

Amendment to SB 423-FN

1 Amend the bill by replacing all after the enacting clause with the following:

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3 1 New Paragraph; Department of Health and Human Services; Closed Loop Referral System.
4 Amend RSA 126-A:4 by inserting after paragraph V the following new paragraph:

5 VI. If the department itself or through a contracted entity provides a closed loop referral
6 system, the following privacy and security provisions shall be included:

7 (a) The department shall not access any individual's personally identifiable information
8 or protected health information from or through any closed loop referral system unless the
9 individual is currently receiving services funded through a department of health and human services
10 program or has received services funded through a department of health and human services
11 program within the past 12 months, has previously given consent for the department to access their
12 personally identifiable information or protected health information and has not revoked consent.

13 (b) Notwithstanding the foregoing, the department may obtain specific consent from an
14 individual to access the individual's personally identifiable information or protected health
15 information on each consent for a referral for services, provided that in obtaining consent:

16 (1) A separate page, in hard copy or electronically, shall be used; and

17 (2) The request shall be phrased as follows: "Do you consent to allow the New
18 Hampshire department of health and human services to have access to your personally identifiable
19 information and your private health information along with information about your referrals for
20 services? Please note that you will receive the same services whether you sign this form or not."

21 (c) Within 48 hours of becoming aware of a data breach, the contracted entity providing
22 a closed loop referral system shall begin the process of notification by first class mail or other
23 individually agreed to communication mechanisms to all individuals impacted by the data breach.

24 (d)(1) An individual's personally identifiable information or protected health information
25 may be added to the closed loop referral system only if:

26 (A) The individual consents to its inclusion on each instance of a referral for
27 services, and

28 (B) The individual whose information is intended to be included in the closed
29 loop referral system shall retain the right to opt into the system on each referral and retain the right
30 to revoke consent to be in the system at any time.

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1 (2) If an individual revokes consent to be in the system, then, to the extent allowed
2 under federal or state law, information relative to the individual's referrals for services shall be
3 deleted from the system within 7 days of the revocation.

4 (e) No provider or organization utilizing the closed loop referral system network shall
5 have access to an individual's personally identifiable information or protected health information
6 unless the individual has been referred to that provider or organization for services and the provider
7 or organization requested consent from and was given consent by the individual to access such
8 information.

9 2 Effective Date. This act shall take effect upon its passage.

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AMENDED ANALYSIS

This bill establishes privacy and security requirements for a closed loop referral system established by the department of health and human services or an entity under contract with the department.