

File Number: H.F. 3312
Version: As introduced

Date: March 6, 2018

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Subject: Patient consent to the release of health records

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Overview

The Minnesota Health Records Act is the state law governing access to and the release of patient health records. This law in part requires a provider to have a signed, dated consent from a patient to release the patient's health record, unless another law authorizes the release without patient consent.

At the federal level, the use and disclosure of patient health records are governed by the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule, found at Code of Federal Regulations, title 45, part 164, subpart E. The Privacy Rule applies to covered entities (health insurers, health care clearinghouses, and health care providers who transmit health information in electronic form) and allows covered entities to use or disclose a patient's protected health information for the purposes of treatment, payment, or health care operations, without patient authorization. Except in other limited circumstances, a covered entity must obtain a patient's authorization to disclose the patient's protected health information. Another rule provides that when state law that relates to the privacy of individually identifiable health information is more stringent than the HIPAA Privacy Rule, the state law is not preempted by the Privacy Rule.

This bill amends the Minnesota Health Records Act by providing that the HIPAA Privacy Rule constitutes a specific authorization in law for a release of health records, for covered entities.

Section

1 Patient consent to release of records. Amends § 144.293, subd. 2. Current law prohibits a provider or person who receives health records from a provider from releasing a patient's health records unless:

- the patient or a legal representative consents to the release in writing;
- the release is specifically authorized in law; or
- a provider represents that the provider has a consent from the patient authorizing the release.

This bill specifies that the HIPAA Privacy Rule (Code of Federal Regulations, title 45, part 164, subpart E) constitutes a specific authorization in law for a release of health records, for entities and individuals subject to the HIPAA Privacy Rule.