

2003 DRAFTING REQUEST

Bill

Received: **01/05/2004**

Received By: **dkennedy**

Wanted: **As time permits**

Identical to LRB:

For: **Mary Panzer (608) 266-7513**

By/Representing: **Herself**

This file may be shown to any legislator: **NO**

Drafter: **dkennedy**

May Contact:

Addl. Drafters:

Subject: **Health - miscellaneous**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Panzer@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Patient health care record HIPPA rule changes

Instructions:

Same as 03-3867

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	dkennedy 01/05/2004	kgilfoy 01/05/2004		_____			S&L
/1			rschlue 01/05/2004	_____	lnorthro 01/05/2004	lemery 01/07/2004	

FE Sent For:

↳ At
Intro.

<END>

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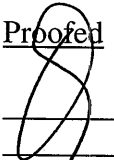
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/?	dkennedy	11-1/5 Kmg					
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FE Sent For:

<END>

TODAY, if possible

2003 - 2004 LEGISLATURE

3965/1

LRB-3867/P1

DAK:kmg:cl

D-NOTE

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

1 AN ACT to amend 146.82 (1) of the statutes; relating to: making patient health
 2 care records concerning health care operations inapplicable to restrictions on
 3 release without informed consent.

Analysis by the Legislative Reference Bureau

Under current state law, patient health care records must remain confidential and may be released by a health care provider only with the informed consent of the patient or of a person authorized by the patient. This limitation on release does not apply to required reports concerning certain deaths, gunshot wounds, burns, and birth defects in infants or children, or to court-ordered examinations of patients prior to proceedings for guardianship or protective placement. In addition, patient health care records are required to be released without informed consent by the health care provider in numerous specified circumstances, including for patient treatment, health care provider payment, and medical records management, and for certain audits, program monitoring, accreditation, and health care services review activities by health care facility staff committees or accreditation or review organizations.

Under current federal law, patient health care information may be released without patient authorization by health care providers for, among other purposes, treatment, payment, and health care operations. "Health care operations" is defined in federal law to include quality assessment and improvement activities; credentialing or evaluating of health care practitioners and training; underwriting; medical review, legal services, and auditing; business planning and development; and business management and general administrative activities.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

3965/ldn
LRB-88677Pfdm
DAK:kmg:ch



December 12, 2003

To ~~Ellen Nowak~~:

1. Section 146.82, stats., is inartfully drafted in several ways. One change to s. 146.82 (1), stats., that could be made in this draft and that would help would be to add "release of" after "prohibit." I do not think that the inapplicability is meant to extend to confidentiality, but the statute is relatively unclear as to that point.
2. A disadvantage to the approach taken in this bill ~~that is in addition to those that~~ ~~mentioned during telephone conversation with you~~ is this: since activities under s. 146.82 (2) (b) 1., 2., and 3., stats., are a subset of "health care operations," the bill now makes release of patient health care records for those purposes inapplicable to restriction under s. 146.82 (1), stats., but continues to require them to be released under s. 146.82 (2), stats.

Debora A. Kennedy
Managing Attorney
Phone: (608) 266-0137
E-mail: debora.kennedy@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3965/1dn
DAK:kmg:rs

January 5, 2004

1. Section 146.82, stats., is inartfully drafted in several ways. One change to s. 146.82 (1), stats., that could be made in this draft and that would help would be to add "release of" after "prohibit." I do not think that the inapplicability is meant to extend to confidentiality, but the statute is relatively unclear as to that point.
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Debora A. Kennedy
Managing Attorney
Phone: (608) 266-0137
E-mail: debora.kennedy@legis.state.wi.us

Northrop, Lori

From: Ottman, Tad
Sent: Wednesday, January 07, 2004 11:36 AM
To: LRB.Legal
Subject: Draft review: LRB 03-3965/1 Topic: Patient health care record HIPPA rule changes

It has been requested by <Ottman, Tad> that the following draft be jacketed for the SENATE:

Draft review: LRB 03-3965/1 Topic: Patient health care record HIPPA rule changes