LRB-3867/1 DAK:kmg:rs

2003 ASSEMBLY BILL 727

January 7, 2004 - Introduced by Representative GARD. Referred to Committee on Job Creation.

AN ACT to amend 146.82 (1) of the statutes; relating to: making patient health care records concerning health care operations inapplicable to restrictions on release without informed consent.

Analysis by the Legislative Reference Bureau

Under current state law, patient health care records must remain confidential and may be released by a health care provider only with the informed consent of the patient or of a person authorized by the patient. This limitation on release does not apply to required reports concerning certain deaths, gunshot wounds, burns, and birth defects in infants or children, or to court-ordered examinations of patients prior to proceedings for guardianship or protective placement. In addition, patient health care records are required to be released without informed consent by the health care provider in numerous specified circumstances, including for patient treatment, health care provider payment, and medical records management, and for certain audits, program monitoring, accreditation, and health care services review activities by health care facility staff committees or accreditation or review organizations.

Under current federal law, patient health care information may be released without patient authorization by health care providers for, among other purposes, treatment, payment, and health care operations. "Health care operations" is defined in federal law to include quality assessment and improvement activities; credentialing or evaluating of health care practitioners and training; underwriting; medical review, legal services, and auditing; business planning and development; and business management and general administrative activities.

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This bill expands the circumstances under which the limitations on confidentiality and release of patient health care records by a health care provider are inapplicable, to include releases made for the purposes of health care operations, as defined and authorized in federal law.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 146.82 (1) of the statutes is amended to read:

146.82 (1) Confidential. All patient health care records shall remain confidential. Patient health care records may be released only to the persons designated in this section or to other persons with the informed consent of the patient or of a person authorized by the patient. This subsection does not prohibit reports made in compliance with s. 146.995, 253.12 (2) or 979.01 or; testimony authorized under s. 905.04 (4) (h); or releases made for purposes of health care operations, as defined in 45 CFR 164.501, and as authorized under 45 CFR 164, subpart E.

9 (END)