

Fiscal Estimate Narratives

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LRB Number	07-4043/1	Introduction Number	SB-487	Estimate Type	Original
Description Treatment records and patient health care records					

Assumptions Used in Arriving at Fiscal Estimate

Under current law, certain records related to the health of a patient that are prepared by or under the supervision of a health care provider (patient health care records) are confidential and may be released only with the written consent of the patient or of a person authorized by the patient (informed consent). Current law has numerous exceptions to the confidentiality requirements that permit access to patient health care records without the informed consent of the patient or of a person authorized by the patient. However, redisclosure of information obtained under one of the exceptions is prohibited, unless authorized by a court or under an insurance transaction that authorizes the disclosure of personal medical information about an individual to an insurer.

This bill authorizes "covered entities" to redisclose a patient health care record for a purpose which is normally permitted for an initial release of a medical record without informed consent. For purposes of redisclosure of patient health care records, the Department of Corrections is not defined as a covered entity under this bill, and as such, redisclosure of a patient health care record would only be permissible by the Department of Corrections or a county jail if the patient provides informed consent, a court of record orders the redisclosure, or "the redisclosure is limited to the purpose for which the patient health care record was initially received." The previously quoted phrase seems to slightly expand the ability of the Department of Corrections and local jails to redisclose patient health care records when necessary without obtaining informed consent, thereby reducing delays associated with obtaining approvals necessary for redisclosure of medical records under current law.

In addition, the bill permits health care providers the ability to release a portion, but not a copy, of patient health care records to certain parties, without informed consent, in circumstances in which the patient or the patient's designee agree regarding the party to which the portion is released. The bill also would permit the release of a portion of patient health care records in circumstances when the patient or person authorized by the patient is incapacitated, and the partial release is relevant to an accompanying individual's involvement in the patient's care, or for purposes of identification and notification of immediate family or another person concerning location or condition of the patient. These provisions would allow the Department and possibly local jails to release components of medical records to certain individuals when needed for treatment or notification purposes, with less delay than under current law.

Finally, this bill also states that release of treatment records without informed consent would be allowed to an expanded set of providers, as the release could occur to "any health care provider or person acting under the supervision of the health care provider who is involved with an individual's care, if necessary for the individual's current treatment." This bill expands the information which may be released from the treatment record without informed consent, to include diagnostic test results and symptoms.

As noted above, several provisions of the bill expand the Department of Corrections' ability as well as county jails' ability to redisclose a patient health record, disclose a portion of a patient health record, or release additional portions of treatment records without obtaining informed consent, thereby reducing time associated with obtaining such approvals. The Department currently does not track how often informed consent is obtained, therefore, it is not possible to determine the cost associated with obtaining informed consent in accordance with current law or the resulting cost avoidance associated with the provisions of this bill.

Long-Range Fiscal Implications