

1 HB418
2 70681-1
3 By Representatives Coleman (L), Newton (D), Buskey, Clark,
4 Guin, Baker, Thomas (J), Jackson, Bandy, McClammy, Moore,
5 Coleman (M), Hinshaw, McLaughlin and Major
6 RFD: Health
7 First Read: 15-FEB-05

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8 SYNOPSIS: This bill would provide that certain health
9 care businesses that transmit patients' information
10 to an offshore entity must disclose that fact to
11 the patient and obtain the patient's consent prior
12 to transmitting the information offshore.

13
14 A BILL
15 TO BE ENTITLED
16 AN ACT

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18 To provide that certain health care businesses that
19 transmit patients' information to an offshore entity must
20 disclose that fact to the patient and obtain the patient's
21 consent prior to transmitting the information offshore.

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23 Section 1. As used in this act, the following terms
24 shall have the following meanings:

25 (1) HEALTH CARE BUSINESS. Any person, whether or not
26 nonprofit, that collects or retains individually identifiable

1 health care information about individuals in relation to
2 health care.

3 (2) HEALTH CARE PROVIDER. Any person who is
4 licensed, certified, registered, or otherwise authorized by
5 law to administer or provide health care in the ordinary
6 course of business or in the practice of a profession. The
7 term shall include a nonstock corporation organized pursuant
8 to Article 6, Chapter 4, Title 10, Code of Alabama 1975.

9 (3) INDIVIDUALLY IDENTIFIABLE HEALTH CARE
10 INFORMATION. Any information, including demographic
11 information collected from an individual if all of the
12 following occur:

13 a. The information is created or received by a
14 health care provider, health care plan, employer, or health
15 care clearinghouse.

16 b. The information relates to the past, present, or
17 future physical or mental health condition of an individual,
18 the provision of health care to an individual, or the past,
19 present, or future payment for the provision of health care to
20 an individual.

21 c. The information identifies the individual or with
22 respect to which there is a reasonable basis to believe the
23 information can be used to identify the individual.

24 (4) PERSON. An individual, corporation, business
25 trust, estate, trust, partnership, association, joint venture,
26 government, governmental subdivision or agency, or any other
27 legal entity.

1 Section 2. (a) A person who contracted or
2 subcontracted with a health care business to receive
3 individually identifiable health information shall disclose to
4 the health care business if any of the information will be
5 transferred to a site located in a foreign country.

6 (b) No health care business or person who has
7 contracted or subcontracted with a health care business shall
8 transmit individually identifiable health information to a
9 site located in a foreign country unless all of the following
10 apply:

11 (1) The health care business discloses to the
12 individual at the time of enrollment and reenrollment, or in
13 the case of a health care facility, upon admission or as soon
14 as practical after admission, that his or her individually
15 identifiable health information may be transmitted to a site
16 located in a foreign country.

17 (2) The health care business obtains a consent
18 acknowledgement from the individual whose health information
19 is identifiable that his or her individually identifiable
20 health information may be transmitted to a site located in a
21 foreign country. The consent must be renewed annually.

22 (3) The individual may revoke his or her consent in
23 writing to the health care business at any time.

24 Section 3. (a) A health care business shall utilize
25 a form to obtain consent to transmit individually identifiable
26 health information to a site located in a foreign country. The
27 form shall meet the following criteria:

1 (1) It shall be dated and signed by the individual
2 whose health care information is identifiable.

3 (2) It shall clearly and conspicuously disclose all
4 of the following:

5 a. By signing, the individual is consenting to the
6 transmission of his or her individually identifiable health
7 information to a site located in a foreign country.

8 b. The consent of the individual must be renewed on
9 at least an annual basis.

10 c. The individual may revoke his or her consent at
11 any time.

12 d. The procedure by which the consent may be
13 revoked.

14 (b) This section does not apply if an individual
15 initiates a request for health care services, diagnosis, or
16 treatment at a site located in a foreign country.

17 (c) A health care business shall not discriminate
18 against an individual or deny an individual health care
19 service because the individual has not provided his or her
20 consent.

21 Section 4. This act shall become effective on the
22 first day of the third month following its passage and
23 approval by the Governor, or its otherwise becoming law.