

CHAPTER 189
SB 229 – FINAL VERSION

7May2014... 1528h

2014 SESSION

14-2646
01/04

SENATE BILL **229**

AN ACT relative to the use and disclosure of protected health information.

SPONSORS: Sen. Bradley, Dist 3; Sen. Boutin, Dist 16; Sen. Gilmour, Dist 12; Sen. Hosmer, Dist 7; Sen. Pierce, Dist 5; Sen. Stiles, Dist 24; Sen. Reagan, Dist 17; Sen. Cataldo, Dist 6; Sen. Larsen, Dist 15; Sen. Odell, Dist 8; Rep. Harding, Graf 13; Rep. G. Chandler, Carr 1; Rep. Butler, Carr 7; Rep. McMahon, Rock 7; Rep. M. Smith, Straf 6

COMMITTEE: Health, Education and Human Services

AMENDED ANALYSIS

This bill clarifies the term “health care provider” for the purposes of the medical records law. This bill also declares that an individual’s protected health information may be transmitted through the health information organization only by certain persons and that such information shall only be used for certain purposes.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears [~~in brackets and struck through.~~]
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Fourteen

AN ACT relative to the use and disclosure of protected health information.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 189:1 Medical Records; Definitions. Amend RSA 332-I:1, II(b) to read as follows:

2 (b) "Health care provider" means any person, corporation, facility, or institution either
3 licensed by this state or otherwise lawfully providing health care services, including, but not limited
4 to, a physician, **advanced practice registered nurse, physician assistant**, hospital, office, clinic,
5 health center or other health care facility, dentist, nurse, optometrist, pharmacist, podiatrist,
6 physical therapist, ~~[or]~~ mental health professional, **care coordinator, managed care provider, or**
7 **the department of health and human services**, and any officer, employee, or agent of such
8 provider acting in the course and scope of employment or agency related to or supportive of health
9 care services.

10 189:2 Use and Disclosure of Protected Health Information; Health Information Exchange.
11 Amend RSA 332-I:3, I to read as follows:

12 I. Except as provided in paragraph VI, a health care provider or a business associate of a
13 health care provider **or a patient or patient's legal representative** may transmit ~~[an individual's]~~
14 **the patient's** protected health information through the health information organization. Only a
15 health care provider, for purposes of treatment, **care coordination, or quality assurance, or a**
16 **patient or a patient's legal representative with respect to the patient's protected health**
17 **information**, may have access to protected health information transmitted through the health
18 information organization.

19 189:3 Use and Disclosure of Protected Health Information; Health Information Exchange.
20 Amend RSA 332-I:3, VI to read as follows:

21 VI. An individual shall be given an opportunity to opt out of sharing his or her name and
22 address and his or her protected health care information through the health information
23 organization. **Such an opportunity shall be provided in a clear and conspicuous manner,**
24 **including, but not limited to, simple opt out language in a font and size easily readable by**
25 **the average adult reader so that the individual may make his or her decision known.**

26 189:4 New Paragraph; Health Information Organization Board; Members. Amend RSA 332-I:8
27 by inserting after paragraph IV the following new paragraph:

28 V. If a board member position listed in paragraph I becomes vacant and the position has not
29 been filled within 90 days of notification by the board, the board shall complete the term with an

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1 additional at-large member with qualifications, experience, and expertise as identified and
2 determined by the board.

3 189:5 Health Information Organization; Powers and Duties. Amend RSA 332-I:10, I to read as
4 follows:

5 I. Establish and maintain a health information organization that facilitates the private and
6 secure electronic exchange of health information that promotes quality and patient safety, and
7 increases efficiencies in health care delivery. ***Except as provided in RSA 332-I:3, VI, the health***
8 ***information organization may retain patient demographics, including patient name,***
9 ***address, date of birth, gender, medical record numbers, and location of medical records,***
10 ***which shall be used solely to ensure consistent patient identification between health care***
11 ***providers and enable electronic query for patient health information. The health***
12 ***information organization shall otherwise act solely as a conduit for such electronic***
13 ***exchange and shall neither access nor retain, in a database or otherwise, the clinical***
14 ***content of any medical record. The information retained by the health information***
15 ***organization or its agents or business associates shall not be sold or disclosed.***

16 189:6 Effective Date. This act shall take effect 60 days after its passage.

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18 Approved: July 11, 2014

19 Effective Date: September 9, 2014