Received: 01/05/2004

2003 DRAFTING REQUEST

Received By: dkennedy

Bill

Wanted: As time permits For: Mary Panzer (608) 266-7513 This file may be shown to any legislator: NO May Contact: Subject: Health - miscellaneous					Identical to LRB: By/Representing: Herself Drafter: dkennedy Addl. Drafters: Extra Copies:											
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Instruc	tions:						<u> </u>									
Same as	03-3867															
Draftin	g History:			Tr												
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01/05/2004 03:52:18 PM Page 2

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<**END**>

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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:

Vers.

Drafted

Reviewed

Submitted

Jacketed

Required

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dkennedy

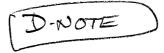
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(TODAY, if possible

2003 - 2004 LEGISLATURE

LRB-3867/P1 DAK:kmg:el



PRELIMINARY DRAFT NOT READY FOR INTRODUCTION

AN ACT to amend 146.82 (1) of the statutes; relating to: making patient health care records concerning health care operations inapplicable to restrictions on 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.

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This bill expands the circumstances under which the limitations on confidentiality and release of patient health care records by a health care provider are inapplicable, to include releases made for the purposes of health care operations, as defined and authorized in federal law.

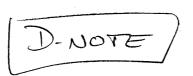
For further information see the **state and local** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 146.82 (1) of the statutes is amended to read:

146.82 (1) Confidential. All patient health care records shall remain confidential. Patient health care records may be released only to the persons designated in this section or to other persons with the informed consent of the patient or of a person authorized by the patient. This subsection does not prohibit reports made in compliance with s. 146.995, 253.12 (2) or 979.01 or; testimony authorized under s. 905.04 (4) (h); or releases made for purposes of health care operations, as defined in 45 CFR 164.501, and as authorized under 45 CFR 164, subpart E.

(END)



DRAFTER'S NOTE FROM THE LEGISLATIVE REFERENCE BUREAU

3965/1dn LRB-3867/PIdn DAK:kmg:ch



December 12.2003

To Effer 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 textiresection hachtioned arms to be pleaned aversation 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