



Written by [Michael Tennant](#) on September 26, 2011

Proposed ObamaCare Rule Puts Americans' Health Records in Gov't Database

The [rule](#), proposed by the Department of Health and Human Services (HHS), would require "insurance companies [to] submit detailed health care information about their patients," according to a [Washington Examiner op-ed](#) by Rep. Tim Huelskamp (R-Kan.). If enacted, the rule would enable the government "to collect and aggregate confidential patient records for every one of us," declares the Congressman. "This type of data collection is an egregious violation of patient-doctor confidentiality and business privacy," he maintains, likening it to "J. Edgar Hoover in a lab coat."



Because ObamaCare mandates that insurers accept all comers regardless of medical history, and because the new state insurance exchanges will enable more high-risk individuals to obtain health insurance, HHS says it wants to ensure that insurance companies are not charging "premiums higher than necessary in order to offset the potential expense of high-cost enrollees," with bureaucrats deciding what premiums are "necessary." In order to verify that insurers are complying with HHS mandates, the department is proposing the collection of "data for use in determining individual risk scores."

How does the department plan to do this? According to the proposed rule:

HHS considered three possibilities for data collection: (1) A centralized approach in which issuers submit raw claims data sets to HHS; (2) an intermediate State-level approach in which issuers submit raw claims data sets to the State government, or the entity responsible for administering the risk adjustment process at the State level; and (3) a distributed approach in which each issuer must reformat its own data to map correctly to the risk assessment database and then pass on self-determined individual risk scores and plan averages to the entity responsible for assessing risk adjustment charges and payments.

Not surprisingly, HHS prefers the first two options since they give the government the most direct access to individuals' health data. Nevertheless, Huelskamp points out, "no matter which 'option' is chosen, government bureaucrats would have access to the health records of every American."

Huelskamp mentions two "major problems" with the proposed rule.

The first one is "the obvious breach of patient confidentiality," he writes. "The federal government does not exactly have a stellar track record when it comes to managing private information about its citizens." He goes on to cite recent examples of government's carelessness with sensitive data about individual Americans, such as the loss and theft of government laptops containing such information. Even if the data were not leaked to the public, it would still pose a danger. Unscrupulous Presidents have, after all, been known to use supposedly confidential tax-return information to harass their



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perceived enemies.

Huelskamp's second problem with the rule is "the government compulsion to seize details about private business practices." Insurers, he observes, "are being asked to provide proprietary information to governments for purposes that will undermine their competitiveness. Obama and [HHS Secretary Kathleen] Sebelius made such a big deal about Americans being able to keep the coverage they have under ObamaCare; with these provisions, such private insurance may cease to exist if insurers are required to divulge their business models."

Moreover, he says, while businesses have experienced their own data breaches, "the power of the market can punish the private sector. A victim can fire a health insurance company; he cannot fire a bureaucrat."

Huelskamp is right to raise an alarm about the proposed rule, which he correctly labels "an excessive power-grab." The rule, he remarks, "leaves us scratching our heads as to the necessity not just of this provision, but of the entire law." Americans who care about their privacy and their liberty pray that both this rule and the whole of ObamaCare are quickly and soundly dispatched.



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