

Senator Stephen H. Urquhart proposes the following substitute bill:

PATIENT INFORMATION PROTECTION AMENDMENTS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephen H. Urquhart

House Sponsor: _____

LONG TITLE

General Description:

This bill amends the Health Code related to the Medicaid program.

Highlighted Provisions:

This bill:

- ▶ requires certain health care providers that enter into a provider agreement with the state Medicaid program to purchase insurance that would cover a health data breach; and

- ▶ specifies certain coverage requirements that must be maintained by the provider.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

26-18-17, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **26-18-17** is enacted to read:



26 **26-18-17. Medicaid provider -- Data breach insurance.**

27 (1) (a) Beginning July 1, 2013, a health care provider that has or enters into a provider
28 agreement with the state Medicaid program, and has received at least \$50,000 in payment from
29 Medicaid in the preceding 12 months, shall purchase an insurance policy that insures the health
30 care provider for losses incurred as a result of a data breach of electronic medical records
31 stored or accessed by the provider.

32 (b) The data breach insurance required by Subsection (1)(a) shall include coverage for:

33 (i) compliance with data breach notification laws;

34 (ii) securing legal counsel to advise on incident response;

35 (iii) providing credit file monitoring to victims;

36 (iv) hiring forensic experts to investigate the breach, if appropriate;

37 (v) paying regulatory defense for privacy law violations; and

38 (vi) legal liabilities arising from failure to comply with data breach notification laws or
39 privacy policies or to administer a government-mandated identity theft prevention program.

40 (2) The requirements of Subsection (1) may be satisfied by a medical malpractice
41 policy purchased by a health care provider that includes coverage for the consequences of a
42 data breach.

43 (3) The health care provider shall keep the insurance policy required by Subsection (1)
44 in effect during the period of time in which the provider has a provider agreement with the state
45 Medicaid program.