

1 **PRIVACY OF STATE DATABASE HEALTH**
2 **RECORDS**

3 2003 GENERAL SESSION
4 STATE OF UTAH

5 **Sponsor: Chad E. Bennion**

6 **This act modifies the Health Code. The act provides that private health data collected by**
7 **certain entities for the purpose of medical research to reduce morbidity and mortality is**
8 **confidential and is not subject to public disclosure.**

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

10 AMENDS:

11 **26-25-1**, as last amended by Chapter 8, Laws of Utah 2002, Fifth Special Session

12 **26-25-2**, as last amended by Chapter 8, Laws of Utah 2002, Fifth Special Session

13 **26-25-4**, as last amended by Chapter 201, Laws of Utah 1996

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

15 Section 1. Section **26-25-1** is amended to read:

16 **26-25-1. Authority to provide data on treatment and condition of persons to**
17 **designated agencies -- Immunity from liability.**

18 (1) Any person, health facility, or other organization may, without incurring liability,
19 provide the following information to the persons and entities described in Subsection (2):

20 (a) information as determined by the state registrar of vital records appointed under
21 Title 26, Chapter 2, Utah Vital Statistics Act;

22 (b) interviews;

23 (c) reports;

24 (d) statements;

25 (e) memoranda; ~~and~~

26 (f) familial information; and

27 ~~(f)~~ (g) other data relating to the condition and treatment of any person.



- 28 (2) The information described in Subsection (1) may be provided to:
- 29 (a) the department and local health departments;
- 30 (b) the Division of Substance Abuse and Mental Health within the Department of
- 31 Human Services;
- 32 (c) scientific and health care research organizations affiliated with institutions of higher
- 33 education;
- 34 (d) the Utah Medical Association or any of its allied medical societies;
- 35 (e) peer review committees;
- 36 (f) professional review organizations;
- 37 (g) professional societies and associations; and
- 38 (h) any health facility's in-house staff committee for the uses described in Subsection
- 39 (3).
- 40 (3) The information described in Subsection (1) may be provided for the following
- 41 purposes:
- 42 (a) study and advancing medical research, with the purpose of reducing the incidence
- 43 of disease, morbidity, or mortality; or
- 44 (b) the evaluation and improvement of hospital and health care rendered by hospitals,
- 45 health facilities, or health care providers.
- 46 (4) Any person may, without incurring liability, provide information, interviews,
- 47 reports, statements, memoranda, or other information relating to the ethical conduct of any
- 48 health care provider to peer review committees, professional societies and associations, or any
- 49 in-hospital staff committee to be used for purposes of intraprofessional society or association
- 50 discipline.
- 51 (5) No liability may arise against any person or organization as a result of:
- 52 (a) providing information or material authorized in this section;
- 53 (b) releasing or publishing findings and conclusions of groups referred to in this
- 54 section to advance health research and health education; or
- 55 (c) releasing or publishing a summary of these studies in accordance with this chapter.
- 56 (6) As used in this chapter:
- 57 (a) "health care provider" has the meaning set forth in Section 78-14-3; and
- 58 (b) "health care facility" has the meaning set forth in Section 26-21-2.

59 Section 2. Section **26-25-2** is amended to read:

60 **26-25-2. Restrictions on use of data.**

61 (1) The information described in Subsection 26-25-1(1) that is provided to the entities
62 described in Subsection 26-25-1(2) shall:

63 (a) be used and disclosed by the entities described in Subsection 26-25-1(2) in
64 accordance with this chapter; and

65 (b) is not subject to Title 63, Chapter 2, Government Records Access and Management
66 Act.

67 (2) The Division of Substance Abuse and Mental Health within the Department of
68 Human Services, scientific and health care research organizations affiliated with institutions of
69 higher education, the Utah Medical Association or any of its allied medical societies, peer
70 review committees, professional review organizations, professional societies and associations,
71 or any health facility's in-house staff committee may only use or publish the information or
72 material received or gathered under Section 26-25-1 for the purpose of study and advancing
73 medical research or medical education in the interest of reducing the incidence of disease,
74 morbidity, or mortality, except that a summary of studies conducted in accordance with Section
75 26-25-1 may be released by those groups for general publication.

76 Section 3. Section **26-25-4** is amended to read:

77 **26-25-4. Information held in confidence -- Protection of identities.**

78 (1) All information~~[- interviews, reports, statements, memoranda, or other data]~~
79 described in Subsection 26-25-1(1) that is provided to a person or organization [under this
80 chapter] described in Subsection 26-25-1(2) shall be held in strict confidence by that person or
81 organization, and any use, release, or publication resulting therefrom shall be made [so as to]
82 only for the purposes described in Subsection 26-25-1(3) and Section 26-25-2 and shall
83 preclude identification of any individual or individuals studied.

84 (2) Notwithstanding Subsection (1), the department's **h USE AND h** disclosure of
84a information **h [under**
85 **this chapter is governed by Chapter 3 [of this title], Health Statistics] IS NOT GOVERNED BY THIS**
85a **CHAPTER h .**

Legislative Review Note
as of 2-7-03 3:00 PM

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

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number HB0248

Privacy of State Database Health Records

13-Feb-03

10:53 AM

State Impact

No fiscal impact.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst