

**Representative Stephen E. Sandstrom** proposes the following substitute bill:

**HEALTH CARE PATIENT IDENTITY**

**PROTECTION**

2009 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Stephen E. Sandstrom**

Senate Sponsor: Stephen H. Urquhart

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**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 terms;
- ▶ requires a medical facility or a health professional office 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 or a health professional office to use certain methods to document or confirm a patient's identity;
- ▶ prohibits a medical facility or a health professional office 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



26 identification when requested;

27       ▶ provides that a medical facility or a health professional office is not subject to a  
28 private right of action for failing to ask for identification; and

29       ▶ prohibits the imposition of penalties if a medical facility or a health professional  
30 office does not request documentation.

31 **Monies Appropriated in this Bill:**

32       None

33 **Other Special Clauses:**

34       None

35 **Utah Code Sections Affected:**

36 ENACTS:

37       **26-21-25**, Utah Code Annotated 1953



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

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

41       **26-21-25. Patient identity protection.**

42       (1) As used in this section:

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

44 Act.

45       (b) "Health professional office" means:

46       (i) a physician's office; or

47       (ii) a dental office.

48       (c) "Medical facility" means:

49       (i) a general acute hospital;

50       (ii) a specialty hospital;

51       (iii) a home health agency;

52       (iv) a hospice;

53       (v) a nursing care facility;

54       (vi) a residential-assisted living facility;

55       (vii) a birthing center;

56       (viii) an ambulatory surgical facility;

- 57 (ix) a small health care facility;
- 58 (x) an abortion clinic;
- 59 (xi) a facility owned or operated by a health maintenance organization;
- 60 (xii) an end stage renal disease facility;
- 61 (xiii) a health care clinic; or
- 62 (xiv) any other health care facility that the committee designates by rule.

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

67 (b) If the individual who will receive services from the medical facility or a health  
 68 professional office lacks the legal capacity to consent to treatment, the medical facility or a  
 69 health professional office 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 or a health professional office:

74 (a) that is subject to EMTALA:

75 (i) may not refuse services to an individual on the basis that the individual did not  
 76 provide identification when requested; and

77 (ii) shall post notice in its emergency department that informs a patient of the patient's  
 78 right to treatment for an emergency medical condition under EMTALA;

79 (b) may not be penalized for failing to ask for identification;

80 (c) is not subject to a private right of action for failing to ask for identification; and

81 (d) may document or confirm patient identity by:

82 (i) photograph;

83 (ii) fingerprinting;

84 (iii) palm scan; or

85 (iv) other reasonable means.

85a **Ĥ→ (4) The identification described in this bill:**

85b **(a) is intended to be used for medical records purposes only; and**

85c **(b) shall be kept in accordance with the requirements of the Health Insurance**

85d **Portability and Accountability Act of 1996. ←Ĥ**

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**H.B. 81 1st Sub. (Buff) - Health Care Patient Identity Protection**

**Fiscal Note**

2009 General Session

State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations.

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**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.

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