

**CIVIL PROCESS EX PARTE CONTACT WITH
PHYSICIAN**

2000 GENERAL SESSION

STATE OF UTAH

Sponsor: John L. Valentine

AN ACT RELATING TO THE JUDICIAL CODE; PROVIDING FOR THE DISCLOSURE OF PATIENT HEALTH CARE INFORMATION TO THE PATIENT'S ATTORNEY OR LEGAL REPRESENTATIVE DURING A SUIT; PROHIBITING EX PARTE CONTACT BETWEEN THE HEALTH CARE PROVIDER AND PERSONS OTHER THAN THE PATIENT'S ATTORNEY; AND CREATING A CLASS B MISDEMEANOR FOR VIOLATIONS.

This act affects sections of Utah Code Annotated 1953 as follows:

ENACTS:

78-27-64, Utah Code Annotated 1953

REPEALS:

78-25-25, as enacted by Chapter 213, Laws of Utah 1971

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **78-27-64** is enacted to read:

78-27-64. Confidentiality of health care communications -- Violation -- Enforcement.

(1) A health care provider as defined in Section 78-14-3 may disclose a patient's health care information relevant to a civil action brought by the patient against any person other than the health care provider to the patient's attorney or legal representative. Information disclosed shall be in accordance with applicable rules of civil procedure and may not occur through ex parte or other informal contacts with the provider by persons other than the patient's attorney or legal representative.

(2) In a civil action brought to enforce the provisions of this section, the court may award reasonable attorney's fees to the prevailing party.

(3) Any person who knowingly obtains or seeks the disclosure of a patient's health care

28 information by contact with a health care provider in violation of this section is guilty of a class
29 B misdemeanor.

30 (4) Any person who violates the provisions of this section may be liable for actual and
31 punitive damages.

32 (5) Any clause in a contract or agreement which purports to waive the provisions of this
33 section is contrary to public policy and void and unenforceable.

34 (6) This section may not affect the release or transfer of confidential health care
35 information permitted under Title 26, Chapter 25, Confidential Information Release.

36 (7) Nothing in this section shall limit the use of patient health care information for the
37 purpose of providing health care to that patient.

38 (8) Nothing in this section shall limit the right of a patient or his attorney or legal
39 representative to consult with that patient's own physician and to obtain that patient's own health
40 care information.

41 **Section 2. Repealer.**

42 This act repeals:

43 Section **78-25-25, Patients' records -- Inspection and copying by attorneys.**

Legislative Review Note
as of 2-10-00 1:36 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel