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SENATE FILE 2064  
BY SZYMONIAK

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to access to and duplication of health records  
2 upon the request of a patient and providing for disciplinary  
3 action.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S.F. 2064

1 Section 1. NEW SECTION. 135.29A HEALTH CARE PROVIDER  
2 RECORDS -- DUPLICATION FOR PROVISION TO PATIENT.

3 1. As used in this section, unless the context otherwise  
4 requires:

5 a. "Health care provider" or "provider" means a person  
6 licensed to practice medical surgery pursuant to chapter 148,  
7 physical therapy pursuant to chapter 148A, occupational  
8 therapy pursuant to chapter 148B, acupuncture pursuant to  
9 chapter 148E, podiatry pursuant to chapter 149, osteopathy  
10 pursuant to chapter 150, osteopathic medicine and surgery  
11 pursuant to chapter 150A, chiropractic pursuant to chapter  
12 151, nursing pursuant to chapter 152, dietetics pursuant to  
13 chapter 152A, respiratory care pursuant to chapter 152B,  
14 message therapy pursuant to chapter 152C, dentistry pursuant  
15 to chapter 153, optometry pursuant to chapter 154, psychology  
16 pursuant to chapter 154B, social work pursuant to chapter  
17 154C, behavioral science pursuant to chapter 154D, or licensed  
18 as a physician assistant pursuant to chapter 148C, a hospital  
19 licensed pursuant to chapter 135B, and a health care facility  
20 licensed pursuant to chapter 135C.

21 b. "Health record" includes but is not limited to  
22 evaluations, diagnoses, prognoses, treatment, history, charts,  
23 pictures, laboratory reports, X rays, prescriptions, and other  
24 technical information used in assessing a patient's condition.

25 c. "Individually identifiable form" means a form in which  
26 the patient is or can be identified as the subject of the  
27 health records.

28 d. "Patient" means a natural person who has received  
29 health care services from a health care provider for treatment  
30 or examination of a medical, psychiatric, or mental condition,  
31 the surviving spouse or parents of a deceased patient, or a  
32 person the patient designates, in writing, as a  
33 representative.

34 2. a. Upon request, a provider shall supply to a patient  
35 complete and current information possessed by that provider

1 concerning any diagnosis, treatment, and prognosis of the  
2 patient in terms and language the patient can reasonably be  
3 expected to understand.

4 b. Except as provided in paragraph "e", upon a patient's  
5 written request, a provider, at a reasonable cost to the  
6 patient, shall promptly furnish to the patient any of the  
7 following:

8 (1) Copies of the patient's health record, including but  
9 not limited to laboratory reports, X rays, prescriptions, and  
10 other technical information used in assessing the patient's  
11 health condition.

12 (2) The pertinent portion of the patient's health record  
13 relating to a condition specified by the patient.

14 With the consent of the patient, the provider may instead  
15 furnish only a summary of the health record or pertinent  
16 portion of the health record. The provider may exclude from  
17 the health record written speculations about the patient's  
18 health condition, except that all information necessary for  
19 the patient's informed consent shall be provided.

20 c. If a provider reasonably determines that any  
21 information in the health record is detrimental to the  
22 physical or mental health of the patient, or is likely to  
23 cause the patient to inflict self-harm, or to harm another,  
24 the provider may withhold the information from the patient and  
25 may supply the information to an appropriate third party or to  
26 another provider. The other provider or third party may  
27 release the information to the patient.

28 d. A provider who is a health care facility or hospital  
29 shall release information upon written request of a patient  
30 unless, prior to the request, a provider who is not a health  
31 care facility or hospital has designated and described a  
32 specific basis for withholding the information as authorized  
33 in paragraph "c".

34 e. A provider shall not release a copy of a videotape of a  
35 child victim or alleged victim of physical or sexual abuse

1 without a court order. This paragraph does not limit the  
2 right of the patient to view the videotape.

3 3. A patient's health record, including but not limited to  
4 laboratory reports, X rays, prescriptions, and other technical  
5 information used in assessing the patient's condition, or the  
6 pertinent portion of the health record relating to a specific  
7 condition, or a summary of the health record, shall promptly  
8 be furnished to another provider upon the written request of  
9 the patient. The written request shall specify the name of  
10 the provider to whom the health record is to be furnished.  
11 The provider who furnishes the health record or summary may  
12 retain a copy of the materials furnished. The patient shall  
13 be responsible for the reasonable costs of furnishing the  
14 information.

15 4. a. A provider, or a person who receives health records  
16 from a provider, shall not release a patient's health records  
17 to a person without a signed and dated consent from the  
18 patient or the patient's legally authorized representative  
19 authorizing the release, unless the release is specifically  
20 authorized by law. Except as provided in paragraph "c" or  
21 "d", a consent is valid for one year or for a lesser period  
22 specified in the consent or for a different period provided by  
23 law.

24 b. This subsection does not prohibit the release of health  
25 records:

26 (1) For a medical emergency when the provider is unable to  
27 obtain the patient's consent due to the patient's condition or  
28 the nature of the medical emergency.

29 (2) To other providers within related health care entities  
30 when necessary for the current treatment of the patient.

31 c. Notwithstanding paragraph "a", if a patient explicitly  
32 gives informed consent to the release of health records for  
33 the purposes of and pursuant to the restrictions in  
34 subparagraph (1) or (2), the consent does not expire after one  
35 year for either of the following:

1 (1) The release of health records to a provider who is  
2 being advised or consulted with in connection with the current  
3 treatment of the patient.

4 (2) The release of health records to an accident and  
5 health insurer, health service plan corporation, health  
6 maintenance organization, or third-party administrator for  
7 purposes of payment of claims, fraud investigation, or quality  
8 of care review and studies, provided that:

9 (a) Further use or release of the records in individually  
10 identifiable form to a person other than the patient without  
11 the patient's consent is prohibited.

12 (b) The recipient establishes adequate safeguards to  
13 protect the records from unauthorized disclosure, including a  
14 procedure for removal or destruction of information that  
15 identifies the patient.

16 d. Notwithstanding paragraph "a", health records may be  
17 released to a researcher solely for purposes of medical or  
18 scientific research only as follows:

19 (1) Health records generated before January 1, 1999, may  
20 be released if the patient has not objected or does not elect  
21 to object after that date.

22 (2) For health records generated on or after January 1,  
23 1999, the provider shall:

24 (a) Disclose in writing to patients currently being  
25 treated by the provider that health records, regardless of  
26 when generated, may be released for research purposes and that  
27 the patient may object, in which case the records will not be  
28 released.

29 (b) Obtain the patient's written general authorization  
30 that describes the release of records in subparagraph  
31 subdivision (a), which does not expire but may be revoked or  
32 limited in writing at any time by the patient.

33 (3) At the request of the patient, a health care provider  
34 shall provide information on how the patient may contact an  
35 external researcher to whom the health record was released and

1 the date it was released.

2 (4) In making a release for research purposes, the  
3 provider shall make a reasonable effort to determine that:

4 (a) The use or disclosure does not violate any limitations  
5 under which the record was collected.

6 (b) The use or disclosure in individually identifiable  
7 form is necessary to accomplish the research or statistical  
8 purpose for which the use or disclosure is to be made.

9 (c) The recipient has established and maintains adequate  
10 safeguards to protect the records from unauthorized  
11 disclosure, including a procedure for removal or destruction  
12 of information that identifies the patient.

13 (d) Further use or release of the records in individually  
14 identifiable form to a person other than the patient without  
15 the patient's consent is prohibited.

16 e. A person who negligently or intentionally releases a  
17 health record in violation of this subsection, or who forges a  
18 signature on a consent form, or who obtains under false  
19 pretenses the consent form or health records of another  
20 person, or who, without the patient's consent, alters a  
21 consent form, is liable to the patient for compensatory  
22 damages caused by an unauthorized release, plus costs and  
23 reasonable attorney's fees.

24 f. Upon the written request of a spouse, parent, child, or  
25 sibling of a patient being evaluated for or diagnosed with  
26 mental illness, a provider shall inquire of a patient whether  
27 the patient wishes to authorize a specific individual to  
28 receive information regarding the patient's current and  
29 proposed course of treatment. If the patient so consents, the  
30 provider shall communicate to the designated individual the  
31 patient's current and proposed course of treatment. Paragraph  
32 "a" applies to consent provided under this paragraph.

33 g. If a provider releases health records without patient  
34 consent as authorized by law, the release shall be documented  
35 in the patient's health record.

1 5. Subsection 3 does not apply to the release of health  
2 records to the director of public health or the health data  
3 commission, provided that the director encrypts the patient  
4 identifier upon receipt of the data.

5 6. This section applies to the subject and provider of an  
6 independent medical examination requested by or paid for by a  
7 third party. Notwithstanding subsection 3, a provider may  
8 release health records created as part of an independent  
9 medical examination to the third party who requested or paid  
10 for the examination.

11 7. The department shall adopt rules prescribing uniform  
12 fees, based upon the actual cost of duplication, that a  
13 provider may charge for duplication of health records  
14 requested by a patient under this section. The rules adopted  
15 may provide for an additional fee based upon the actual costs  
16 for postage or other means of delivery and may provide for an  
17 annual increase based upon the annual rate of inflation for  
18 the preceding calendar year as determined by the consumer  
19 price index published by the bureau of labor statistics of the  
20 United States department of labor.

21 8. A provider shall provide to patients, in a clear and  
22 conspicuous manner, a written notice concerning practices and  
23 rights with respect to access to health records. The notice  
24 shall include an explanation of all of the following:

25 a. Disclosures of health records that may be made without  
26 the written consent of the patient, including the type of  
27 records and to whom the health records may be disclosed.

28 b. The right of the patient to have access to and obtain  
29 copies of the patient's health records and other information  
30 about the patient that is maintained by the provider.

31 The notice requirements of this paragraph are satisfied if  
32 the notice is displayed prominently in the provider's place of  
33 business. The director of public health shall develop the  
34 notice required in this subsection.

35 9. A violation of this section is grounds for disciplinary

1 action against a provider by the appropriate licensing board  
2 or agency.

3 EXPLANATION

4 This bill requires a health care provider to allow a  
5 patient access to the patient's health record and upon written  
6 request of the patient, copies of the health record at a  
7 reasonable cost. The bill provides that if the health care  
8 provider reasonably determines that the information is  
9 detrimental to the physical or mental health of the patient,  
10 or is likely to cause the patient to harm the patient or  
11 another person, the health care provider may withhold the  
12 record and instead provide the record to a third party or  
13 another provider upon the request of the patient. The bill  
14 requires the Iowa department of public health to adopt rules  
15 to establish uniform fees which may be charged for duplication  
16 of the records. The bill also provides for limitations on the  
17 release of patient health records, the use of information in  
18 the health records, and disciplinary action against a provider  
19 who violates the bill.

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