

**SENATE . . . . . No. 1486**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

***Mark C. Montigny***

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to protect life-saving electronic health records from reckless corporate greed and corruption.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Mark C. Montigny</i>	<i>Second Bristol and Plymouth</i>	
<i>Michael O. Moore</i>	<i>Second Worcester</i>	<i>3/8/2021</i>

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By Mr. Montigny, a petition (accompanied by bill, Senate, No. 1486) of Mark C. Montigny and Michael O. Moore for legislation to ensure timely electronic health record interoperability across health systems to protect patient lives. Public Health.

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[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. 1305 OF 2019-2020.]

**The Commonwealth of Massachusetts**

\_\_\_\_\_  
**In the One Hundred and Ninety-Second General Court  
(2021-2022)**  
\_\_\_\_\_

An Act to protect life-saving electronic health records from reckless corporate greed and corruption.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1           SECTION 1. Section 16 of chapter 6D, as appearing in the 2020 Official Edition of the  
2 General Laws, is hereby amended by inserting at the end of subsection (a) the following clause:-

3           (9) assist consumers with questions or concerns relating to electronic health information  
4 accessibility requirements established by section 7 of chapter 118I, and record and submit  
5 reported violations of said section to the executive office of health and human services, the  
6 attorney general, and the Office of the National Coordinator, as defined in section 1 of chapter  
7 118I.

8           SECTION 2. Section 7 of chapter 118I, as so appearing, is hereby amended by inserting  
9 at the end thereof the following paragraph:-

10 In order to ensure the seamless and secure access, exchange, and use of electronic health  
11 information, all providers in the commonwealth shall comply with the requirements imposed by  
12 the 21st Century Cures Act of 2016, P.L. 114-255, including, but not limited to, interoperability,  
13 patient access through application programming interfaces, and prohibitions on information  
14 blocking to health information technology developers, health information exchanges, health  
15 information networks, and health care providers. The executive office, in consultation with the  
16 commission, shall develop a standardized written notification form for providers to give to  
17 patients, informing patients of their rights and obligations as it pertains to their electronic health  
18 information and accessibility per federal and state law. Said notification forms may be provided  
19 electronically to patients and shall inform said patients on how to report violations of electronic  
20 health information access to the office of patient protection, established under section 16 of  
21 chapter 6D.

22 The executive office of health and human services shall promulgate regulations to  
23 prohibit the collection, capture, purchase, or transfer of electronic health information by third  
24 party application programming interfaces without the express written consent of the patient.  
25 Said written consent may be obtained by electronic means in a conspicuous and easy to read  
26 format. Said regulations shall prohibit third party application programming interfaces from  
27 disclosing, redisclosing, disseminating, selling, leasing, trading, or otherwise profiting from a  
28 patient's electronic health information unless it is to provide direct data access to the patient with  
29 their express written consent.

30 A violation of this section is punishable by a fine in accordance with section 8 of this  
31 chapter and shall constitute an unfair or deceptive act in violation of chapter 93A.

32 SECTION 3. Section 8 of said chapter 118I, as so appearing, is hereby amended by  
33 inserting after the words “section 7” in the first sentence the following:-

34 “; provided that violations involving patient access to electronic health information, as  
35 reported by the commission’s office of patient protection, shall be no less than \$1,000 per day  
36 per violation”

37 SECTION 2. This act shall take effect immediately upon its passage.