health institutes and their continued operation under the authority and control of the director of human services. The plaintiffs mainly sought (1) a temporary or permanent injunction bar-

ring the governor from closing the mental health facilities or taking any further actions and (2) a writ of *mandamus* commanding the governor and the director to keep the institutions open or commanding the governor to convene another session of the general assembly to appropriate funds for their operation. The governor filed a motion requesting that the district court dismiss the petition, asserting that the political-question doctrine barred the action, the plaintiffs lacked standing, and the petition failed to state a claim upon which the court may grant relief. The district court denied the motion, but granted the motion to dismiss the claims against the director of human services. The parties then filed cross-motions for summary judgment, and the district court granted summary judgment to the governor and dismissed the petition. The plaintiffs filed a notice of appeal, which was granted.

Ruling and Reasoning

The Iowa Supreme Court held that the appeal was timely and that question of the governor's veto was not moot. The court also affirmed the judgment of the district court finding that the governor's item veto of appropriations for the two mental health institutes did not exceed the scope of his constitutional authority, as the court's statutory interpretations of §§ 226.1 and 218.1 of the Iowa Code do not mandate that the facilities exist in perpetuity. The principles for interpreting statutory provisions were highlighted and the court indicated that statutory construction is designed to determine legislative intent and that legislative intent is determined from the words chosen, not by what it should or might say. The words in the statute are given their ordinary and common meaning by considering the context in which they are used and those interpreting it may not change the meaning of the statute in any way.

The legislative history of §§ 226.1 and 218.1 of the Iowa Code were reviewed. Until the late 1800s, the code mandated the existence of the mental institutions; however, this language was abandoned in subsequent revisions of the code, altering its meaning. The use of the term "shall be designated" first appeared in the code in 1954, which was intended to assign specific names to the state mental health institutions, not to mandate their existence in perpetuity. These sections do not outline any requirements or limitations on the merger or closure of the mental health institutes, which gives weight to the interpretation that the general assembly did not intend to provide for the perpetual existence of the facilities, nor did it intend to reserve the power to close them for itself. Thus, the legislative history suggests that the general assembly's intent was to name the mental health institutes and establish a governing structure to operate them and that the statues were not consistent with the plaintiff's interpretation. The court held that the statutes did not limit the governor's ability to impose an item veto of the funds for the institutions.

Discussion

Although the governor's veto power was questioned within this case, the main contention seemed to be whether statutes within the Iowa Code mandate that two specific mental health institutes be permanently operational. Within this context, the importance of accurate interpretation of statutory provisions was highlighted in determining the general assembly's intent with regard to a particular statute. A review of the legislative history became an important factor in applying the principles of interpretation as it highlighted how changes or amendments made to statutes should be considered in interpreting their meaning. It is typically presumed that the law has changed as a result of the amendment and that the changes were made for a particular purpose. This was especially pertinent in the current case because of a change in the language over the years and the omission of particular words in the revision of the statutes, which changed the meaning of the statute and did not mandate that the mental institutions be operational on a permanent basis.

Of note, this case was not argued in the context of the Americans with Disabilities Act of 1990, which is seemingly relevant because of its protection of persons with a disability from exclusion, participation in, or denial of the benefits of services, programs, or activities of a public entity. However, the Act also highlights how individuals with mental disabilities have the right to live in the community, rather than in an institution if it is determined that community placement is appropriate. Thus, although *Homan* focused on the governor's scope and statutory interpretation, it is useful to think about this within a larger framework: the closing of mental health institutions and ramifications of closures regarding appropriate care and treatment of individuals with mental disorders and other disabilities.

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