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HOUSE BILL 353
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Short Title: Pub. Health Info. Access/HIPAA Clarification.

(Public)

Sponsors:

Referred to:

February 26, 2007

A BILL TO BE ENTITLED

AN ACT TO PROVIDE ACCESS TO INFORMATION FOR PUBLIC HEALTH PURPOSES IN A MANNER THAT IS CONSISTENT WITH THE HEALTH INFORMATION PORTABILITY AND ACCOUNTABILITY ACT (HIPAA) MEDICAL PRIVACY RULE AND TO CLARIFY THAT OTHER DISCLOSURES ARE GOVERNED BY HIPAA.

The General Assembly of North Carolina enacts:

SECTION 1. Part 1 of Article 1 of Chapter 130A of the General Statutes is amended by adding the following new section to read:

"§ 130A-15. Access to information.

(a) Health care providers and persons in charge of health care facilities or laboratories shall, upon request and proper identification, permit the State Health Director to examine, review, and obtain a copy of records containing privileged medical information or information protected under the Health Information Portability and Accountability Act (HIPAA) medical privacy rule, 45 C.F.R. Parts 160 and 164, that the State Health Director deems are necessary to prevent, control, or investigate a disease or health hazard that may present a clear danger to the public health.

(b) Privileged medical information or protected health information received by the State Health Director pursuant to this section shall be confidential and is not a public record under G.S. 132-1. The information shall not be released, except when the release is made pursuant to any other provision of law, to another federal, state, or local public health agency for the purpose of preventing or controlling a disease or public health hazard or to a court or law enforcement official or law enforcement officer for the purpose of enforcing the provisions of this Chapter or for the purpose of investigating a disease or public health hazard.

1 (c) A person who permits examination, review, or copying of records or who
2 provides copies of the records pursuant to subsection (a) of this section is immune from
3 any civil or criminal liability that might otherwise be incurred or imposed."

4 **SECTION 2.** G.S. 130A-5(2) reads as rewritten:

5 "(2) To investigate the causes of epidemics and of infectious,
6 communicable and other diseases affecting the public health in order
7 to control and prevent these diseases; to provide, under the rules of the
8 Commission, for the prevention, detection, reporting and control of
9 communicable, infectious or any other diseases or health hazards
10 considered harmful to the public health; ~~to obtain, notwithstanding the~~
11 ~~provisions of G.S. 8-53, a copy or a summary of pertinent portions of~~
12 ~~privileged patient medical records deemed necessary for investigating~~
13 ~~a disease or health hazard that may present a clear danger to the public~~
14 ~~health. Records shall be identified as necessary by joint agreement of a~~
15 ~~Department physician and the patient's attending physician. However,~~
16 ~~if the Department is unable to contact the attending physician after~~
17 ~~reasonable attempts to do so, or if the Department determines that~~
18 ~~contacting all attending physicians of patients involved in an~~
19 ~~investigation would be impractical or would unreasonably delay the~~
20 ~~inquiry and thereby endanger the public health, the records shall be~~
21 ~~identified as necessary by joint agreement of a Department physician~~
22 ~~and the health care facility's chief of staff. For a facility with no chief~~
23 ~~of staff, the facility's chief administrator may consent to the~~
24 ~~Department's review of the records. Any person, authorized to have or~~
25 ~~handle such records, providing copies or summaries of privileged~~
26 ~~patient medical records pursuant to this subdivision shall be immune~~
27 ~~from civil or criminal liability that might otherwise be incurred or~~
28 ~~imposed based upon invasion of privacy or breach of physician patient~~
29 ~~confidentiality arising out of the furnishing of or agreement to furnish~~
30 ~~such records;".~~

31 **SECTION 3.** G.S. 90-21.20B reads as rewritten:

32 "**§ 90-21.20B. Access to and disclosure of medical information for ~~law enforcement~~**
33 **certain purposes.**

34 (a) Notwithstanding G.S. 8-53 or any other provision of law, a health care
35 provider may disclose to a law enforcement officer protected health information only to
36 the extent that the information may be disclosed under the federal Standards for Privacy
37 of Individually Identifiable Health Information, 45 C.F.R. § 164.512(f) and is not
38 specifically prohibited from disclosure by other state or federal law.

39 (a1) Notwithstanding any other provision of law, if a person is involved in a
40 vehicle crash:

41 (1) Any health care provider who is providing medical treatment to the
42 person shall, upon request, disclose to any law enforcement officer
43 investigating the crash the following information about the person:

1 name, current location, and whether the person appears to be impaired
2 by alcohol, drugs, or another substance.

3 (2) Law enforcement officers shall be provided access to visit and
4 interview the person upon request, except when the health care
5 provider requests temporary privacy for medical reasons.

6 (3) A health care provider shall disclose a certified copy of all identifiable
7 health information related to that person as specified in a search
8 warrant or an order issued by a judicial official.

9 (b) A prosecutor or law enforcement officer receiving identifiable health
10 information under this section shall not disclose this information to others except as
11 necessary to the investigation or otherwise allowed by law.

12 (c) A certified copy of identifiable health information, if relevant, shall be
13 admissible in any hearing or trial without further authentication.

14 (d) As used in this section, "health care provider" has the same meaning as in
15 G.S. 90-21.11.

16 (e) Notwithstanding G.S. 8-53 or any other provision of law, a health care
17 provider may disclose protected health information for purposes of treatment, payment,
18 or health care operations to the extent that disclosure is permitted under 45 C.F.R. §
19 164.506 and is not specifically prohibited by other state or federal law. As used in this
20 subsection, "treatment, payment, or health care operations" are as defined in the
21 Standards for Privacy of Individually Identifiable Health Information."

22 **SECTION 4.** G.S. 8-53.1 reads as rewritten:

23 "**§ 8-53.1. Physician-patient and nurse ~~privilege waived in child abuse; disclosure~~**
24 **~~of information in impaired driving accident cases; privilege; limitations.~~**

25 (a) Notwithstanding the provisions of G.S. 8-53 and G.S. 8-53.13, the
26 physician-patient or nurse privilege shall not be a ground for excluding evidence
27 regarding the abuse or neglect of a child under the age of 16 years or regarding an
28 illness of or injuries to such child or the cause thereof in any judicial proceeding related
29 to a report pursuant to the North Carolina Juvenile Code, Chapter 7B of the General
30 Statutes of North Carolina.

31 (b) Nothing in this Article shall preclude a health care provider, as defined in
32 G.S. 90-21.11, from disclosing information ~~to a law enforcement agency investigating a~~
33 ~~vehicle crash under the provisions of pursuant to G.S. 90-21.20B."~~

34 **SECTION 5.** G.S. 20-139.1(c) reads as rewritten:

35 "(c) Blood and Urine for Chemical Analysis. – Notwithstanding any other
36 provision of law, when a blood or urine test is specified as the type of chemical analysis
37 by a law enforcement officer, a physician, registered nurse, emergency medical
38 technician, or other qualified person shall withdraw the blood sample and obtain the
39 urine sample, and no further authorization or approval is required. If the person
40 withdrawing the blood or collecting the urine requests written confirmation of the law
41 enforcement officer's request for the withdrawal of blood or collecting the urine, the
42 officer shall furnish it before blood is withdrawn or urine collected. When blood is
43 withdrawn or urine collected pursuant to a law enforcement officer's request, neither the
44 person withdrawing the blood nor any hospital, laboratory, or other institution, person,

1 firm, or corporation employing that person, or contracting for the service of
2 withdrawing ~~blood, blood or collecting urine~~, may be held criminally or civilly liable by
3 reason of withdrawing ~~that blood, the blood or collecting the urine~~, except that there is
4 no immunity from liability for negligent acts or omissions. A person requested to
5 withdraw blood or collect urine pursuant to this subsection may refuse to do so only if it
6 reasonably appears that the procedure cannot be performed without endangering the
7 safety of the person collecting the sample or the safety of the person from whom the
8 sample is being collected. If the officer requesting the blood or urine requests a written
9 justification for the refusal, the medical provider who determined the sample could not
10 be collected safely shall provide written justification at the time of the refusal."

11 **SECTION 6.** G.S. 20-139.1(d2) reads as rewritten;

12 "(d2) Notwithstanding any other provision of law, when a blood or urine sample is
13 requested under subsection (d1) of this section by a law enforcement officer, a
14 physician, registered nurse, emergency medical technician, or other qualified person
15 shall withdraw the blood and obtain the urine sample, and no further authorization or
16 approval is required. If the person withdrawing the blood or collecting the urine requests
17 written confirmation of the charging officer's request for the withdrawal of blood or
18 obtaining urine, the officer shall furnish it before blood is withdrawn or urine obtained.
19 A person requested to withdraw blood or collect urine pursuant to this subsection may
20 refuse to do so only if it reasonably appears that the procedure cannot be performed
21 without endangering the safety of the person collecting the sample or the safety of the
22 person from whom the sample is being collected. If the officer requesting the blood or
23 urine requests a written justification for the refusal, the medical provider who
24 determined the sample could not be collected safely shall provide written justification at
25 the time of the refusal."

26 **SECTION 7.** This act is effective when it becomes law.