

**HEALTH CARE PATIENT IDENTITY
PROTECTION**

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephen E. Sandstrom

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends the Health Care Facility Licensing and Inspection Act by providing measures to discourage identity theft and health insurance fraud, and to protect the accuracy of medical records.

Highlighted Provisions:

This bill:

- ▶ defines the term, "medical facility";
- ▶ requires a medical facility to, prior to providing services to a patient, request identification for:
 - the patient; and
 - an individual who consents to the provision of services to the patient, if the patient lacks the capacity to consent;
- ▶ permits a medical facility to use methods to document or confirm a patient's identity;
- ▶ prohibits a medical facility that is subject to the federal Emergency Medical Treatment and Active Labor Act (EMTALA) from denying services to an individual on the basis that the individual does not provide identification when requested;
- ▶ prohibits a medical facility that is not subject to EMTALA from denying services to an individual on the sole basis that the individual does not provide identification



28 when requested;

29 ▶ provides that a medical facility is not subject to a private right of action for failing
30 to ask for identification; and

31 ▶ prohibits the imposition of penalties if a medical facility does not request
32 documentation.

33 **Monies Appropriated in this Bill:**

34 None

35 **Other Special Clauses:**

36 None

37 **Utah Code Sections Affected:**

38 ENACTS:

39 **26-21-25**, Utah Code Annotated 1953



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

42 Section 1. Section **26-21-25** is enacted to read:

43 **26-21-25. Patient identity protection.**

44 (1) As used in this section:

45 (a) "EMTALA" means the federal Emergency Medical Treatment and Active Labor

46 Act.

47 (b) "Medical facility" means:

48 (i) a general acute hospital;

49 (ii) a specialty hospital;

50 (iii) a home health agency;

51 (iv) a hospice;

52 (v) a nursing care facility;

53 (vi) a residential-assisted living facility;

54 (vii) a birthing center;

55 (viii) an ambulatory surgical facility;

56 (ix) a small health care facility;

57 (x) an abortion clinic;

58 (xi) a facility owned or operated by a health maintenance organization;

- 59 (xii) an end stage renal disease facility;
- 60 (xiii) a health care clinic;
- 61 (xiv) a physician's office;
- 62 (xv) a dental office; or
- 63 (xvi) any other health care facility that the committee designates by rule.

64 (2) (a) In order to discourage identity theft and health insurance fraud, and to reduce
65 the risk of medical errors caused by incorrect medical records, a medical facility shall request
66 identification from an individual prior to providing in-patient or out-patient services to the
67 individual.

68 (b) If the individual who will receive services from the medical facility lacks the legal
69 capacity to consent to treatment, the medical facility shall request identification:

- 70 (i) for the individual who lacks the legal capacity to consent to treatment; and
- 71 (ii) from the individual who consents to treatment on behalf of the individual described
72 in Subsection (2)(b)(i).

73 (3) A medical facility:

74 (a) if the medical facility is subject to EMTALA, may not refuse services to an
75 individual on the basis that the individual did not provide identification when requested;

76 (b) if the medical facility is not subject to EMTALA, may not refuse services to an
77 individual on the sole basis that the individual did not provide identification when requested;

78 (c) may not be penalized for failing to ask for identification;

79 (d) is not subject to a private right of action for failing to ask for identification;

80 (e) may document or confirm patient identity by:

- 81 (i) photograph;
- 82 (ii) fingerprinting;
- 83 (iii) palm scan; or
- 84 (iv) other reasonable means; and

85 (f) if the medical facility is subject to EMTALA, shall post a notice in the medical
86 facility's emergency department that informs a patient of the patient's right to treatment for an
87 emergency condition under EMTALA.

Legislative Review Note
as of 11-13-08 1:49 PM

Office of Legislative Research and General Counsel

H.B. 81 - Health Care Patient Identity Protection

Fiscal Note

2009 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Medical businesses may incur additional costs for patient processing should they expand efforts to document and confirm patient identification. Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals or local governments.
