

1                   **HEALTH INFORMATION PRIVACY REQUIREMENTS**

2                                   2023 GENERAL SESSION

3                                   STATE OF UTAH

4                   **Chief Sponsor: Kirk A. Cullimore**

5                   House Sponsor: \_\_\_\_\_

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7   **LONG TITLE**

8   **General Description:**

9           This bill creates requirements for a governmental entity that uses a closed loop referral  
10 system.

11 **Highlighted Provisions:**

12           This bill:

- 13           ▶ defines terms;
- 14           ▶ enacts requirements that certain entities must follow when obtaining consent to  
15 access or share information through a closed loop referral system; and
- 16           ▶ creates notification requirements for a breach of system security for a closed loop  
17 referral system.

18 **Money Appropriated in this Bill:**

19           None

20 **Other Special Clauses:**

21           None

22 **Utah Code Sections Affected:**

23 ENACTS:

24           **63G-26-201**, Utah Code Annotated 1953

25 REPEALS:

26           **63G-24-101**, as enacted by Laws of Utah 2020, Chapter 373

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

29 Section 1. Section **63G-26-201** is enacted to read:

30 **63G-26-201. Requirements for use of closed loop referral systems by**  
31 **governmental entities.**

32 (1) As used in this section:

33 (a) "Closed loop referral system" means any system that:

34 (i) stores individually identifiable social care information for the purpose of referrals;

35 and

36 (ii) shares individually identifiable social care information with one or more entities  
37 that provide social care, including health care providers, health plans, health information  
38 exchanges, government entities, and charitable organizations.

39 (b) "Governmental entity" means the same as that term is defined in Section

40 [63G-3-201](#).

41 (c) "Individually identifiable social care information" means:

42 (i) protected health information as defined in 45 C.F.R. Sec. 160.103; and

43 (ii) information about an individual that:

44 (A) identifies the individual receiving social care; or

45 (B) can be used to identify the individual receiving social care.

46 (d) "Participating entity" means a person that is able to create, receive, or update  
47 referrals or other information related to the provision of social care in a closed loop referral  
48 system.

49 (e) "Regulated entity" means:

50 (i) a governmental entity; or

51 (ii) a person that contracts with a governmental entity, directly or indirectly, to provide  
52 social care or to operate a closed loop referral system.

53 (f) (i) "Social care" means care, services, goods, or supplies related to an individual's  
54 social needs.

55 (ii) "Social care" includes support and assistance for an individual's food stability and  
56 nutritional needs, housing, transportation, economic stability, employment, education access  
57 and quality, child care and family relationship needs, or environmental and physical safety.

58 (2) (a) A regulated entity may not access or share an individual's individually

59 identifiable social care information through a closed loop referral system unless the individual:

60 (i) (A) is currently receiving services funded through a program operated by the

61 regulated entity entity; or

62 (B) has received services funded through the regulated entity in the previous 12 month

63 period;

64 (ii) gave consent for the governmental entity to access or share the individual's

65 individually identifiable social care information in accordance with Subsection (3)(a) or (b);

66 and

67 (iii) has not revoked consent under Subsection (4).

68 (3) (a) A regulated entity may not access individually identifiable social care

69 information through a closed loop referral system unless the governmental entity obtains

70 consent from the individual:

71 (i) on a separate page, whether physical or in electronic form, that includes the

72 following language: "Do you consent to allow this entity to have access to your individually

73 identifiable social care information and your protected health information, along with

74 information about your referral for services? Please note that you will receive the same services

75 whether or not you sign this form."; and

76 (ii) through a separate request for each time that the governmental entity accesses the

77 individually identifiable social care information through the closed loop referral system.

78 (b) A regulated entity may not share individually identifiable social care information

79 through a closed loop referral system unless the governmental entity obtains consent from the

80 individual:

81 (i) on a separate page, whether physical or in electronic form, that includes the

82 following language: "Do you consent to allow this entity to share to your individually

83 identifiable social care information and your protected health information, along with

84 information about your referral for services? Please note that you will receive the same services

85 whether or not you sign this form."; and

86 (ii) for each instance of a referral for services through the closed loop referral system.

87 (4) (a) An individual may revoke the consent provided under Subsection (3) at any

88 time.

89 (b) If an individual revokes consent under Subsection (4)(a), to the extent allowed

90 under federal and state law, the governmental entity shall delete the individual's individually  
91 identifiable social care information from the closed loop referral system within seven days after  
92 the day on which the governmental entity receives the individual's revocation of consent.

93 (5) A regulated entity may not access or utilize a closed loop referral system unless the  
94 closed loop referral system restricts access to individually identifiable social care information  
95 in accordance with the requirements in this section.

96 (6) (a) In addition to the requirements in Title 13, Chapter 44, Protection of Personal  
97 Information Act, a person who contracts with a regulated entity to operate or administer a  
98 closed loop referral system shall begin the process of notifying individuals who are affected by  
99 a breach of system security as defined in Section 13-44-102 within 48 hours of becoming aware  
100 of the breach of system security.

101 (b) The notification in Subsection (6)(a) shall be provided to each individual affected  
102 by the breach of system security through:

103 (i) first class mail; or

104 (ii) if an individual provides consent for an alternative form of communication, that  
105 form of communication for which the individual provided consent.

106 (7) Nothing in this section shall be construed to supersede or preempt the applicability  
107 of:

108 (a) HIPAA as defined in Section 26-18-17;

109 (b) Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g;

110 (c) the Gramm-Leach-Bliley Act of 1999, Pub. L. No. 106-102; or

111 (d) any applicable state privacy laws.

112 **Section 2. Repealer.**

113 This bill repeals:

114 Section **63G-24-101**, Title.