

Subject Release of patient health records

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Overview

This bill amends the Minnesota Health Records Act to allow covered entities and business associates, as defined in federal law, to release a patient's health records without patient consent for purposes of treatment, payment, or health care operations, as defined in federal law.

The Minnesota Health Records Act, sections 144.291 to 144.298, is the state law governing access to and the release of patient health records. This law in part requires a provider or a person who receives health records from a provider to have a signed, dated, consent from a patient to release the patient's health record, unless another law authorizes the release without patient consent or an exception to the consent requirement applies.

At the federal level, the use and disclosure of a patient's protected health information is governed by the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule, found at Code of Federal Regulations, title 45, part 164, subpart E. The Privacy Rule allows covered entities (health insurers, health care clearinghouses, and health care providers who transmit health information in electronic form) and their business associates to use or disclose a patient's protected health information for purposes of treatment, payment, or health care operations, and for other purposes specified in the rule, without patient authorization. Treatment, payment, and health care operations are defined in the Privacy Rule.

Another portion of HIPAA provides that when state law that relates to the privacy of individually identifiable health information is more stringent than the HIPAA Privacy Rule, the state law is not preempted by the Privacy Rule. Because portions of the Minnesota Health Records Act governing patient consent for the release of health records are more stringent than requirements in the Privacy Rule, those portions of the Minnesota Health Records Act are not preempted by HIPAA.

Summary

Section	Description
1	<p>Exceptions to consent requirement.</p> <p>Amends § 144.293, subd. 5. Section 144.293, subdivision 2 prohibits a provider or person who receives health records from a provider from releasing a patient's health records unless:</p> <ul style="list-style-type: none">▪ the patient or a legal representative consents to the release in writing;▪ the release is specifically authorized in law; or▪ a provider represents that the provider has consent from the patient authorizing the release. <p>Subdivision 5 allows the release of health records without patient consent in specified circumstances. This bill allows covered entities (health insurers, health care clearinghouses, and health care providers who electronically transmit health information) and their business associates to use or disclose a patient's protected health information for purposes of treatment, payment, or health care operations, without patient consent. It also removes language authorizing health care providers to release health records to other providers within related health care entities when necessary for the current treatment of the patient.</p>



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