

Representative Raymond P. Ward proposes the following substitute bill:

MEDICAL RECORD ACCESS AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Raymond P. Ward

Senate Sponsor: _____

LONG TITLE

General Description:

This bill enacts provisions related to a patient's health information contained by hospital systems.

Highlighted Provisions:

This bill:

- defines terms;
- requires certain hospital systems to collectively select a method that allows a health care provider to access patient information for the patient the health care provider is treating;
- requires the Department of Health and Human Services (department) to facilitate discussions between the hospital systems; and
- allows the department to designate a health information exchange that hospital systems must adopt if the hospital systems are unable to collectively make a decision.

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2024:

- to the Department of Health and Human Services - Operations - Data, Systems, & Evaluations, as an ongoing appropriation:



26 • from the General Fund, \$1,500,000.

27 **Other Special Clauses:**

28 None

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **26-70-101**, as enacted by Laws of Utah 2022, Chapter 327

32 **63I-1-226**, as last amended by Laws of Utah 2022, Chapters 194, 206, 224, 253, 255,
33 347, and 451

34 ENACTS:

35 **26-21-36**, Utah Code Annotated 1953

36 **26-70-103**, Utah Code Annotated 1953

37

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

39 Section 1. Section **26-21-36** is enacted to read:

40 **26-21-36. Health care facilities within a hospital system.**

41 (1) As used in this section:

42 (a) "Hospital system" means the same as that term is defined in Section **26-70-101**.

43 (b) "Medical information" means the same as that term is defined in Section

44 **26-70-101**.

45 (2) Beginning July 1, 2025, a health care facility that is owned or operated by a hospital
46 system shall ensure that medical information collected by the health care facility is accessible
47 in accordance with Section **26-70-103**.

48 Section 2. Section **26-70-101** is amended to read:

49 **CHAPTER 70. PATIENT HEALTH RECORD ACCESS**

50 **26-70-101. Definitions.**

51 As used in this chapter:

52 (1) "HIPAA" means the Health Insurance Portability and Accountability Act of 1996,
53 Pub. L. No. 104-191, 110 Stat. 1936, as amended.

54 (2) "Hospital" means:

55 (a) a general acute hospital as defined in Section **26-21-2**; and

56 (b) a specialty hospital as defined in Section **26-21-2**.

(3) "Hospital system" means an entity that owns or operates at least five hospitals that are licensed under Chapter 21, Health Care Facility Licensing and Inspection Act.

(4) "Medical information" means one or more of the following regarding a patient:

(a) for each time the patient is hospitalized:

(i) an admission history and physical exam; or

(ii) a discharge summary;

(b) the health care provider's notes regarding:

(i) an emergency room visit;

(ii) an urgent care visit;

(iii) a primary care outpatient care visit; or

(iv) a consultation office visit;

(c) a radiology report;

(d) a lab report; or

(e) a pathology report.

~~[(2)]~~ (5) "Patient" means the individual whose information is being requested.

~~[(3)]~~ (6) "Personal representative" means an individual described in 45 C.F.R. Sec. 164.502(g).

Section 3. Section **26-70-103** is enacted to read:

26-70-103. Patient information access by a health care provider.

(1) Beginning July 1, 2025, each hospital system, collectively, shall ensure that a patient's medical information that is created when the patient receives care from the hospital system is accessible to a physician designated by the patient, preferably through the use of single login.

(2) The department shall facilitate discussions with each hospital system and the One Utah Health Collaborative as to how to best achieve the requirement described in Subsection (1).

(3) The liability protections of Subsection [26-1-37\(5\)](#) a hospital system's compliance with Subsection (1).

(4) To better improve patient access to the patient's medical information, the department shall communicate with each hospital system and with the One Utah Health Collaborative to determine whether each hospital system, collectively, will create and adopt the

88 same policies regarding one or all of the following:

89 (a) the creation of a published provider directory that contains identifying information
90 of the providers to facilitate interfaces between systems;

91 (b) the establishment of technical specifications that would enable identity verification
92 and authentication both for a patient and a health care provider; and

93 (c) the creation of a consensus data sharing agreement for health care providers and
94 hospitals that is consistent with applicable federal and state laws.

95 (5) The department shall report to the Health and Human Services Interim Committee
96 before November 1, 2023, and again between June 1, 2024, and November 1, 2024, regarding:

97 (a) any progress towards the hospital systems complying with Subsection (1); and

98 (b) whether a consensus has been achieved on any of the items listed in Subsection (4).

99 (6) To better improve a patient's access and control of the patient's own medical
100 information when a patient receives care from more than one hospital system, the department
101 shall communicate with each hospital system and with the One Utah Health Collaborative to
102 determine which policies or projects would best improve:

103 (a) the accuracy of any information that the patient requests to have shared;

104 (b) the completeness of any information that the patient requests to have shared;

105 (c) the security of any information that the patient requests to have shared;

106 (d) the timeliness of any information that the patient requests to have shared;

107 (e) the ability of the patient to block any of the patient's data from being shared; or

108 (f) the ability of the patient to block the patient's data from any individual source from
109 being shared.

110 Section 4. Section **63I-1-226** is amended to read:

111 **63I-1-226. Repeal dates: Title 26 through 26B.**

112 (1) Section **26-1-7.5**, which creates the Utah Health Advisory Council, is repealed July
113 1, 2025.

114 (2) Section **26-1-40** is repealed July 1, 2022.

115 (3) Section **26-1-41** is repealed July 1, 2026.

116 (4) Section **26-1-43** is repealed December 31, 2025.

117 (5) Section **26-7-10** is repealed July 1, 2025.

118 (6) Subsection **26-7-11(5)**, regarding reports to the Legislature, is repealed July 1,

- 119 2028.
- 120 (7) Section 26-7-14 is repealed December 31, 2027.
- 121 (8) Section 26-8a-603 is repealed July 1, 2027.
- 122 (9) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July
- 123 1, 2025.
- 124 (10) Subsection 26-10-6(5), which creates the Newborn Hearing Screening Committee,
- 125 is repealed July 1, 2026.
- 126 (11) Section 26-10b-106, which creates the Primary Care Grant Committee, is repealed
- 127 July 1, 2025.
- 128 (12) Subsection 26-15c-104(3), relating to a limitation on the number of
- 129 microenterprise home kitchen permits that may be issued, is repealed July 1, 2022.
- 130 (13) Subsection 26-18-2.6(9), which addresses reimbursement for dental hygienists, is
- 131 repealed July 1, 2028.
- 132 (14) Section 26-18-27 is repealed July 1, 2025.
- 133 (15) Section 26-18-28 is repealed June 30, 2027.
- 134 (16) Title 26, Chapter 18, Part 2, Drug Utilization Review Board, is repealed July 1,
- 135 2027.
- 136 (17) Subsection 26-18-418(2), the language that states "and the Behavioral Health
- 137 Crisis Response Commission created in Section 63C-18-202" is repealed July 1, 2023.
- 138 (18) Section 26-33a-117 is repealed December 31, 2023.
- 139 (19) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2024.
- 140 (20) Title 26, Chapter 36b, Inpatient Hospital Assessment Act, is repealed July 1,
- 141 2024.
- 142 (21) Title 26, Chapter 36c, Medicaid Expansion Hospital Assessment Act, is repealed
- 143 July 1, 2024.
- 144 (22) Title 26, Chapter 36d, Hospital Provider Assessment Act, is repealed July 1, 2024.
- 145 (23) Section 26-39-201, which creates the Residential Child Care Licensing Advisory
- 146 Committee, is repealed July 1, 2024.
- 147 (24) Section 26-39-405, Drinking water quality in child care centers, is repealed July 1,
- 148 2027.
- 149 (25) Section 26-40-104, which creates the Utah Children's Health Insurance Program

Advisory Council, is repealed July 1, 2025.

(26) Section [26-50-202](#), which creates the Traumatic Brain Injury Advisory Committee, is repealed July 1, 2025.

(27) Title 26, Chapter 54, Spinal Cord and Brain Injury Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund, is repealed January 1, 2025.

(28) Title 26, Chapter 66, Early Childhood Utah Advisory Council, is repealed July 1, 2026.

(29) Title 26, Chapter 68, COVID-19 Vaccine Restrictions Act, is repealed July 1, 2024.

(30) Section [26-69-406](#) is repealed July 1, 2025.

(31) Section [26-70-103](#) is repealed July 1, 2027.

~~[(31)]~~ (32) Subsection [26B-1-204](#)(2)(i), related to the Residential Child Care Licensing Advisory Committee, is repealed July 1, 2024.

~~[(32)]~~ (33) Subsection [26B-1-204](#)(2)(k), related to the Primary Care Grant Committee, is repealed July 1, 2025.

Section 5. **Appropriation.**

The following sums of money are appropriated for the fiscal year beginning July 1, 2023, and ending June 30, 2024. These are additions to amounts previously appropriated for fiscal year 2024. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Department of Health and Human Services - Operations

<u>From General Fund</u>	<u>1,500,000</u>
--------------------------	------------------

Schedule of Programs:

<u>Data, Systems, & Evaluations</u>	<u>1,500,000</u>
---	------------------

The Legislature intends that the Department of Health and Human Services use the appropriation, through one or more requests for proposal, to:

(1) assist the hospital systems to meet the obligations of Subsection [26-70-103](#)(1);

(2) assist in facilitating discussions and creating policies upon consensus as described in Subsection [26-70-103](#)(5); and

181

(3) accomplish the projects described in Subsection [26-70-103](#)(6).