

HOUSE No. 2137

By Mr. Kennedy of Brockton, petition of Thomas P. Kennedy relative to the accessibility of insurers health care information for medical professionals and health care facilities. Public Health.

The Commonwealth of Massachusetts

In the Year Two Thousand and Seven.

AN ACT RELATIVE TO THE REDUCTION OF MEDICAL ERRORS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Purpose. The legislature recognizes the need for
2 medical professionals and health care facilities to have ready access
3 to health care information maintained by health insurers and health
4 plans in order to improve the quality of healthcare and reduce med-
5 ical errors in the Commonwealth, and especially to facilitate emer-
6 gency and urgent treatment. The legislature, therefore, seeks to
7 increase the availability of health information at the point of urgent
8 and emergent care, while maintaining each person's right of medical
9 privacy by permitting health insurers and health plans to release
10 medical information, including especially protected medical infor-
11 mation that otherwise would be unavailable in the absence of this
12 legislation, to medical professionals and health care facilities for the
13 purpose of facilitating emergent or urgent treatment in reliance upon
14 the providers' representation that consent requirements have been
15 satisfied.

1 SECTION 2. Subsection (c) of Section 2 of Chapter 66A of the
2 General Laws, is hereby amended by inserting the following at the
3 end thereof:—

4 A holder may release medical information about an individual to
5 a medical professional or health care facility for the purpose of facil-
6 itating the emergency or urgent treatment of the individual by such
7 medical professional or health care facility, provided that the med-
8 ical professional or health care facility has obtained the individual's

9 consent to such release and documented such consent in the medical
10 record or otherwise, or if the individual's medical condition prevents
11 obtaining such consent, the medical professional or health care
12 facility documents such medical condition in the medical record or
13 otherwise. Such disclosure may include any health information rea-
14 sonably deemed necessary by the medical professional or health care
15 facility to facilitate emergency or urgent treatment under the circum-
16 stances, including, without limitation, mental health or HIV-AIDS
17 related information, provided that the conditions of this subsection
18 are met. A holder releasing such information may rely upon a repre-
19 sentation from a medical professional or health care facility that the
20 conditions for release set forth herein have been satisfied, or that
21 such conditions will be satisfied before a request for information is
22 made. Nothing in this subsection shall be deemed to bar a holder
23 from making a disclosure that otherwise would be permitted by law
24 or to require a holder to obtain consent that would not otherwise be
25 required by law.

1 SECTION 3. Section 108E of Chapter 175 of the General Laws,
2 is hereby amended by inserting the following new subsection at the
3 end thereof:—

4 (g) nothing contained herein shall prohibit a company from dis-
5 closing patient information to a medical professional or health care
6 facility under the circumstances described in Chapter 175I §
7 13(4)(iv).

1 SECTION 4. Section 13 of Chapter 175I of the General Laws, as
2 so appearing in the 2000 Official Edition, is hereby amended by
3 inserting the following new subsection in line 61 after subsection
4 (4)(iii):—

5 (iv) facilitating emergency or urgent treatment of the individual
6 by such medical professional or medical-care institution, provided
7 that the medical professional or medical-care institution has obtained
8 the individual's consent to such release and documented such con-
9 sent in the medical record or otherwise, or if the individual's medical
10 condition prevents obtaining such consent, the medical professional
11 or medical care institution documents such medical condition in the
12 medical record or otherwise. Such disclosure may include any health
13 information reasonably deemed necessary by the provider to facili-

14 tate treatment under such circumstances, including, without limita-
15 tion, mental health or HIV-AIDS related information, provided that
16 the conditions of this subsection are met. An insurance institution,
17 insurance representative or insurance support organization releasing
18 such information may rely upon a representation from a medical pro-
19 fessional or medical-care institution that the conditions for release
20 set forth herein have been satisfied, or that such conditions will be
21 satisfied before a request for information is made. Nothing in this
22 subsection shall be deemed to bar an insurance institution, insurance
23 representative or insurance support organization from making a dis-
24 closure that otherwise would be permitted by law or to require an
25 insurance institution, insurance representative or insurance support
26 organization to require consent that would not otherwise be required
27 by law.

1 SECTION 5. Section 14B of Chapter 176A of the General Laws,
2 is hereby amended by inserting the following new subsection at the
3 end thereof:—

4 (g) Nothing contained herein shall prohibit a nonprofit hospital
5 service corporation from disclosing patient information to a medical
6 professional or health care facility under the circumstances described
7 in Chapter 175I § 13(4)(iv).

1 SECTION 6. Section 20 of Chapter 176B of the General Laws, is
2 hereby amended by inserting the following new subsection at the
3 end thereof:—

4 (g) nothing contained herein shall prohibit a medical service cor-
5 poration from disclosing patient information to a medical profes-
6 sional or health care facility under the circumstances described in
7 Chapter 175I § 13(4)(iv).

1 SECTION 7. Section 4B of Chapter 176G of the General Laws, is
2 hereby amended by inserting the following new subsection at the
3 end thereof:—

4 (g) nothing contained herein shall prohibit a health maintenance
5 organization from disclosing patient information to a medical profes-
6 sional or health care facility under the circumstances described in
7 Chapter 175I § 13(4)(iv). 1380814.2.