



american society of internal medicine

April 25, 1996

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Letter to Senate
Labor and Human
Resources Committee

The Honorable Spencer Abraham
United States Senate
245 Dirksen Senate Office Building
Washington, DC 20510

Dear Senator Abraham:

The American Society of Internal Medicine, representing this nation's largest medical specialty, wishes to offer the following comments on S. 1360, the Medical Records Confidentiality Act. The intent of S. 1360 is laudable in that it attempts to promote uniform national standards to protect the confidentiality of patient medical records, for disclosures of protected health information, for reasonable security measures by third parties that are granted access to patient health care information and for appropriate sanctions when confidentiality is breached. However, ASIM urges the Committee to make the following changes when it marks up S. 1360.

1. Modify Section 401 to protect the confidentiality of peer review quality information. S. 1360 would preempt many state confidentiality laws. An exemption from this preemption should be provided for those state laws that preserve confidentiality of quality information garnered through the peer review process.
2. Modify the provisions regarding correction of medical record information in Section 102 to reduce the administrative burden on physicians. This legislation contains a rather complicated process in which patients may review and pursue correction of information contained in their medical records. Medical record trustees should only have to inform patients who disagree with information in their records that they may submit a written statement of disagreement, clarification or rebuttal of that information for inclusion in their records.

Other administrative requirements throughout the bill applying one set of rules to a variety of settings and entities should be eliminated. As written, S. 1360 overlooks the different responsibilities for information and the different resources of those health care entities and providers covered by the bill's provisions. Ideally, it would be wiser to craft separate health information confidentiality rules for medical information bureaus, insurers, physicians' offices and other repositories of health information in order to account for the differences in characteristics of these entities.

3. Modify Section 404 to provide a sufficient timeframe--e.g. two years--for promulgation of implementing regulations with appropriate opportunities for public comment prior to implementation of the law. The latest version of S. 1360 provides a twelve, rather than six, month timeframe in which the Secretary is to develop regulations for the bill. With the major changes intended by S. 1360, ASIM still believes anything less than a two year timeframe for promulgation of regulations would be unwise.

4. Modify Title III to establish different levels of sanctions according to the intent and severity of impact of disclosure. Inadvertent disclosures of information in which no adverse consequences to individuals arise should not be subject to the same degree of penalty as those disclosures that are willful and result in serious harm to affected individuals.

With the changes outlined above, ASIM would support reporting S. 1360 out of committee for further consideration by the Senate.

Sincerely,

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