

1 **HEALTH CARE PATIENT IDENTITY**

2 **PROTECTION**

3 2009 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Stephen E. Sandstrom**

6 **Senate Sponsor: Stephen H. Urquhart**

7	Cosponsors:	Rebecca D. Lockhart	Kenneth W. Sumsion
8	Keith Grover	Curtis Oda	Carl Wimmer
9	Christopher N. Herrod		

11 **LONG TITLE**

12 **General Description:**

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

16 **Highlighted Provisions:**

17 This bill:

- 18 ▶ defines terms;
- 19 ▶ requires a medical facility or a health professional office to, prior to providing
20 services to a patient, request identification for:
 - 21 • the patient; and
 - 22 • an individual who consents to the provision of services to the patient, if the
23 patient lacks the capacity to consent;
- 24 ▶ permits a medical facility or a health professional office to use certain methods to
25 document or confirm a patient's identity;
- 26 ▶ prohibits a medical facility or a health professional office that is subject to the
27 federal Emergency Medical Treatment and Active Labor Act (EMTALA) from
28 denying services to an individual on the basis that the individual does not provide
29 identification when requested;

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

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

34 **Monies Appropriated in this Bill:**

35 None

36 **Other Special Clauses:**

37 None

38 **Utah Code Sections Affected:**

39 ENACTS:

40 **26-21-25**, Utah Code Annotated 1953



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

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

44 **26-21-25. Patient identity protection.**

45 (1) As used in this section:

46 (a) "EMTALA" means the federal Emergency Medical Treatment and Active Labor
47 Act.

48 (b) "Health professional office" means:

49 (i) a physician's office; or

50 (ii) a dental office.

51 (c) "Medical facility" means:

52 (i) a general acute hospital;

53 (ii) a specialty hospital;

54 (iii) a home health agency;

55 (iv) a hospice;

56 (v) a nursing care facility;

57 (vi) a residential-assisted living facility;

- 58 (vii) a birthing center;
- 59 (viii) an ambulatory surgical facility;
- 60 (ix) a small health care facility;
- 61 (x) an abortion clinic;
- 62 (xi) a facility owned or operated by a health maintenance organization;
- 63 (xii) an end stage renal disease facility;
- 64 (xiii) a health care clinic; or
- 65 (xiv) any other health care facility that the committee designates by rule.
- 66 (2) (a) In order to discourage identity theft and health insurance fraud, and to reduce
- 67 the risk of medical errors caused by incorrect medical records, a medical facility or a health
- 68 professional office shall request identification from an individual prior to providing in-patient
- 69 or out-patient services to the individual.
- 70 (b) If the individual who will receive services from the medical facility or a health
- 71 professional office lacks the legal capacity to consent to treatment, the medical facility or a
- 72 health professional office shall request identification:
- 73 (i) for the individual who lacks the legal capacity to consent to treatment; and
- 74 (ii) from the individual who consents to treatment on behalf of the individual
- 75 described in Subsection (2)(b)(i).
- 76 (3) A medical facility or a health professional office:
- 77 (a) that is subject to EMTALA:
- 78 (i) may not refuse services to an individual on the basis that the individual did not
- 79 provide identification when requested; and
- 80 (ii) shall post notice in its emergency department that informs a patient of the patient's
- 81 right to treatment for an emergency medical condition under EMTALA;
- 82 (b) may not be penalized for failing to ask for identification;
- 83 (c) is not subject to a private right of action for failing to ask for identification; and
- 84 (d) may document or confirm patient identity by:
- 85 (i) photograph;

- 86 (ii) fingerprinting;
- 87 (iii) palm scan; or
- 88 (iv) other reasonable means.
- 89 (4) The identification described in this bill:
- 90 (a) is intended to be used for medical records purposes only; and
- 91 (b) shall be kept in accordance with the requirements of the Health Insurance
- 92 Portability and Accountability Act of 1996.