

S.F. No. 1463, as introduced 84th Legislative Session (2005-2006) Posted on Mar 03, 2005

- 1.1 A bill for an act
- 1.2 relating to health; requiring patients' consent to
- 1.3 transmit medical records out of the country; proposing
- 1.4 coding for new law in Minnesota Statutes, chapter 144.
- 1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:
- 1.6 Section 1. [144.3345] [PATIENT CONSENT TO TRANSMIT MEDICAL
- 1.7 RECORDS INTERNATIONALLY.]
- 1.8 Subdivision 1. [DEFINITIONS.] For purposes of this section:
- 1.9 (1) "health care business" means an individual or entity,
- 1.10 whether established to make a profit or not, that collects or
- 1.11 retains individually identifiable health information about
- 1.12 individuals in relation to medical care; and
- 1.13 (2) "individually identifiable health information" has the
- 1.14 meaning given in the federal Health Insurance Portability and
- 1.15 Accountability Act of 1996, United States Code, title 42,
- 1.16 section 1320d.
- 1.17 Subd. 2. [DISCLOSURE AND CONSENT.] (a) An individual or
- 1.18 entity that has contracted or subcontracted with a health care
- 1.19 business to receive individually identifiable health information
- 1.20 shall disclose to the health care business if any of the
- 1.21 information will be transferred to a site outside the United
- 1.22 States.
- 1.23 (b) No health care business, or individual or entity that
- 1.24 has contracted or subcontracted with a health care business,
- 1.25 shall transmit individually identifiable health information to a
- 2.1 site outside the United States unless:
- 2.2 (1) the health care business discloses to the individual at
- 2.3 the time of enrollment and reenrollment, or in the case of a
- 2.4 health facility, upon admission or as soon as practical after
- 2.5 admission, that individually identifiable health information may
- 2.6 be transmitted to a site outside the United States; and
- 2.7 (2) the health care business obtains a consent
- 2.8 acknowledgment from the individual whose health information is
- 2.9 identifiable that the individually identifiable health
- 2.10 information may be transmitted to a site outside the United
- 2.11 States. The consent acknowledgment must be in the form
- 2.12 specified under subdivision 3.
- 2.13 (c) The consent under paragraph (b), clause (2), must be
- 2.14 renewed annually. The individual may revoke consent in writing
- 2.15 to the health care business at any time.
- 2.16 (d) The obligations imposed on a health care business by
- 2.17 this section must be undertaken by the business itself and must
- 2.18 not be delegated to a physician or surgeon employed by, or
- 2.19 contracted with, the health care business.
- 2.20 (e) Paragraph (b) does not apply if an individual initiates
- 2.21 a request for health care services, diagnosis, or treatment
- 2.22 outside the United States.
- 2.23 Subd. 3. [FORM.] A health care business shall utilize a
- 2.24 form to obtain consent to transmit individually identifiable
- 2.25 health information to a site outside the United States. The
- 2.26 form must:
- 2.27 (1) be dated and signed by the individual whose health care
- 2.28 information is identifiable; and
- 2.29 (2) clearly and conspicuously disclose:

- 2.30 (i) that by signing, the individual is consenting to the
- 2.31 transmission of the individual's individually identifiable
- 2.32 health information to a site outside the United States;
- 2.33 (ii) that the consent of the individual must be renewed on
- 2.34 at least an annual basis;
- 2.35 (iii) that the individual may revoke consent at any time;
- 2.36 and
- 3.1 (iv) the procedure by which consent may be revoked.
- 3.2 Subd. 4. [DISCRIMINATION PROHIBITED.] A health care
- 3.3 business shall not discriminate against an individual or deny an
- 3.4 individual health care service because the individual has not
- 3.5 provided consent according to this section.