

Updating the Minnesota Health Records Act

Earlier this legislative session, the House Health and Human Services Reform Committee passed HF 3312 with broad bi-partisan support. That bill changed the Minnesota Health Records Act to align with the federal Health Insurance Portability and Accountability Act (HIPAA).

New amendment: A narrowly focused, compromise approach: *(An amendment to SF 3019 on the House floor)*

Under the Minnesota Health Records Act a provider must obtain patient consent for any use of health care information. Under this amendment, it would be presumed that when you are seeking treatment at a hospital or clinic that you are consenting to clinically appropriate information sharing for treatment, payment and health care operations purposes.

What will change with how my health data is treated?

The Minnesota Health Records Act will remain in place and has many features (patient rights, etc.). This amendment makes only a narrow change for assumed consent for treatment, payment and health care operations. Because all the federal and other state laws and rules regarding the appropriate use of that information will remain in place under this amendment, nothing will change with how your health data is treated.

Does the Minnesota Health Records Act already presume consent at all under current law?

Yes, Minnesota Statutes 144.293 subdivision 5 lists exceptions to providers having to record consent. They are medical emergencies, to other providers within related health care entities, and to certain health care facilities that are licensed in another state. This amendment would add to the current exceptions.

What about other uses or other entities using my information?

No. This narrow amendment only allows clinically appropriate use of data regarding treatment, payment and health care operations. Providers would still need to receive consent for any other use.

Can I opt out?

For certain reasons, yes. Regardless of this amendment, federal HIPAA laws still apply. Under HIPAA, patients have many rights, including the right to request restrictions on access to your information, so long as those requests are consistent with other laws. It is also important to remember that sharing of information under HIPAA has strict rules that limit what data can be shared, for what purpose, and to whom that information can be shared with. This amendment does not weaken or lessen those rights and rules.

What do other states do?

Currently, 48 other states do not require providers to get patient consent for information sharing for treatment, payment and health care operations. In a report, the National Governors Association identifies the consent requirements in Minnesota and New York as a significant challenge to improving the quality and efficiency of care.

Will this amendment save the health care system and the patient money?

Yes. A recent study by Avalere Health, using extremely conservative assumptions, estimated savings in our health care system associated with this type of reform of Minnesota's Health Records Act of \$600 million over the next 10 years. Similarly, an analysis of data from a study conducted by Allina Health indicates that such reform could eliminate \$90 million a year across the state in unnecessary emergency room costs alone. Avoided tests also save the individual money, particularly with so many people having high deductible health plans. Information shared in a timelier manner also provides for better care coordination and better outcomes.

Who supports this bill?

A broad coalition group of 60 organizations support this amendment – which includes the Minnesota Hospital Association, the Minnesota Medical Association, the Minnesota Council of Health Plans, the Minnesota Chamber of Commerce and the Minnesota Business Partnership and numerous health advocacy groups. These groups are committed to patient centered care, reducing costs and promoting innovation.