

As Introduced

**131st General Assembly
Regular Session
2015-2016**

S. B. No. 177

Senator Jordan

A BILL

To amend section 3798.04 and to enact sections 1
4731.74 and 4731.78 of the Revised Code to 2
prohibit a physician from submitting patient 3
medical records to an electronic database 4
maintained by another party without patient 5
authorization and from asking a patient about 6
firearm ownership or possession. 7

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 3798.04 be amended and sections 8
4731.74 and 4731.78 of the Revised Code be enacted to read as 9
follows: 10

Sec. 3798.04. (A) A covered entity shall not ~~do either of~~ 11
~~the following:~~ 12

~~(A) Use~~ use or disclose protected health information 13
without an authorization that is valid under 45 C.F.R. 164.508 14
and, if applicable, 42 C.F.R. part 2, except when as follows: 15

(1) When the use or disclosure is required ~~or permitted~~ 16
without such authorization by Subchapter C of Subtitle A of 17
Title 45 of the Code of Federal Regulations and, if applicable, 18
42 C.F.R. part 2; 19

(2) To the extent that section 4731.74 of the Revised Code does not prohibit the use or disclosure without such authorization, when the use or disclosure is permitted without such authorization by Subchapter C of Subtitle A of Title 45 of the Code of Federal Regulations and, if applicable, 42 C.F.R. part 2. 20
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(B) Use—A covered entity shall not use or disclose protected health information in a manner that is not consistent with 45 C.F.R. 164.502 and, to the extent section 4731.74 of the Revised Code is more stringent than 45 C.F.R. 164.502, section 4731.74 of the Revised Code. 26
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Sec. 4731.74. (A) As used in this section, "physician" means an individual authorized under this chapter to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery. 31
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(B) Except as provided in division (C) of this section, a physician or physician's delegate shall not submit any portion of a patient's medical record to an electronic database created or maintained by a government entity or person, other than the physician, unless any of the following individuals, as applicable, signs an authorization that is valid under 45 C.F.R. 164.508 and, if applicable, 42 C.F.R. part 2: 35
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(1) In the case of a patient who is an adult, the patient, the patient's guardian, or an authorized person as defined in section 3701.74 of the Revised Code; 42
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(2) In the case of a patient who is a minor, the patient's parent, guardian, custodian, or other person responsible for the minor's care. 45
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(C) Division (B) of this section does not apply to the 48

extent that the disclosure of protected health information, as 49
defined in 45 C.F.R. 160.103, included in a patient's medical 50
record is required without authorization by either of the 51
following: 52

(1) Subchapter C of Subtitle A of Title 45 of the Code of 53
Federal Regulations and, if applicable, 42 C.F.R. part 2; 54

(2) A contract for payment of the patient's medical claims 55
by any of the following: 56

(a) A person authorized to engage in the business of 57
sickness and accident insurance under Title XXXIX of the Revised 58
Code; 59

(b) A person or government entity providing coverage for 60
medical services or items to individuals on a self-insured 61
basis; 62

(c) A health insuring corporation, as defined in section 63
1751.01 of the Revised Code; 64

(d) A group health plan, as defined in section 607 of the 65
"Employee Retirement Income Security Act of 1974," 29 U.S.C. 66
1167; 67

(e) A service benefit plan, as referenced in section 1902 68
of the "Social Security Act," 42 U.S.C. 1396a(a)(25); 69

(f) A pharmacy benefit manager; 70

(g) A third-party administrator licensed under Chapter 71
3959. of the Revised Code; 72

(h) Any other person or government entity that, by law, 73
contract, or agreement, is responsible for the payment or 74
processing of a claim for a medical item or service for a 75

medical assistance recipient, as defined in section 5160.01 of 76
the Revised Code. 77

Sec. 4731.78. (A) As used in this section: 78

(1) "Firearm" has the same meaning as in section 2923.11 79
of the Revised Code. 80

(2) "Physician" means an individual authorized under this 81
chapter to practice medicine and surgery, osteopathic medicine 82
and surgery, or podiatric medicine and surgery. 83

(B) A physician shall not ask a patient or prospective 84
patient, or that person's representative, whether the patient or 85
prospective patient, or any individual residing in the patient's 86
or prospective patient's place of residence, owns or possesses a 87
firearm or any other question related to the ownership or 88
possession of a firearm. 89

Section 2. That existing section 3798.04 of the Revised 90
Code is hereby repealed. 91