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State of Minnesota
HOUSE OF REPRESENTATIVES
NINETIETH SESSION

H. F. No. 1616

02/23/2017 Authored by Pugh
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; requiring patient consent before health care providers and health
1.3 plan companies may release data to the commissioner of health for health research
1.4 and data initiatives; amending Minnesota Statutes 2016, section 62J.321,
1.5 subdivisions 1, 4; repealing Minnesota Statutes 2016, section 144.293, subdivision
1.6 7.

1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.8 Section 1. Minnesota Statutes 2016, section 62J.321, subdivision 1, is amended to read:

1.9 Subdivision 1. **Data collection.** (a) The commissioner shall collect data from health care
1.10 providers, health plan companies, and individuals in the most cost-effective manner, which
1.11 does not unduly burden them. The commissioner may require health care providers and
1.12 health plan companies to collect and provide patient health records and claim files, and
1.13 cooperate in other ways with the data collection process. The commissioner may also require
1.14 health care providers and health plan companies to provide mailing lists of patients. Express,
1.15 written, informed patient consent shall not be required for the release of data to the
1.16 commissioner pursuant to sections 62J.301 to 62J.42 must be obtained by any group
1.17 purchaser, health plan company, health care provider; or agent, contractor, or association
1.18 acting on behalf of a group purchaser or health care provider, specifically authorizing the
1.19 release of data by one of these individuals or entities to the commissioner according to
1.20 sections 62J.301 to 62J.42. Any group purchaser, health plan company, health care provider;
1.21 or agent, contractor, or association acting on behalf of a group purchaser or health care
1.22 provider, that releases data to the commissioner in good faith pursuant to sections 62J.301
1.23 to 62J.42 shall be immune from civil liability and criminal prosecution.

2.1 (b) When a group purchaser, health plan company, or health care provider submits patient
 2.2 identifying data to the commissioner pursuant to sections 62J.301 to 62J.42 after obtaining
 2.3 patient consent, and the data is submitted to the commissioner in electronic form, or through
 2.4 other electronic means including, but not limited to, the electronic data interchange system,
 2.5 the group purchaser, health plan company, or health care provider shall submit the patient
 2.6 identifying data in encrypted form, using an encryption method specified by the
 2.7 commissioner. ~~Submission of encrypted data as provided in this paragraph satisfies the~~
 2.8 ~~requirements of section 144.293, subdivision 7.~~

2.9 (c) The commissioner shall require all health care providers, group purchasers, and state
 2.10 agencies to use a standard patient identifier and a standard identifier for providers and health
 2.11 plan companies when reporting data under this chapter. The commissioner must encrypt
 2.12 patient identifiers to prevent identification of individual patients and to enable release of
 2.13 otherwise private data to researchers, providers, and group purchasers in a manner consistent
 2.14 with chapter 13 and sections 62J.55 and 144.291 to 144.298. This encryption must ensure
 2.15 that any data released must be in a form that makes it impossible to identify individual
 2.16 patients.

2.17 Sec. 2. Minnesota Statutes 2016, section 62J.321, subdivision 4, is amended to read:

2.18 Subd. 4. **Use of existing data.** (a) The commissioner shall negotiate with private sector
 2.19 organizations currently collecting health care data of interest to the commissioner to obtain
 2.20 required data in a cost-effective manner and minimize administrative costs. A private sector
 2.21 organization collecting health care data must obtain express, written, informed patient
 2.22 consent specifically authorizing the organization to provide data to the commissioner under
 2.23 this paragraph. The commissioner shall attempt to establish links between the health care
 2.24 data collected to fulfill sections 62J.301 to 62J.42 and existing private sector data and shall
 2.25 consider and implement methods to streamline data collection in order to reduce public and
 2.26 private sector administrative costs. The links and methods for streamlining data collection
 2.27 must include procedures for the private sector organization to obtain express, written,
 2.28 informed consent from the patient before the private sector organization provides data to
 2.29 the commissioner under this paragraph.

2.30 (b) The commissioner shall use existing public sector data, such as those existing for
 2.31 medical assistance and Medicare, to the greatest extent possible, provided the commissioner
 2.32 obtains express, written, informed patient consent specifically authorizing the commissioner
 2.33 to access and use public sector data under this paragraph, prior to accessing and using the
 2.34 data. The commissioner shall establish links between existing public sector data and consider

3.1 and implement methods to streamline public sector data collection in order to reduce public
3.2 and private sector administrative costs. The links and methods for streamlining public sector
3.3 data collection must include procedures for obtaining express, written, informed consent
3.4 from the patient specifically authorizing the commissioner to access and use public sector
3.5 data under this paragraph, prior to the commissioner accessing and using the data.

3.6 Sec. 3. **REPEALER.**

3.7 Minnesota Statutes 2016, section 144.293, subdivision 7, is repealed.

APPENDIX
Repealed Minnesota Statutes: 17-3528

144.293 RELEASE OR DISCLOSURE OF HEALTH RECORDS.

Subd. 7. **Exception to consent.** Subdivision 2 does not apply to the release of health records to the commissioner of health or the Health Data Institute under chapter 62J, provided that the commissioner encrypts the patient identifier upon receipt of the data.