



Written by [Michael Tennant](#) on July 21, 2010

## Federal Medical Snooping – and How to Stop It

The 2009 economic stimulus package has largely been a bust. However, one sector of the economy that should be seeing robust growth is the medical software industry because the stimulus law requires all Americans' medical records to be stored electronically and made available in that form to all healthcare providers and, in some instances, to the federal government – all by 2014.



According to a [July 16 report](#) from CNSNews.com, the regulations to implement these provisions of the stimulus law have just been issued by the Department of Health and Human Services, and they do not bode well for Americans' medical privacy.

First, the penalties assessed upon healthcare providers who fail to comply with the regulations, combined with hefty subsidies for those who do comply, will ensure that most providers do indeed submit to Washington's dictates.

Second, "to comply with federal requirements, doctors and hospitals must make meaningful use of qualified EHR (Electronic Health Record) systems," writes CNSNews. Further, says the report, "under the new regulations, a complete EHR must be able to perform 25 distinct functions relating to what information can be entered into the record and how that record can be shared with other health care providers and, in some cases, the federal government."

Third, an individual's EHR must include, among other things, an active medications list, vital signs, Body Mass Index (BMI) score, smoking status, comparative effectiveness data, lab test results, insurance status, race, gender, preferred language, and a list of past health problems along with their causes and treatments.

CNSNews first reported on the BMI requirement on [July 15](#), pointing out that the feds' obesity-rating regulation states that every American's EHR should "automatically calculate and display body mass index (BMI) based on a patient's height and weight."

Fourth, an EHR must be "easily transferable among different doctors and hospitals so as to eliminate the creation of duplicate or disparate records among different health care providers, thus allowing any health care office to access a patient's complete medical record at each visit," according to the July 16 report.

Combine the EHR regulations with ObamaCare's national standards and behavior-modification programs for obesity, smoking, and other health issues, and you've got a recipe for a complete loss of medical privacy and extensive control over Americans' lives from Washington.

As is frequently the case, Rep. Ron Paul (R-Texas) is leading the charge to protect Americans from the federal government's intrusion into their lives. Paul introduced [H.R. 2630](#), the Protect Patients and



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Physicians Privacy Act. The bill, a variation of which Paul has introduced repeatedly since [1998](#) or earlier, contains several provisions designed to keep Americans' medical records away from prying eyes in both the private and public sectors.

Most importantly, Section 2 of Paul's bill states directly: "All individuals shall have the ability to opt out of any Federally mandated, created, or funded electronic system for maintaining health care information."

Additional provisions of the bill (1) prohibit the federal government from imposing "standard unique health identifiers" on all Americans, making it more difficult for Washington to track people's medical histories; (2) require "a signed, informed consent" from a patient in order for his electronic medical records to be shared with other healthcare providers or with the federal government; and (3) prohibit the federal government from requiring healthcare providers to participate in an electronic medical record system and from penalizing them for failing to do so.

In his [remarks](#) upon introducing the bill, Paul noted that EHRs will allegedly be protected by the federal government's "medical privacy rule," which, he said, "actually protects the ability of government officials and state-favored special interests to view private medical records without patient consent."

Furthermore, even if the law were watertight with regard to privacy, Paul said, the feds' prior failures to protect sensitive personal information ought to give everyone pause about granting them access to medical information. In addition, he asked his colleagues to "consider the abuse of IRS records by administrations of both parties and ask themselves what would happen if unscrupulous politicians gain the power to access their political enemies' electronic medical records."

"Forcing physicians to place their patients' medical records in a system without adequate privacy protection undermines" the confidence between patient and physician, Paul added, "and thus undermines effective medical treatment."

The Protect Patients and Physicians Privacy Act was introduced on May 21, 2009, and has languished in committee ever since, without attracting even a single cosponsor. This needs to change.

Click [here](#) to read a John Birch Society Advocacy Action alert explaining how to contact your Representative and Senators and let them know you want them to join Ron Paul in sponsoring and working toward passage of this important legislation. The Advocacy Action page also includes a sample e-mail that you can personalize and send to lawmakers to encourage them to protect your medical privacy.

Even if the bill got out of committee but failed to pass, or if it passed and President Obama vetoed it, it would put every politician in Washington on the record as to whether or not he supports genuine healthcare privacy. Let's not allow our elected leaders to keep their opinions on the subject private. Better yet, let's keep the pressure on them to make the Protect Patients and Physicians Privacy Act the law of the land.



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