

HOUSE BILL NO. 2606

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE CATON.

5232H.011

JOSEPH ENGLER, Chief Clerk

AN ACT

To amend chapter 191, RSMo, by adding thereto one new section relating to the privacy rights of patients.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 191, RSMo, is amended by adding thereto one new section, to be
2 known as section 191.220, to read as follows:

191.220. 1. As used in this section, the following terms mean:

2 (1) "De-identified data" or "limited data set", information that has been
3 stripped of direct patient identifiers as described in 45 CFR 164.514;

4 (2) "Health care provider", the same meaning given to the term in section
5 376.1350;

6 (3) "Health records", any information, in any form, that relates to the past,
7 present, or future physical or mental health or condition of a patient;

8 (4) "Informed consent", a signed and dated written authorization by the patient,
9 or the patient's legally authorized representative, specifying the purpose, scope, and
10 recipients of the information being disclosed;

11 (5) "Medical emergency", any period of time in which:

12 (a) A patient is experiencing an emergency medical condition, as defined in
13 section 376.1350; and

14 (b) Neither the patient nor the patient's legally authorized representative is able
15 to provide informed consent for the disclosure of health records.

16 2. A patient retains ownership rights over the patient's health records. A health
17 care provider is the custodian of the records but shall not disclose, transmit, or use a

EXPLANATION — Matter enclosed in bold-faced brackets ~~thus~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 patient's health records without the patient's informed consent unless specifically
19 authorized by state law.

20 **3. (1) A health care provider, or any person or entity receiving health records**
21 **from a health care provider, shall not release, disclose, or share a patient's health**
22 **records without:**

23 **(a) The informed consent of the patient or the patient's legally authorized**
24 **representative;**

25 **(b) Specific authorization in state law; or**

26 **(c) A documented representation from another health care provider holding a**
27 **valid informed consent under state law.**

28 **(2) Notwithstanding subdivision (1) of this subsection, a health care provider**
29 **may disclose a patient's health records during a medical emergency to the extent**
30 **necessary for the immediate care and treatment of the patient.**

31 **(3) A health care provider shall not condition treatment of a patient on the**
32 **patient's decision to grant or withhold consent for the release of the patient's health**
33 **records.**

34 **4. No patient health records, including any de-identified data or limited data**
35 **sets, shall be used for research purposes unless the patient has provided informed**
36 **consent specifically authorizing such use. Blanket consents and opt-out mechanisms**
37 **shall not satisfy this requirement.**

38 **5. (1) A patient whose rights under this section are violated may bring a civil**
39 **action for actual damages, injunctive relief, and reasonable attorney's fees and court**
40 **costs.**

41 **(2) A prevailing patient may also recover liquidated damages of no less than one**
42 **thousand dollars and up to ten thousand dollars for each occurrence of unauthorized**
43 **disclosure or failure to obtain proper informed consent.**

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