

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that House Bill 1334 be recommitted to a Committee of One, its author, with specific instructions to amend as follows:

- 1 Page 2, line 39, delete "individual" and insert "**insured**".
- 2 Page 2, line 40, delete "individual's" and insert "**insured's**".
- 3 Page 2, line 41, delete "individual" and insert "**insured**".
- 4 Page 2, line 42, delete "payment for the provision of health care to"
- 5 and insert "**invoices or billing records that identify the treatment,**
- 6 **condition, or diagnosis of**".
- 7 Page 2, line 42, delete "individual" and insert "**insured**".
- 8 Page 3, line 5, before "provider" insert "**performance evaluation,**".
- 9 Page 3, line 34, delete "the process of" and insert "**a**".
- 10 Page 3, line 35, delete "or inquiry".
- 11 Page 3, line 35, delete "the systematic:" and insert ":".
- 12 Page 3, line 36, delete "development and testing of a hypothesis;"
- 13 and insert "**research development;**".
- 14 Page 3, line 37, delete "description, analysis, and measurement of
- 15 processes," and insert "**testing and evaluation;**
- 16 **designed to develop or contribute to generalizable knowledge.**".
- 17 Page 3, delete lines 38 through 39.
- 18 Page 4, line 12, delete "individual" and insert "**insured**".
- 19 Page 4, line 21, before "health" insert "**protected**".
- 20 Page 4, line 23, before "health" insert "**protected**".
- 21 Page 4, line 24, before "health" insert "**protected**".
- 22 Page 4, line 27, before "health" insert "**protected**".
- 23 Page 4, line 37, before "health" insert "**protected**".

- 1 Page 4, line 37, after ";" insert "**and**".
- 2 Page 4, line 41, delete "; and" and insert ".".
- 3 Page 4, delete line 42.
- 4 Page 5, delete lines 1 through 2.
- 5 Page 5, line 7, delete ":".
- 6 Page 5, delete lines 8 through 9.
- 7 Page 5, line 10, delete "(2)" .
- 8 Page 5, run in lines 7 through 10.
- 9 Page 5, line 16, before "health" insert "**protected**".
- 10 Page 5, line 19, delete "1999," and insert "**2001**".
- 11 Page 5, line 20, delete "2001," and insert "**2003**".
- 12 Page 5, line 22, before "health" insert "**protected**".
- 13 Page 5, line 25, before "health" insert "**protected**".
- 14 Page 5, line 27, delete "the".
- 15 Page 5, line 28, delete "collection, use, and disclosure" and insert "**a**
- 16 **summary of the collections, uses, and disclosures**".
- 17 Page 5, line 30, before "procedures" insert "**the**".
- 18 Page 5, line 32, before "procedures" insert "**the**".
- 19 Page 5, line 34, before "right" insert "**the**".
- 20 Page 5, line 34, delete "copy" and insert "**summary**".
- 21 Page 5, line 34, before "health" insert "**protected**".
- 22 Page 5, line 36, delete "to".
- 23 Page 5, delete lines 37 through 40, begin a new line block indented
- 24 and insert:
- 25 (1) **at the time of application;**
- 26 (2) **at enrollment; or**
- 27 (3) **at the time the policy is first delivered.**".
- 28 Page 5, line 41, before "If" insert "**The insurer shall also provide**
- 29 **the notice to any person upon request and to all insureds when**
- 30 **requesting an authorization to disclose.**".
- 31 Page 6, line 26, after "compiled" insert "**in the course of a claim**
- 32 **investigation or**".
- 33 Page 7, line 3, after "compiled" insert "**in the course of a claim**
- 34 **investigation or**".
- 35 Page 7, between lines 10 and 11, begin a new paragraph and insert:
- 36 **"(e) An insurer shall provide access to protected health**
- 37 **information that was created as part of a subject's participation in**
- 38 **a clinical trial monitored by an institutional review board**
- 39 **consistent with the federal Policy for the Protection of Human**
- 40 **Subjects (56 Federal Register 28000 (1991)) as adopted and**
- 41 **implemented by a federal department or agency.**".
- 42 Page 7, line 11, delete "(e)" and insert "**(f)**".
- 43 Page 7, line 37, after "information." insert "**If the protected health**
- 44 **information is in an electronic format the insurer shall retain the**
- 45 **statement, but is only required to include a notation of the**
- 46 **statement with the protected health information.**".

- 1 Page 7, line 42, after "years" insert "**and continue to access or use**".
- 2 Page 8, line 7, after "maintains" insert "**, accesses, or uses**".
- 3 Page 8, line 14, after "statement" insert "**or a notation concerning**
- 4 **the statement**".
- 5 Page 8, line 21, delete "a person" and insert "**an insured**".
- 6 Page 8, delete lines 32 through 40.
- 7 Page 8, line 41, delete "(c)" and insert "**(b)**".
- 8 Page 9, line 1, delete "were compiled in preparation for litigation,
- 9 law" insert ":
- 10 (1) **was compiled in compliance with state or federal law;**
- 11 (2) **was compiled in preparation for litigation, law**
- 12 **enforcement, or fraud investigation; or**
- 13 (3) **an insurer makes on a routine basis in the performance of**
- 14 **insurance functions. "**
- 15 Page 9, delete line 2.
- 16 Page 9, line 15, after "A" insert "**general**".
- 17 Page 9, line 16, delete ", including a description of" and insert ".".
- 18 Page 9, delete lines 17 through 19.
- 19 Page 9, line 23, after "." insert "**However, an authorization**
- 20 **provided to an insurer for collection of protected health**
- 21 **information to support insurance functions may generally describe**
- 22 **the persons to whom protected health information may be**
- 23 **disclosed.**".
- 24 Page 9, line 32, delete "the authorization" and insert "**an**
- 25 **authorization**".
- 26 Page 9, line 33, after "except" insert "**an authorization provided**
- 27 **to an insurer for the collection of protected health information to**
- 28 **support insurance functions and except**".
- 29 Page 9, line 35, delete "twelve (12)" and insert "**thirty (30)**".
- 30 Page 10, line 16, delete "or".
- 31 Page 10, line 18, delete "." and insert "; **or**
- 32 (4) **part of the subject's application for coverage.**".
- 33 Page 10, line 34, delete "A" and insert "**Except for an**
- 34 **authorization for the collection of protected health information to**
- 35 **support insurance functions, a**".
- 36 Page 11, line 13, delete "A person who receives protected health
- 37 information from an" and insert "**This section does not permit**
- 38 **disclosure of protected health information that is otherwise**
- 39 **protected from disclosure by law.**".
- 40 Page 11, delete lines 14 through 15.
- 41 Page 11, line 21, delete "1999," and insert "**2001,**".
- 42 Page 11, line 22, delete "1999," and insert "**2001,**".
- 43 Page 12, line 16, delete "and if the disclosure has not".
- 44 Page 12, line 17, delete "been limited or prohibited by the subject,".
- 45 Page 12, line 32, delete "Subject to section 11(b) of this chapter,
- 46 disclose" and insert "**Disclose**".

1 Page 13, between lines 10 and 11, begin a new line block indented
2 and insert:

3 **"(11) Disclose to a policyholder or certificate holder to the**
4 **extent that the disclosure is required by federal law or is**
5 **reasonably necessary for the policyholder or certificate holder**
6 **to understand the manner in which the coverage is being**
7 **administered:**

8 (A) utilization review determinations;

9 (A) claims determinations; and

10 (C) related information;

11 **that may include protected health information regarding a**
12 **subject whose benefit coverage derives from the**
13 **policyholder's or certificate holder's coverage."**

14 Page 13, between lines 35 and 36, begin a new paragraph and insert:

15 **"Sec. 9. (a) An insurer may disclose protected health**
16 **information without authorization to research organizations**
17 **conducting scientific, medical, or public policy research for any of**
18 **the following:**

19 (1) Research governed by the common rule, 56 Federal
20 Register 28000 (1991), as adopted and implemented by a
21 federal department or agency if:

22 (A) the research project has been approved by an
23 institutional review board under the requirements of the
24 common rule as implemented by a federal department or
25 agency; and

26 (B) informed consent has been obtained or has been waived
27 in accordance with the common rule.

28 (2) Other research if:

29 (A) the health research has been reviewed by a board, a
30 committee, or another group formally designated by the
31 person conducting the research to review research
32 programs if the review is performed in a manner
33 consistent with the:

34 (i) policies, standards, and procedures established by the
35 insurer under section 2 of this chapter; and

36 (ii) policies and procedures established under this section
37 by the person conducting the research;

38 (B) the health research involves analysis of protected
39 health information previously created or collected by the
40 insurer;

41 (C) the person conducting the research has established
42 written policies and procedures to assure security and
43 confidentiality of protected health information and to
44 specify permissible and impermissible uses of protected
45 health information for health research;

46 (D) the insurer enters into a written agreement with the

1 person conducting the research that specifies the
 2 permissible and impermissible uses of the protected health
 3 information and provides notice to the person that any
 4 misuse or further disclosure of the information to other
 5 persons is prohibited; and

6 (E) the insurer keeps a record of all persons conducting
 7 research to whom protected health information has been
 8 disclosed.

9 (b) An insurer shall, for five (5) years following disclosure, keep
 10 a record of research organizations to which the insurer discloses
 11 protected health information.

12 (c) An insurer may not disclose protected health information to
 13 a research organization unless the research organization agrees
 14 that the protected health information may not be disclosed by the
 15 research organization to a third person. The research organization
 16 may disclose the protected health information to the research
 17 organization's agents, collaborators, or contractors as needed to
 18 conduct or assist with the research. Requirements of this section
 19 apply to the research organization's agents, collaborators, and
 20 contractors.

21 (d) An insurer may disclose only the minimum data necessary
 22 to conduct the intended research. Protected health information
 23 may be disclosed only where identification is necessary to conduct
 24 the research.

25 (e) This chapter does not prevent the creation, use, or release of
 26 anonymized data for which there is no reasonable basis to believe
 27 that the data could be used to identify an individual.

28 (f) This section does not supersede federal laws and regulations
 29 governing scientific, medical, and public policy research."

30 Page 13, line 36, delete "Sec. 9." and insert "(g)".

31 Page 13, line 37, delete "the following:".

32 Page 13, delete lines 38 through 42.

33 Page 14, delete lines 1 through 2.

34 Page 14, line 3, delete "(3) Research" and insert "research".

35 Run in page 13, line 37 through page 14, line 3.

36 Page 14, line 20, delete "This section does not apply to subjects who
 37 are less" and insert "Any provision of this chapter or rules adopted
 38 to implement this chapter that requires a written signature may be
 39 satisfied by the use of:

40 (1) electronic authentication including:

41 (A) an electronic signature;

42 (B) a digital signature;

43 (C) a biometric signature; or

44 (D) a recorded oral authorization; or

45 (2) any symbol or method of authentication that becomes part
 46 of or logically associated with an electronic record and that

- 1 **indicates an intent to be bound.**
 - 2 **(b) Any provision of this chapter or rules adopted to implement**
 - 3 **this chapter that requires a form or document to be in writing may**
 - 4 **be satisfied by the use of an electronic or computer based format.".**
 - 5 Page 14, delete lines 21 through 42.
 - 6 Page 15, delete lines 1 through 7.
 - 7 Page 15, line 23, after "business" insert "**pattern and**".
 - 8 Page 16, delete lines 2 through 5.
- (Reference is to HB 1334 as printed February 23, 1999.)

Representative Fry



Adopted

Rejected

COMMITTEE REPORT

MR. SPEAKER:

Your Committee of One, to which was referred House Bill 1334, begs leave to report that said bill has been amended as directed.

Representative Fry