Patient Surveillance System – State Collection of Private Medical Data

CCHC's Points of Concern regarding MN Statutes 62J and MN Rule 4653

1) Patient Health Jeopardized by Violation of Rights

Patient rights, privacy rights and constitutional rights are violated if patient consent is not required for government access to private data of law-abiding citizens. Such violation of rights will jeopardize patient health and trust in the health care system. A California Healthcare Foundation study found *15% of the public taking evasive action* to protect their privacy, including falsifying medical questionnaires, requesting that data be omitted from their medical records, paying cash, and avoiding health care altogether. A 2000 Gallup Survey found *92% of the public opposing government access to private data, and 71% opposing access to medical data by local and state public health agencies.*

2) Identification of Individuals

There is no guarantee that 1) patient data is unidentifiable, 2) contractors will not re-identify data using their own databases, 3) patients will not be identified in the future, 4) future legislatures will not choose to use data for secondary purposes (ex. Social Security Number), and 5) the security of the data is impenetrable, and impervious to human error.

3) Loss of Patient Autonomy

State-established "best practices" for health care treatments may lead to government-directed medical practice. And because the public cannot access the data held by the State, the health department's research results will go unchallenged. Additionally, best practices are often out of date by the time of publication.

4) Data Lacks Credibility

Research using administrative billing data is not assuredly scientific or accurate as required by state law. According to the Minnesota Medical Association's policy on use of health data, "studies have shown that administrative data retrieved from billing statements are often unreliable and do not contain clinical patient-centered information."

5) Diminished Access to Health Care Services

Tracking, profiling, and creating state report cards on physicians will give physicians yet another reason not to practice in Minnesota. Reports cards based on administrative billing data will not accurately reflect the patient-doctor interaction or the impact of patient choices. Furthermore, malpractice insurance companies may use the report cards to determine malpractice premiums, and HMO networks may use the report cards to refuse to credential physicians or to reduce reimbursements for care.

6) Genetic Data Collection

The law allows state government to access the entire medical record. There is no restriction on state access to, or research using, personal genetic data.

7) Costs of System

Scarce tax dollars should be spent on services other than a patient surveillance system that tracks individuals without their consent and builds distrust between patient and Dr.

Citizens' Council on Health Care, www.cchconline.org
twila@cchc-mn.org , 651-646-8935
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