

HB0239S01 compared with HB0239

~~deleted text~~ shows text that was in HB0239 but was deleted in HB0239S01.

inserted text shows text that was not in HB0239 but was inserted into HB0239S01.

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Representative Raymond P. Ward proposes the following substitute bill:

MEDICAL RECORD ACCESS AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Raymond P. Ward

Senate Sponsor: _____

LONG TITLE

General Description:

This bill enacts provisions related to a patient's health information contained by hospital systems.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires certain hospital systems to collectively select a method that allows a health care provider to access patient information for the patient the health care provider is treating;
- ▶ requires the Department of Health and Human Services (department) to facilitate discussions between the hospital systems; and
- ▶ allows the department to designate a health information exchange that hospital

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systems must adopt if the hospital systems are unable to collectively make a decision.

Money Appropriated in this Bill:

~~{None}~~ This bill appropriates in fiscal year 2024:

- ▶ to the Department of Health and Human Services - Operations - Data, Systems, & Evaluations, as an ongoing appropriation:
 - from the General Fund, \$1,500,000.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26-70-101, as enacted by Laws of Utah 2022, Chapter 327

631-1-226, as last amended by Laws of Utah 2022, Chapters 194, 206, 224, 253, 255, 347, and 451

ENACTS:

26-21-36, Utah Code Annotated 1953

26-70-103, Utah Code Annotated 1953

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

Section 1. Section **26-21-36** is enacted to read:

26-21-36. Health care facilities within a hospital system.

(1) As used in this section:

(a) "Hospital system" means the same as that term is defined in Section 26-70-101.

(b) "Medical information" means the same as that term is defined in Section

26-70-101.

(2) Beginning July 1, 2025, a health care facility that is owned or operated by a hospital system shall ensure that medical information collected by the health care facility is accessible in accordance with Section 26-70-103.

Section 2. Section **26-70-101** is amended to read:

CHAPTER 70. PATIENT HEALTH RECORD ACCESS

26-70-101. Definitions.

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As used in this chapter:

(1) "HIPAA" means the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936, as amended.

(2) "Hospital" means:

(a) a general acute hospital as defined in Section 26-21-2; and

(b) a specialty hospital as defined in Section 26-21-2.

(3) "Hospital system" means an entity that owns or operates at least five hospitals that are licensed under Chapter 21, Health Care Facility Licensing and Inspection Act.

(4) "Medical information" means one or more of the following regarding a patient:

(a) for each time the patient is hospitalized:

(i) an admission history and physical exam; or

(ii) a discharge summary;

(b) the health care provider's notes regarding:

(i) an emergency room visit;

(ii) an urgent care visit;

(iii) a primary care outpatient care visit; or

(iv) a consultation office visit;

(c) a radiology report;

(d) a lab report; or

(e) a pathology report.

~~[(2)]~~ (5) "Patient" means the individual whose information is being requested.

~~[(3)]~~ (6) "Personal representative" means an individual described in 45 C.F.R. Sec. 164.502(g).

Section 3. Section **26-70-103** is enacted to read:

26-70-103. Patient information access by a health care provider.

(1) ~~{Subject to Subsection (4), beginning}~~ Beginning July 1, 2025, each hospital system, collectively, shall ensure that a patient's medical information ~~{housed by each}~~ that is created when the patient receives care from the hospital system is accessible to ~~{the patient or}~~ a physician designated by the patient ~~{~~

~~—— (a) when the patient or the physician treating the patient at a hospital system needs the medical information; and~~

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~~_____ (b) }, preferably~~ through the use of single login.

(2) The department shall facilitate discussions with each hospital system ~~{, individually and collectively, for the}~~ and the One Utah Health Collaborative as to how to best achieve the requirement described in Subsection (1).

~~(3) The liability protections of Subsection 26-1-37(5) a hospital {systems to determine how the hospital systems will comply}~~ system's compliance with Subsection (1).

~~{3}4) {On or before November 1, 2024}~~ To better improve patient access to the patient's medical information, the department shall {notify} communicate with each hospital system and with the One Utah Health Collaborative to determine whether each hospital system, collectively, will create and adopt the same policies regarding one or all of the following:

(a) the creation of a published provider directory that contains identifying information of the providers to facilitate interfaces between systems;

(b) the establishment of technical specifications that would enable identity verification and authentication both for a patient and a health care provider; and

(c) the creation of a consensus data sharing agreement for health care providers and hospitals that is consistent with applicable federal and state laws.

(5) The department shall report to the Health and Human Services Interim Committee {indicating how the hospital systems intend to comply with Subsection (1):

~~_____ (4) (a) If the hospital systems are unable to reach a unanimous decision regarding how to comply with Subsection (1) on or before October 31, 2024, the department shall:~~

~~_____ (i) indicate that}~~ before November 1, 2023, and again between June 1, 2024, and November 1, 2024, regarding:

(a) any progress towards the hospital systems {could not come to a unanimous decision in the notification described} complying with Subsection (1); and

(b) whether a consensus has been achieved on any of the items listed in Subsection {3}4) {, and}.

~~{ii}6) {designate a single health information exchange for the hospital systems to provide}~~ To better improve a patient's access and control of the patient's own medical information {that will comply with Subsection (1):

~~_____ (b) If}~~ when a patient receives care from more than one hospital system, the department {indicates that a unanimous decision could not be reached under Subsection (4)(a)(i), a} shall

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communicate with each hospital system ~~(shall provide all medical information to the health information exchange described in Subsection (4)(a)(ii) beginning July 1, 2025.~~

and with the One Utah Health Collaborative to determine which policies or projects would best improve:

- (a) the accuracy of any information that the patient requests to have shared;
- (b) the completeness of any information that the patient requests to have shared;
- (c) the security of any information that the patient requests to have shared;
- (d) the timeliness of any information that the patient requests to have shared;
- (e) the ability of the patient to block any of the patient's data from being shared; or
- (f) the ability of the patient to block the patient's data from any individual source from being shared.

Section 4. Section **63I-1-226** is amended to read:

63I-1-226. Repeal dates: Title 26 through 26B.

(1) Section 26-1-7.5, which creates the Utah Health Advisory Council, is repealed July 1, 2025.

(2) Section 26-1-40 is repealed July 1, 2022.

(3) Section 26-1-41 is repealed July 1, 2026.

(4) Section 26-1-43 is repealed December 31, 2025.

(5) Section 26-7-10 is repealed July 1, 2025.

(6) Subsection 26-7-11(5), regarding reports to the Legislature, is repealed July 1, 2028.

(7) Section 26-7-14 is repealed December 31, 2027.

(8) Section 26-8a-603 is repealed July 1, 2027.

(9) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July 1, 2025.

(10) Subsection 26-10-6(5), which creates the Newborn Hearing Screening Committee, is repealed July 1, 2026.

(11) Section 26-10b-106, which creates the Primary Care Grant Committee, is repealed July 1, 2025.

(12) Subsection 26-15c-104(3), relating to a limitation on the number of microenterprise home kitchen permits that may be issued, is repealed July 1, 2022.

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(13) Subsection 26-18-2.6(9), which addresses reimbursement for dental hygienists, is repealed July 1, 2028.

(14) Section 26-18-27 is repealed July 1, 2025.

(15) Section 26-18-28 is repealed June 30, 2027.

(16) Title 26, Chapter 18, Part 2, Drug Utilization Review Board, is repealed July 1, 2027.

(17) Subsection 26-18-418(2), the language that states "and the Behavioral Health Crisis Response Commission created in Section 63C-18-202" is repealed July 1, 2023.

(18) Section 26-33a-117 is repealed December 31, 2023.

(19) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2024.

(20) Title 26, Chapter 36b, Inpatient Hospital Assessment Act, is repealed July 1, 2024.

(21) Title 26, Chapter 36c, Medicaid Expansion Hospital Assessment Act, is repealed July 1, 2024.

(22) Title 26, Chapter 36d, Hospital Provider Assessment Act, is repealed July 1, 2024.

(23) Section 26-39-201, which creates the Residential Child Care Licensing Advisory Committee, is repealed July 1, 2024.

(24) Section 26-39-405, Drinking water quality in child care centers, is repealed July 1, 2027.

(25) Section 26-40-104, which creates the Utah Children's Health Insurance Program Advisory Council, is repealed July 1, 2025.

(26) Section 26-50-202, which creates the Traumatic Brain Injury Advisory Committee, is repealed July 1, 2025.

(27) Title 26, Chapter 54, Spinal Cord and Brain Injury Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund, is repealed January 1, 2025.

(28) Title 26, Chapter 66, Early Childhood Utah Advisory Council, is repealed July 1, 2026.

(29) Title 26, Chapter 68, COVID-19 Vaccine Restrictions Act, is repealed July 1, 2024.

(30) Section 26-69-406 is repealed July 1, 2025.

(31) Section 26-70-103 is repealed July 1, 2027.

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[(31)] (32) Subsection 26B-1-204(2)(i), related to the Residential Child Care Licensing Advisory Committee, is repealed July 1, 2024.

[(32)] (33) Subsection 26B-1-204(2)(k), related to the Primary Care Grant Committee, is repealed July 1, 2025.

Section 5. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2023, and ending June 30, 2024. These are additions to amounts previously appropriated for fiscal year 2024. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Department of Health and Human Services - Operations

From General Fund 1,500,000

Schedule of Programs:

Data, Systems, & Evaluations 1,500,000

The Legislature intends that the Department of Health and Human Services use the appropriation, through one or more requests for proposal, to:

- (1) assist the hospital systems to meet the obligations of Subsection 26-70-103(1);
- (2) assist in facilitating discussions and creating policies upon consensus as described in Subsection 26-70-103(5); and
- (3) accomplish the projects described in Subsection 26-70-103(6).