

Senator John L. Valentine proposes to substitute the following bill:

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.

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

AMENDS:

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 **78-25-25** is amended to read:

78-25-25. Patients' records -- Inspection and copying by attorneys.

(1) Whenever an attorney at law duly licensed to practice in the state of Utah is authorized to represent the interest of a patient of any [~~physician and surgeon, dentist, osteopathic physician, registered nurse, psychologist, chiropractor, or a licensed hospital~~] health care provider, as defined in Section 78-14-3, and that attorney desires to examine or to obtain copies of any of the patient's records in the custody or control of such [~~person or hospital~~] health care provider, those records shall be made available, at the regular place of business of the [~~person or hospital~~] health care provider having custody or control thereof, for inspection and copying by the attorney if he presents to such [~~person or hospital~~] health care provider a written authorization signed and acknowledged by the patient before a notary public, or in the case of a minor, by a parent or guardian, or in the case of a deceased patient, by the personal representative or an heir. Such

26 records shall remain in the possession of the [~~person or hospital~~] health care provider having
27 custody or control thereof and the attorney shall pay, as part of the costs advanced on behalf of his
28 client, for all copies made at his request.

29 (2) No person other than the patient's attorney or legal representative may obtain or seek
30 to obtain the patient's health care information from a health care provider through ex parte or
31 informal contacts with the health care provider, except that the health care provider's relevant
32 written records only may be obtained from the health care provider by written request accompanied
33 by the patient's duly signed and acknowledged written authorization. Any clause in a contract,
34 agreement, or authorization for release of medical records which purports to waive the provisions
35 of this section is contrary to public policy and void and unenforceable.

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

38 (4) Nothing in this section shall limit the use of patient health care information for the
39 purpose of providing health care to that patient.

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

43 (6) This section does not apply to a patient's health care information used in the
44 determination of the patient's entitlement, if any, to benefits under Title 34A, Chapter 2 or 3.