

State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 3580

03/24/2016 Authored by Zerwas, Rarick, Nelson and Yarusso

The bill was read for the first time and referred to the Committee on Health and Human Services Reform

1.1 A bill for an act
1.2 relating to health; prohibiting information blocking by health care providers;
1.3 proposing coding for new law in Minnesota Statutes, chapter 62J.
1.4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.5 Section 1. **[62J.84] INFORMATION BLOCKING PROHIBITED.**

1.6 Subdivision 1. **Definitions.** For purposes of this section, the following definitions
1.7 apply:

1.8 (1) "certified electronic health record system" means a computer-based information
1.9 system that is used to create, collect, store, manipulate, share, exchange, or make available
1.10 health records for the purposes of the delivery of patient care, and has been certified by
1.11 an Office of the National Coordinator for Health Information Technology-authorized
1.12 certification body;

1.13 (2) "electronic health record" means any computerized, digital, or other electronic
1.14 record of individual health-related information that is created, held, managed, or consulted
1.15 by a health care provider, including, but not limited to, continuity of care documents,
1.16 discharge summaries, and other information or data relating to patient demographics,
1.17 medical history, medication, allergies, immunizations, laboratory test results, radiology or
1.18 other diagnostic images, vital signs, and statistics;

1.19 (3) "health care provider" means a health care provider as defined under section
1.20 62J.70, subdivision 2; and

1.21 (4) "health information blocking" means:

1.22 (i) knowingly interfering with or knowingly engaging in business practices or
1.23 other conduct that is reasonably likely to interfere with the ability of patients, health
1.24 care providers, or other authorized persons to access, exchange, or use electronic health

2.1 records, including, but not limited to, the use of technologies or practices that knowingly
2.2 and unreasonably:

2.3 (A) restrict the ability to transmit an order or request for health care services,
2.4 supplies, or goods to other providers or suppliers;

2.5 (B) restrict the ability of users of certified electronic health record systems to receive
2.6 notification of incoming reports or other clinical information; or

2.7 (C) restrict patient access to information regarding other providers or suppliers; and

2.8 (ii) knowingly using a certified electronic health record system to:

2.9 (A) steer patient referrals to health care providers who are affiliated, under contract,
2.10 or otherwise in a preexisting commercial relationship with the referring health care
2.11 provider; and

2.12 (B) prevent or unreasonably interfere with patient referrals to health care providers
2.13 who are not affiliated, under contract, or otherwise in a preexisting commercial
2.14 relationship with the referring health care provider.

2.15 Subd. 2. **Electronic health record access.** Electronic health records shall, to the
2.16 fullest extent possible:

2.17 (1) be readily available to other health care providers as necessary to provide care
2.18 and treatment to a patient;

2.19 (2) be made accessible to the patient in a convenient manner, including upon
2.20 request; and

2.21 (3) be made available in a timely and convenient manner to other health care
2.22 providers as directed by the patient or the patient's authorized representative.

2.23 Subd. 3. **Attorney general enforcement.** Whenever the attorney general has
2.24 reasonable cause to believe that actions amounting to health information blocking have
2.25 occurred, the attorney general may bring a civil action in a court of competent jurisdiction.
2.26 The court may order any appropriate relief, including a fine of up to \$5,000 for each
2.27 occurrence of health information blocking. Nothing in this subdivision shall be deemed to
2.28 limit the power or authority of the state or attorney general to investigate and seek any
2.29 other administrative, legal, or equitable relief as allowed by law.

2.30 Subd. 4. **Private right of action.** A patient, health care provider, or any other
2.31 person injured by health information blocking shall have a private cause of action
2.32 against the individual or entity who caused the injury and, upon a court of competent
2.33 jurisdiction's finding of a violation of this section, shall be entitled to actual, incidental, and
2.34 consequential damages; statutory damages equal to the amount specified in subdivision 3 ;
2.35 punitive damages, if appropriate; and court costs and reasonable attorney fees. Nothing in

- 3.1 this subdivision shall be deemed to limit any other right or remedy otherwise available to
- 3.2 the person bringing a cause of action under this subdivision.
- 3.3 **EFFECTIVE DATE.** This section is effective July 1, 2016.