

Bill as
Introduced

HB 1531 - AS INTRODUCED

2010 SESSION

10-2568
01/09

HOUSE BILL **1531**

AN ACT prohibiting New Hampshire physicians and medical staff from sharing patient records in a health information exchange without the patient's written consent.

SPONSORS: Rep. Kurk, Hills 7

COMMITTEE: Health, Human Services and Elderly Affairs

ANALYSIS

This bill prohibits health care providers from transmitting a patient's medical information to an health information exchange without the patient's written consent.

Explanation: Matter added to current law appears in **bold italics**.
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Ten

AN ACT prohibiting New Hampshire physicians and medical staff from sharing patient records in a health information exchange without the patient's written consent.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 New Subparagraph; Medical Records; Definitions Added. Amend RSA 332-I:1, I by inserting
2 after subparagraph (d) the following new subparagraph:

3 (e) "Written consent" means a document signed by the patient in which the patient
4 clearly, and in common language, authorizes the health care provider to release his or her health
5 information to a health information exchange.

6 2 New Section; Written Consent Required for Transmittal of Protected Health Information to
7 Health Information Exchange. Amend RSA 332-I by inserting after section 4 the following new
8 section:

9 332-I:4-a Written Consent Required for Transmittal of Protected Health Information to a Health
10 Information Exchange.

11 I. Notwithstanding any provision of law to the contrary, no health care provider shall
12 release, provide, insert, or otherwise permit any information pertaining to a patient's protected
13 health information to be shared, copied, or otherwise transmitted to a health information exchange
14 without the written consent of the patient. No health care provider shall discriminate or refuse to
15 provide treatment to a patient based on the patient's providing written consent to release such
16 medical information to a health information exchange. Nothing in this paragraph shall be construed
17 to prohibit a health care provider from transmitting a valid claim to a health insurance company to
18 collect a debt.

19 II. Health care providers shall not provide a patient's protected health information to the
20 federal government or to any organization which provides or may provide such information to the
21 federal government without the written consent of the patient. A health care provider shall not
22 refuse treatment to any patient based on the patient's providing written consent to release such
23 information to the federal government or organization.

24 III. Any person who violates any provision of this section shall be subject to a fine of not less
25 than \$50,000 per violation.

26 3 Effective Date. This act shall take effect January 1, 2011.

Amendments

"NOT ADOPTED"

Rep. Kurk, Hills. 7
January 11, 2010
2010-0121h
01/04

Amendment to HB 1531



1 Amend the title of the bill by replacing it with the following:

2

3 AN ACT relative to a patient's right to opt-out of sharing his or her records with a health
4 information exchange.

5

6 Amend the bill by replacing all after the enacting clause with the following:

7

8 1 New Subparagraph; Medical Records; Definition Added. Amend RSA 332-I:1, II by inserting
9 after subparagraph (d) the following new subparagraph:

10 (e) "Written opt-out form" means a document signed by the patient in which the patient
11 instructs the health care provider not to release his or her name and address and protected health
12 care information to a health information exchange.

13 2 Use and Disclosure of Protected Health Information; Health Information Exchange. Amend
14 RSA 332-I:3, VI to read as follows:

15 VI. An individual shall be given an opportunity to opt out of sharing his or her name and
16 address and his or her protected health care information [through] *with* a health information
17 exchange[-] *as follows:*

18 (a) *During the course of a patient's first visit to a health care provider, or the*
19 *course of a patient's most recent visit after the effective date of this paragraph, the health*
20 *care provider shall inform the patient in common language of the patient's right to opt out.*

21 (b) *If the patient wishes to opt-out, the health care provider shall supply a*
22 *written opt-out form to be signed by both the patient and health care provider. A copy of*
23 *the signed written opt-out form shall be provided to the patient prior to the end of the visit,*
24 *and the original shall be kept on file with the health care provider.*

25 (c) *A signed written opt-out form shall be in effect until revoked by the patient.*
26 *A patient may revoke his or her consent at any time. As soon as reasonably possible after*
27 *revocation, a health care provider and business associate of a health care provider shall*
28 *request that the patient's name and address and protected health care information be*
29 *deleted by the health information exchange, and the health information exchange shall*
30 *delete such records as soon as practicable.*

31 (d) *Every health care provider and business associate of a health care provider*
32 *shall implement reasonable technological and procedural measures to safeguard patients'*

Amendment to HB 1531

- Page 2 -



1 *names and addresses and protected health care information from being disclosed to a*
2 *health information exchange without the consent of the patient.*

3 3 New Paragraphs; Use and Disclosure of Protected Health Information. Amend RSA 332-I:3 by
4 inserting after paragraph VI the following new paragraphs:

5 VII. No health care provider or business associate of a health care provider shall
6 discriminate against or refuse service to a patient based on the patient's decision to exercise or not
7 exercise his or her right to opt out under paragraph VI.

8 VIII. A health care provider or business associate of a health care provider who knowingly
9 violates this section shall be subject to a \$50,000 fine, and each disclosure in violation of this section
10 shall constitute a separate violation.

11 4 Effective Date. This act shall take effect July 1, 2010.



2010-0121h

AMENDED ANALYSIS

This bill clarifies a patient's right to exercise his or her opportunity to opt-out of sharing his or her medical information with a health information exchange.

Speakers

Hearing Minutes

HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS

PUBLIC HEARING ON HB 1531

BILL TITLE: prohibiting New Hampshire physicians and medical staff from sharing patient records in a health information exchange without the patient's written consent.

DATE: January 19, 2010

LOB ROOM: 205 **Time Public Hearing Called to Order:** 2:31 PM

Time Adjourned: 3:15 PM

(please circle if present)

Committee Members: Reps. Rosenwald, Donovan, French, Schulze, Tilton, Butcher, Bridgham, E. Merrick, T. Russell, DuPentima, Miller, Batula, C. McMahon, Pilliod, Emerson, Case, Millham, Wells, Cebrowski and Kotowski

Bill Sponsors: Rep. Kurk, Hills 7

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Representative Neal Kurk, prime sponsor – supports. He submitted an amendment. The bill was requested by a constituent – the amendment is what he wanted. It establishes a procedure for opting out. It amends HB 542 that passed last year. He read Sections VI, VII and VIII. The constituent came up with the amount of the fine. The fine is for a violation that hurts. This bill protects New Hampshire people.

***Brook Dupee, Department of Health and Human Services.** See written testimony.

Jonathan Zdziarski, Bedford, NH – supports. He's the constituent who requested this bill. His project is developing a Health Information Exchange. Many programs have deficiencies. A secure system ensures privacy. This system allows a citizen to protect his own privacy. This bill protects the transport. The purpose of the bill is to protect the system in which information is passed along. The fine seems large. This bill gives the original bill teeth. The good is to empower the patient. A business associate of a health care provider cannot submit a patient's information to another health care provider. He has no objection to using electronic forms. Legal standard should be a signature.

Claire Ebel, NHCLU – supports as amended. A business associate could be the record keeper. She questions lines 25-30 on page 1 of the amendment.

Respectfully submitted,

Rep. Joan Schulze
Representative Joan Schulze, Clerk

HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS

PUBLIC HEARING ON HB 1531

BILL TITLE: prohibiting New Hampshire physicians and medical staff from sharing patient records in a health information exchange without the patient's written consent.

DATE: 11/19

LOB ROOM: 205

Time Public Hearing Called to Order: 2:31 pm

Time Adjourned: 3:15 pm

(please circle if present)

Committee Members: Reps. Rosenwald, Donovan, French, Schulze, Tilton, Butcher, Bridgham, E. Merrick, T. Russell, DiPentima, Miller, Batula, C. McMahon, Pilliod, Emerson, Case, Millham, Wells, Ebrowski and Kotowski
He left

Bill Sponsors: Rep. Kurk, Hills 7

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Rep. Kurk prime sponsor and presented an amendment
Bill was requested by a constituent - the amendment
is what he wanted

Establishes a procedure for opting out
Amends HB 542 passed last year
He read sections VI, VII, VIII
Constituent came up with the amount of the fine
The fine is for a violation that hurts
This bill protects NH people

* Brook Dupree HHS

Jonathan Zdziarski - constituent who requested
this bill. His project is developing a HIE
Many programs have deficiencies. a secure
system insures privacy. This system
allows a citizen to protect his own
privacy. This bill protects the transport

Purpose of bill is to ^{protect the} system in which information is passed along.
The fine seems large. This bill gives the original bill teeth.
The goal is to empower the patient
A business associate of a health care provider can not
submit a patient's info. to another health care provider
Have no objection to using electronic forms
Legal standard should be a signature
HIE = Health Information Exchange

Claire Ebel NHC1U supports this bill as amended
Business associate could be the record keeper
Questions Line 25-30 on page 1 of amendment

Sub-Committee Actions

HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS

SUBCOMMITTEE WORK SESSION ON HB 1531

BILL TITLE: prohibiting New Hampshire physicians and medical staff from sharing patient records in a health information exchange without the patient's written consent.

DATE: January 27, 2010

Subcommittee Members: Reps. R. Bridgham, R. DiPentima, F. Kowtowski

Comments and Recommendations: After discussion of the development of HIE's in New Hampshire and federally and the appropriate time to intervene in that process, a vote was taken on whether to proceed with an amendment or to stop and urge refileing the bill in the next house session

Amendments:

Sponsor: Rep.	OLS Document #:
Sponsor: Rep.	OLS Document #:
Sponsor: Rep.	OLS Document #:

Motions: OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep. R. DiPentima

Seconded by Rep. R. Bridgham

Vote: 2-1

Motions: OTP, OTP/A, ITL, Retained (Please circle one.)

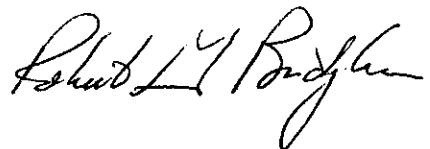
Moved by Rep.

Seconded by Rep.

Vote:

Respectfully submitted,

Rep. Robert Bridgham
Subcommittee Chairman/Clerk



HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS

SUBCOMMITTEE WORK SESSION ON HB 1531

BILL TITLE: prohibiting New Hampshire physicians and medical staff from sharing patient records in a health information exchange without the patient's written consent.

DATE: 11/27/2010

Subcommittee Members: Reps. *Bridgman, DiPentima, Kotowski.*

Comments and Recommendations: *After discussion of the development of HIE's in New Hampshire and federally and the appropriate time to intervene in that process, no vote was taken on whether to proceed with amendment of to stop and urge withdrawal of the bill in the next house session.*

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep. *DiPentima*
Seconded by Rep. *Bridgman.*

Vote: *2-1* *U*

Motions: OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep.
Seconded by Rep.
Vote:

Respectfully submitted,
Rep. *Bridgman*
Subcommittee Chairman/Clerk



CHAPTER 318

HB 542 – FINAL VERSION

24Mar2009... 0697h

2009 SESSION

09-0467

01/10

HOUSE BILL **542**

AN ACT relative to a health information exchange.

SPONSORS: Rep. T. Russell, Rock 13; Rep. Bridgham, Carr 2; Rep. Rosenwald, Hills 22; Rep. E. Merrick, Coos 2; Rep. Kurk, Hills 7; Sen. Fuller Clark, Dist 24

COMMITTEE: Health, Human Services and Elderly Affairs

ANALYSIS

This bill establishes procedures for access to health care information that is in the possession of health care providers and business associates of the health care providers by a health information exchange. Under this bill, a health care provider or a business associate of the health care provider may only disclose certain health care information if an individual so requests.

Explanation: Matter added to current law appears in *bold italics*.

Matter removed from current law appears [~~in brackets and struck through~~]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

24Mar2009... 0697h

09-0467

01/10

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Nine

AN ACT relative to a health information exchange.

Be it Enacted by the Senate and House of Representatives in General Court convened:

318:1 Patient Information. Amend the chapter heading of RSA 332-I to read as follows:

MEDICAL RECORDS AND PATIENT INFORMATION

318:2 Medical Records and Patient Information. Amend the section heading of RSA 332-I:1 to read as follows:

332-I:1 Medical Records; *Definitions.*

318:3 Definitions Added. RSA 332-I:1, II is repealed and reenacted to read as follows:

II. In this chapter:

(a) The following terms have the same meaning as given in the regulations under sections 262 and 264 of the Health Insurance Portability and Accountability Act of 1996 (HIPAA):

- (1) Business associate;**
- (2) Disclosure; and**
- (3) Protected health information.**

(b) “Health care provider” means any person, corporation, facility, or institution either licensed by this state or otherwise lawfully providing health care services, including, but not limited to, a physician, hospital, office, clinic, health center or other health care facility, dentist, nurse, optometrist, pharmacist, podiatrist, physical therapist, or mental health professional, and any officer, employee, or agent of such provider acting in the course and scope of employment or agency related to or supportive of health care services.

(c) “Health information exchange” means an entity established for the primary purpose of enabling and overseeing the exchange of protected health information for clinical decision-making purposes. The entity may operate on a regional, statewide, or multi-state basis. The entity may be developed by multiple stakeholders, including, but not limited to, the department of health and human services, a non-profit entity, or a for-profit entity. For the purpose of this chapter, “health information exchange” does not include entities solely owned and operated by health care providers, integrated delivery systems, or pharmacy exchanges.

318:4 New Section; Disclosure of Protected Health Information. Amend RSA 332-I by inserting after section 2 the following new section:

332-I:3 Use and Disclosure of Protected Health Information; Health Information Exchange.

I. Except as provided in paragraph VI, a health care provider or a business associate of a health care provider may disclose an individual’s protected health information and information about the location of the individual’s medical records to a health information exchange. Only a health care provider, for purposes of treatment, may have access to protected health information in a health information exchange.

II. A health information exchange shall adhere to the protected health information requirements for health care providers in state and federal law.

III. A health information exchange shall maintain an audit log of health care providers who access protected health information, including:

- (a) The identity of the health care provider accessing the information;**
- (b) The identity of the individual whose protected health information was accessed by the health care provider;**
- (c) The date the protected health information was accessed; and**
- (d) The area of the record that was accessed.**

IV. A health information exchange shall be certified, when federal certification standards are established, to be in compliance with nationally accepted interoperability standards and practices.

V. No person shall require a health care provider to participate in a health information exchange as a condition of payment or participation.

VI. An individual shall be given an opportunity to opt out of sharing his or her name and address and his or her protected health care information through a health information exchange.

318:5 Applicability; Certification. RSA 332-I:3, IV as inserted by section 4 of this act shall take effect upon the date when federal certification standards are established for a health information exchange and the commissioner of the department of health and human services so notifies the secretary of state and the director of legislative services.

318:6 Effective Date.

I. RSA 332-I:3, IV as inserted by section 4 of this act shall take effect as provided in section 5 of this act.

II. The remainder of this act shall take effect January 1, 2010.

Approved: August 7, 2009

Effective Date: I. RSA 332-I:3, IV as inserted by section 4 shall take effect as provided in section 5.

II. Remainder shall take effect January 1, 2010.

- Kotowski. - too soon?

- Di Pentina - revocation?
- process

- Brigham - what's the time line for development

Kirk - attempt to shape debate at Federal level

Testimony

File
HB 1531
Brook Dupee

TESTIMONY
BEFORE THE
HEALTH, HUMAN SERVICES, AND ELDERLY AFFAIRS COMMITTEE
HB 1531

TUESDAY, JANUARY 19, 2010

Good afternoon Madam Chairman and members of the committee. For the record, my name is Brook Dupee, and I am here today on behalf of the Department of Health and Human Services to offer testimony regarding HB 1531. While the department takes no position on this bill, I would like to briefly describe a closely related federally funded Health Information Exchange (HIE) project that should provide the committee with useful information regarding a potential HIE for New Hampshire.

To begin at the beginning, the HITECH act that became federal law last February created, among other things, a comprehensive federal effort to encourage the use of electronic medical records (EMR) by health care providers. This is to be accomplished through a defined set of incentives and disincentives. More Specifically, certain providers who, by January 2011, adopt the use of "certified" EMR systems, and who use these EMR systems in "meaningful ways" will be eligible for incentive payments from CMS. Conversely, certain providers who do not meet federal standards for the meaningful use of certified EMR systems by 2015 will receive reduced payments.

In a parallel effort to implementing the widespread use of EMRs by providers, the federal government is promoting the use of state-level HIEs as one way to: create a more efficient delivery of health care, reduce the costs of health care delivery, improve population health, eliminate redundant clinical tests, and reduce medical errors. Federal grant funds have been made available for this purpose.

The DHHS has applied for, and expects to receive, approximately \$5.4M in federal funds to study the feasibility of operating an HIE in New Hampshire. (All 50 states are expected to receive similar awards.) This is a 4 year grant, and as outputs we in DHHS

are expected to produce a Strategic Plan; that is, how an HIE could be governed, funded, technically maintained and operates in a manner that assures the privacy and security of protected health information. Assuming the Strategic Plan demonstrates the feasibility of an HIE, an Operations Plan would be created to spell out exactly how a New Hampshire HIE would operate in the real world.

I want to assure the members of this committee that the Department has no intention of conducting this work in a vacuum. Toward this end, we have begun work on the Health Information Exchange Planning and Implementation project (HEI PI) that includes input from providers, insurers, privacy advocates and legislators. A stakeholder kickoff meeting was held on November 2nd of last year, which was attended by Representative Rosenwald.

The HIE PI project will create its results through the use of sub teams of NH stakeholders along with the support of a consulting partner. Two of these sub teams, Privacy/Security and Legislative, will be led by me. I have had the privilege of working with the HHS&EA committee in sessions gone by, so it will be my job to keep you informed and engaged in the work of these two sub teams. I will be working closely with Frank Nachman in these matters, given his legal expertise and intuitional knowledge of recent HIE-related legislation. At present, the Legislative Sub Team includes Representatives Rosenwald and Batula, and I expect several other members of the general court will participate as well.

In closing, I want to mention that we made an initial appearance at the last HHS Oversight Committee meeting. At that time, we committed ourselves to legislation if the HIE PI project creates a solid business case for a New Hampshire HIE.

Thank you very much for the opportunity to speak with you today. I'll be happy to take any questions you may have.

Test HB 1531.doc

Voting Sheets

HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS

EXECUTIVE SESSION on HB 1531

BILL TITLE: prohibiting New Hampshire physicians and medical staff from sharing patient records in a health information exchange without the patient's written consent.

DATE: February 2, 2010

LOB ROOM: 205

Amendments:

Sponsor: Rep.	OLS Document #:
Sponsor: Rep.	OLS Document #:
Sponsor: Rep.	OLS Document #:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. R. Bridgham

Seconded by Rep. R. DiPentima

Vote: 19-1 (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: 19-1

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Joan H. Schulze, Clerk

Rep. Joan H. Schulze

HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS

EXECUTIVE SESSION on HB 1531

BILL TITLE: prohibiting New Hampshire physicians and medical staff from sharing patient records in a health information exchange without the patient's written consent.

DATE: ~~1/28/2010~~ 2/2/2010

LOB ROOM: 205

Amendments:

Sponsor: Rep.	OLS Document #:
Sponsor: Rep.	OLS Document #:
Sponsor: Rep.	OLS Document #:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. *Bridgman*

Seconded by Rep. *DePentena*

Vote: *19-1* (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: *19-1*

(Vote to place on Consent Calendar must be unanimous.)

Consent

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Joan H. Schulze, Clerk

HEALTH, HUMAN SERVICES & ELDERLY AFFAIRS

Bill #: HB 1531 Title: prohibiting NH physician and medical staff from sharing patient records in a health information exchange without the patient's written consent.
 PH Date: 1/1/2010 Exec Session Date: 2/2/2010

Motion: STL Amendment #: _____

MEMBER	YEAS	NAYS
Rosenwald, Cindy, Chairman	19	
Donovan, Thomas E, V Chairman	1	
French, Barbara C	2	
Schulze, Joan H, Clerk	3	
Tilton, Joy K	4	
Butcher, Suzanne S	5	
Bridgham, Robert G	6	
Merrick, Evalyn S	7	
Russell, Trinkia T	8	
DiPentima, Rich T	9	
Miller, Kate W	10	
Batula, Peter L	11	
McMahon, Charles E	12	
Pilliod, James P	13	
Emerson, Susan	14	
Case, Frank G	15	
Millham, Alida I	16	
Wells, Roger G	17	
Cebrowski, John W	18	
Kotowski, Frank R	19	1
	19	1

Committee Report

CONSENT CALENDAR

February 10, 2010

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Committee on HEALTH, HUMAN SERVICES & ELDERLY AFFAIRS to which was referred HB1531,

AN ACT prohibiting New Hampshire physicians and medical staff from sharing patient records in a health information exchange without the patient's written consent. Having considered the same, report the same with the following Resolution: RESOLVED, That it is INEXPEDIENT TO LEGISLATE.

Rep. Robert G Bridgham

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	HEALTH, HUMAN SERVICES & ELDERLY AFFAIRS
Bill Number:	HB1531
Title:	prohibiting New Hampshire physicians and medical staff from sharing patient records in a health information exchange without the patient's written consent.
Date:	February 2, 2010
Consent Calendar:	YES
Recommendation:	INEXPEDIENT TO LEGISLATE

STATEMENT OF INTENT

The original bill would have required written consent by a patient (an "opt-in") for participation in a health information exchange, reversing prior action of this legislature. In 2009 we provided legislation enabling development of health information exchange in New Hampshire for "opt-out." At this bill's hearing, the prime sponsor presented a substitute amendment detailing a specific, detailed process to assure a patient's right to opt out. Development of health information exchange for New Hampshire is just underway, and bills forwarding possible architectures of exchange may come to the legislature in the 2011 session at the earliest. Action now on a specific process for assuring "opt-out" could prematurely and unknowingly rule out otherwise attractive design possibilities for health information exchange. Thus, the committee majority recommends inexpedient to legislate of both versions of this bill at this time.

Vote 19-1.

Rep. Robert G Bridgham
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

HEALTH, HUMAN SERVICES & ELDERLY AFFAIRS

HB1531, prohibiting New Hampshire physicians and medical staff from sharing patient records in a health information exchange without the patient's written consent. **INEXPEDIENT TO LEGISLATE.**

Rep. Robert G Bridgham for HEALTH, HUMAN SERVICES & ELDERLY AFFAIRS. The original bill would have required written consent by a patient (an "opt-in") for participation in a health information exchange, reversing prior action of this legislature. In 2009 we provided legislation enabling development of health information exchange in New Hampshire for "opt-out." At this bill's hearing, the prime sponsor presented a substitute amendment detailing a specific, detailed process to assure a patient's right to opt out. Development of health information exchange for New Hampshire is just underway, and bills forwarding possible architectures of exchange may come to the legislature in the 2011 session at the earliest. Action now on a specific process for assuring "opt-out" could prematurely and unknowingly rule out otherwise attractive design possibilities for health information exchange. Thus, the committee majority recommends inexpedient to legislate of both versions of this bill at this time. **Vote 19-1.**

Original: House Clerk
Cc: Committee Bill File

The original bill would have required written consent by a patient (an "opt-in") for participation in a health information exchange, reversing prior action of this legislature. In 2009 we provided legislation enabling development of health information exchange in New Hampshire for "opt-out." At this bill's hearing, the prime sponsor presented a substitute amendment detailing a specific, detailed process to assure a patient's right to opt out. Development of health information exchange for New Hampshire is just underway, and bills forwarding possible architectures of exchange may come to the legislature in the 2011 session at the earliest. Action now on a specific process for assuring "opt-out" could prematurely and unknowingly rule out otherwise attractive design possibilities for health information exchange. Thus, the committee majority recommends inexpedient to legislate of both versions of this bill at this time.

CR

COMMITTEE REPORT

Rep Budzhan

COMMITTEE: AHS+E

BILL NUMBER: HB1531

TITLE: prohibiting NH physicians and medical staff from sharing patient records in a health information exchange without the patient's written consent

DATE: 2-2-2010 CONSENT CALENDAR: YES NO

- OUGHT TO PASS
- OUGHT TO PASS W/ AMENDMENT
- INEXPEDIENT TO LEGISLATE
- INTERIM STUDY (Available only 2nd year of biennium)

Amendment No. _____

STATEMENT OF INTENT:

The original bill would have required written consent by a patient (an "opt-in") for participation in a health information exchange, reversing ^{prior} the action of this legislature. In 2009 we provided in legislation enabling ^{development of} health information exchange in N.H. for an "opt-out." At HB1531's hearing the prime sponsor presented a substitute amendment detailing a specific, detailed process to assure a patient's right to opt out. Development of health information exchange for New Hampshire is just underway and bills forwarding possible architectures of exchange may come to the legislature in the 2011 session at the earliest. Action

COMMITTEE VOTE: 19-1

RESPECTFULLY SUBMITTED,

- Copy to Committee Bill File
- Use Another Report for Minority Report

Rep. Leah M. Budzhan
For the Committee

CR

now on a specific process for assuring "opt-out" could prematurely and unknowingly rule out otherwise attractive design possibilities for health information exchange. Thus the committee ^{majority} recommends ITL of both versions of HB 1531 at this time.