

# SB3619



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

SB3619

Introduced 2/14/2020, by Sen. Julie A. Morrison

#### SYNOPSIS AS INTRODUCED:

410 ILCS 50/3

from Ch. 111 1/2, par. 5403

Amends the Medical Patient Rights Act. Provides that if a covered entity under the federal Health Insurance Portability and Accountability Act of 1996 intends to use or disclose an individual's protected and individually identifiable health information to engage in fundraising communications or communications for marketing purposes, the covered entity must, prior to the use or disclosure, obtain valid authorization from the individual who is the subject of the protected and individually identifiable health information. Contains language stating the intent of the General Assembly. Effective immediately.

LRB101 20676 CPF 70340 b

A BILL FOR

1 AN ACT concerning health.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Medical Patient Rights Act is amended by  
5 changing Section 3 as follows:

6 (410 ILCS 50/3) (from Ch. 111 1/2, par. 5403)

7 Sec. 3. The following rights are hereby established:

8 (a) The right of each patient to care consistent with sound  
9 nursing and medical practices, to be informed of the name of  
10 the physician responsible for coordinating his or her care, to  
11 receive information concerning his or her condition and  
12 proposed treatment, to refuse any treatment to the extent  
13 permitted by law, and to privacy and confidentiality of records  
14 except as otherwise provided by law.

15 (b) The right of each patient, regardless of source of  
16 payment, to examine and receive a reasonable explanation of his  
17 total bill for services rendered by his physician or health  
18 care provider, including the itemized charges for specific  
19 services received. Each physician or health care provider shall  
20 be responsible only for a reasonable explanation of those  
21 specific services provided by such physician or health care  
22 provider.

23 (c) In the event an insurance company or health services

1 corporation cancels or refuses to renew an individual policy or  
2 plan, the insured patient shall be entitled to timely, prior  
3 notice of the termination of such policy or plan.

4 An insurance company or health services corporation that  
5 requires any insured patient or applicant for new or continued  
6 insurance or coverage to be tested for infection with human  
7 immunodeficiency virus (HIV) or any other identified causative  
8 agent of acquired immunodeficiency syndrome (AIDS) shall (1)  
9 give the patient or applicant prior written notice of such  
10 requirement, (2) proceed with such testing only upon the  
11 written authorization of the applicant or patient, and (3) keep  
12 the results of such testing confidential. Notice of an adverse  
13 underwriting or coverage decision may be given to any  
14 appropriately interested party, but the insurer may only  
15 disclose the test result itself to a physician designated by  
16 the applicant or patient, and any such disclosure shall be in a  
17 manner that assures confidentiality.

18 The Department of Insurance shall enforce the provisions of  
19 this subsection.

20 (d) The right of each patient to privacy and  
21 confidentiality in health care. Each physician, health care  
22 provider, health services corporation and insurance company  
23 shall refrain from disclosing the nature or details of services  
24 provided to patients, except that such information may be  
25 disclosed: (1) to the patient, (2) to the party making  
26 treatment decisions if the patient is incapable of making

1 decisions regarding the health services provided, (3) for  
2 treatment in accordance with 45 CFR 164.501 and 164.506, (4)  
3 for payment in accordance with 45 CFR 164.501 and 164.506, (5)  
4 to those parties responsible for peer review, utilization  
5 review, and quality assurance, (6) for health care operations  
6 in accordance with 45 CFR 164.501 and 164.506, (7) to those  
7 parties required to be notified under the Abused and Neglected  
8 Child Reporting Act or the Illinois Sexually Transmissible  
9 Disease Control Act, or (8) as otherwise permitted, authorized,  
10 or required by State or federal law. This right may be waived  
11 in writing by the patient or the patient's guardian or legal  
12 representative, but a physician or other health care provider  
13 may not condition the provision of services on the patient's,  
14 guardian's, or legal representative's agreement to sign such a  
15 waiver. In the interest of public health, safety, and welfare,  
16 patient information, including, but not limited to, health  
17 information, demographic information, and information about  
18 the services provided to patients, may be transmitted to or  
19 through a health information exchange, as that term is defined  
20 in Section 2 of the Mental Health and Developmental  
21 Disabilities Confidentiality Act, in accordance with the  
22 disclosures permitted pursuant to this Section. Patients shall  
23 be provided the opportunity to opt out of their health  
24 information being transmitted to or through a health  
25 information exchange in accordance with the regulations,  
26 standards, or contractual obligations adopted by the Illinois

1 Health Information Exchange Authority in accordance with  
2 Section 9.6 of the Mental Health and Developmental Disabilities  
3 Confidentiality Act, Section 9.6 of the AIDS Confidentiality  
4 Act, or Section 31.8 of the Genetic Information Privacy Act, as  
5 applicable. In the case of a patient choosing to opt out of  
6 having his or her information available on an HIE, nothing in  
7 this Act shall cause the physician or health care provider to  
8 be liable for the release of a patient's health information by  
9 other entities that may possess such information, including,  
10 but not limited to, other health professionals, providers,  
11 laboratories, pharmacies, hospitals, ambulatory surgical  
12 centers, and nursing homes.

13 (e) In this subsection:

14 "Covered entity" means a covered entity under the federal  
15 Health Insurance Portability and Accountability Act of 1996 or  
16 any rules adopted under that Act.

17 "Marketing" means making a communication about a product or  
18 service that encourages recipients of the communication to  
19 purchase or use the product or service.

20 "Opt in" means a patient consenting to marketing or  
21 fundraising provisions, in writing and separately from any  
22 consent to treatment, using the patient's initials or  
23 signature.

24 "Valid authorization" means:

25 (A) for use or disclosure of protected and individually  
26 identifiable health information to engage in fundraising

1       communications, an individual has opted in to receiving  
2       communications from a covered entity to raise funds; or

3           (B) for use or disclosure of protected and individually  
4       identifiable health information for marketing purposes, an  
5       individual has opted in to receiving communications from a  
6       covered entity for marketing purposes.

7       If a covered entity intends to use or disclose an  
8       individual's protected and individually identifiable health  
9       information to engage in fundraising communications or for  
10       marketing purposes, the covered entity must, prior to the use  
11       or disclosure, obtain valid authorization from the individual  
12       who is the subject of the protected and individually  
13       identifiable health information.

14       It is the intent of the General Assembly that the  
15       requirements of this subsection (e) increase privacy  
16       protections afforded to an individual who is the subject of the  
17       protected and individually identifiable health information.

18       (Source: P.A. 98-1046, eff. 1-1-15.)

19       Section 99. Effective date. This Act takes effect upon  
20       becoming law.