

# Legislative Analysis

---



## RELEASE OF PERSONAL HEALTH INFORMATION

Mitchell Bean, Director  
Phone: (517) 373-8080  
<http://www.house.mi.gov/hfa>

**House Bill 4606 (Substitute H-1)**  
**Sponsor: Rep. Stephen F. Adamini**  
**Committee: Health Policy**

### First Analysis (10-24-05)

**BRIEF SUMMARY:** The bill would allow the release of patient information without the patient's prior authorization in certain circumstances.

**FISCAL IMPACT:** There would be no fiscal impact on the state or local units of government.

### **THE APPARENT PROBLEM:**

The federal Health Insurance Portability and Accountability Act (HIPPA) was enacted several years ago to, among other things, be a national standard for health care privacy and also for electronic health care transactions. HIPPA, as a national law, supercedes state laws unless it is contrary to a state law or a state law is more restrictive. HIPPA has been very confusing for health care providers and facilities to implement.

One such area of confusion relates to the ability of hospitals to access health records from patients' physicians and from laboratories that perform blood tests or x-rays. In particular, hospitals in the Upper Peninsula serve a broad geographic region. Patients often travel several hours to receive medical services by health care providers at the hospitals. In the course of the examination, it often becomes evident that the patient had one or more medical tests done previously but did not bring a copy of the report or medical records. Without quick access to the missing reports or records, the ability of the health care provider to provide a diagnosis or treatment is hampered. Considering the distance traveled by some, it is impractical to send the patient home or to his or her physician's office to retrieve the reports, and depending on the medical condition, unwise to reschedule the appointment or delay emergency care. The solution would appear to be simple – call the referring physician's office and request electronic transmission of the needed reports and medical records.

However, where HIPPA allows, under certain conditions, reports to be shared between providers without first obtaining the patient's signature, state law appears to preclude it. Under provisions of the health code, such records cannot be released to a third party without the patient's prior consent. Legislation is therefore needed to rectify the situation.

### **THE CONTENT OF THE BILL:**

The bill would amend the Public Health Code (MCL 333.20201). Currently, the code prohibits a health care facility (i.e., a hospital or nursing home) from giving a copy of a patient's or resident's medical record to a third party without prior authorization from the

patient or resident. The bill would retain this restriction on the release of a person's medical information except as otherwise permitted or required under the federal Health Insurance Portability and Accountability Act (HIPPA).

The code also allows a patient or resident to refuse the release of personal and medical records to a person outside the health facility or agency except as required because of a transfer to another health care facility or as required by law or third party payment contract. The bill would also allow the release of these records as permitted or required under HIPPA or regulations promulgated under the provisions of HIPPA.

Furthermore, the code entitles a patient or resident to inspect, or receive for a reasonable fee, a copy of his or her own medical record. The bill would specify that this would be done in accordance with the Medical Records Access Act (MCL 333.26261-333.26271).

### ***ARGUMENTS:***

#### ***For:***

The bill would allow the release of patient information to a third party without the patient first signing a consent form. However, this could only be done in accordance with provisions under the federal Health Insurance Portability and Privacy Act (HIPPA). A patient's privacy would still be protected. The benefit would be to a patient who sees a specialist or goes to a hospital and those health care providers need quick access to his or her medical records or test results. Under the bill, if there was not a signed release form at the patient's provider's office, the specialist or hospital could still request and receive the records (most likely via fax transmissions) in a timely manner while the patient was still at the specialist's office or at the hospital. This is especially needed in rural areas where specialists and hospitals serve a large geographic area and people travel great distances to their appointments.

### ***POSITIONS:***

The Michigan State Medical Society supports the bill. (10-18-05)

A representative of Marquette General Hospital testified in support of the bill. (10-18-05)

A representative of the Michigan Association of Health Plans indicated support for the bill. (10-18-05)

A representative of the Department of Community Health indicated a position of neutrality on the bill. (10-18-05)

Legislative Analyst: Susan Stutzky  
Fiscal Analyst: Margaret Alston

---

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.