

2013 Assembly Bill 453 (LRB -1364)

An Act to create 146.816 of the statutes; relating to: uses and disclosures of protected health information. (FE)

2013

- 10-18. A. Introduced by Representatives **Severson, Pasch, Ballweg, Danou, Jagler, Kolste, Sanfelippo, Steineke, Berceau, Bernard Schaber, Bernier, Bewley, Bies, Billings, Brooks, Doyle, Hebl, Kaufert, Kestell, LeMahieu, Ohnstad, A. Ott, Richards, Riemer, Ringhand, Spiros, Strachota, Wachs and Jorgensen**; cosponsored by Senators **Vukmir, Carpenter, Shilling, Harsdorf, Harris, Risser, Lehman, Erpenbach, Farrow, Olsen, Hansen, Moulton, Lassa and Darling**. 376
- 10-18. A. Read first time and referred to Committee on Health 376
- 10-22. A. Public hearing held
- 10-28. A. Fiscal estimate received
- 11-05. A. Executive action taken
- 11-06. A. Report passage recommended by Committee on Health, Ayes 8, Noes 1 419
- 11-06. A. Referred to Committee on Rules 419
- 11-07. A. Placed on calendar 11-12-2013 by Committee on Rules
- 11-12. A. Read a second time 435
- 11-12. A. Ordered to a third reading 435
- 11-12. A. Rules suspended 435
- 11-12. A. Read a third time and **passed** 435
- 11-12. A. Ordered immediately messaged 436
- 11-13. S. Received from Assembly 494
- 11-14. S. Read first time and referred to joint committee on Finance 496
- 12-04. S. Senator Lassa withdrawn as a cosponsor 511

2014

- 01-08. S. Withdrawn from joint committee on Finance and rereferred to committee on Health and Human Services pursuant to Senate Rule 46(2)(c) 555
- 01-09. S. Public hearing held
- 01-14. S. Senator Erpenbach withdrawn as a cosponsor 565
- 01-15. S. Executive action taken
- 01-16. S. Report concurrence recommended by Committee on Health and Human Services, Ayes 4, Noes 1 578
- 01-16. S. Available for scheduling
- 01-16. S. Placed on calendar 1-22-2014 pursuant to Senate Rule 18(1) 579
- 01-22. S. Read a second time
- 01-22. S. Ordered to a third reading
- 01-22. S. Rules suspended
- 01-22. S. Read a third time and **concurred in**
- 01-22. S. Ordered immediately messaged
- 01-22. A. Received from Senate concurred in

2013

ENROLLED BILL

13en AB-453

ADOPTED DOCUMENTS:

Orig Engr SubAmdt

13-1364,3

Amendments to above (if none, write "NONE"): None

Corrections - show date (if none, write "NONE"): None

Topic Rel

1-23-14

Date

J R Milne

Enrolling Drafter



2013 ASSEMBLY BILL 453

October 18, 2013 – Introduced by Representatives SEVERSON, PASCH, BALLWEG, DANOU, JAGLER, KOLSTE, SANFELIPPO, STEINEKE, BERCEAU, BERNARD SCHABER, BERNIER, BEWLEY, BIES, BILLINGS, BROOKS, DOYLE, HEBL, KAUFERT, KESTELL, LEMAHIEU, OHNSTAD, A. OTT, RICHARDS, RIEMER, RINGHAND, SPIROS, STRACHOTA, WACHS and JORGENSEN, cosponsored by Senators VUKMIR, CARPENTER, SHILLING, HARSDORF, HARRIS, RISSER, LEHMAN, ERPENBACH, FARROW, OLSEN, HANSEN, MOULTON, LASSA and DARLING. Referred to Committee on Health.

- 1 **AN ACT to create** 146.816 of the statutes; **relating to:** uses and disclosures of
2 protected health information.

Analysis by the Legislative Reference Bureau

Under current law, patient health care records are confidential but may be released upon written consent of the patient or a person authorized by the patient. Current law also requires health care providers to release patient health care records without the consent of the patient under certain circumstances. Mental health treatment records are also confidential, under current law, but may be released under certain circumstances.

The bill defines a covered entity as a health plan, health plan clearinghouse, or a health care provider who transmits any health information in electronic form in connection with a certain transaction, as described under federal regulations. Under this bill, a covered entity or a business associate of a covered entity that uses, discloses, or requests disclosure of protected health information in a mental health treatment record or patient health care record is exempt from certain confidentiality requirements if the use, disclosure, or request complies with certain federal regulations and is made for the purposes of treatment, payment, or health care operations, as those purposes are defined by federal regulation. Under the bill, a covered entity that is a mental health treatment facility must comply with the notice of privacy practices obligations under federal regulations. The bill also requires the Department of Health Services to make available, to all applicable health care facilities and on its Internet site, a comprehensive and accessible document written in commonly understood language that explains health information privacy rights.

ASSEMBLY BILL 453

For further information see the *state* 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:

1 **SECTION 1.** 146.816 of the statutes is created to read:

2 **146.816 Uses and disclosures of protected health information.** (1) In
3 this section:

4 (a) “Business associate” has the meaning given in 45 CFR 160.103.

5 (b) “Covered entity” has the meaning given in 45 CFR 160.103.

6 (c) “Disclosure” has the meaning given in 45 CFR 160.103 and includes
7 redisclosures and rereleases of information.

8 (d) “Health care operations” has the meaning given in 45 CFR 164.501.

9 (e) “Payment” has the meaning given in 45 CFR 164.501.

10 (f) “Protected health information” has the meaning given in 45 CFR 160.103.

11 (g) “Treatment” has the meaning given in 45 CFR 164.501.

12 (h) “Treatment facility” has the meaning given in s. 51.01 (19).

13 (i) “Use” has the meaning given in 45 CFR 160.103.

14 **(2)** Sections 51.30 (4) (a) and (e) and 146.82 and rules promulgated under s.
15 51.30 (12) do not apply to a use, disclosure, or request for disclosure of protected
16 health information by a covered entity or its business associate that meets all the
17 following criteria:

18 (a) The covered entity or its business associate makes the use, disclosure, or
19 request for disclosure in compliance with 45 CFR 164.500 to 164.534.

20 (b) The covered entity or its business associate makes the use, disclosure, or
21 request for disclosure in any of the following circumstances:

