

DISCLAIMER

Electronic versions of the exhibits in these minutes may not be complete.

This information is supplied as an informational service only and should not be relied upon as an official record.

Original exhibits are on file at the Legislative Counsel Bureau Research Library in Carson City.

Contact the Library at (775) 684-6827 or library@lcb.state.nv.us.

Memorandum

To : Senate Commerce and Labor Committee

- Sen. Randolph Townsend, Chairman
- Sen. Warren Hardy
- Sen. Ann O'Connell
- Sen. Ray Shaffer
- Sen. Maggie Carlton
- Sen. Joe Neal
- Sen. Mike Schneider

From : James Jackson, on behalf of the
Health Insurance Association of America (HIAA)

Date : Monday, April 07, 2003

Re : SB 379, Section 2-8 regarding Social Security Number usage

Dear Chairman Townsend and Committee Members:

Attached hereto please find two documents prepared by the HIAA, and nationwide association of health insurance companies and providers.

HIAA has great concerns regarding legislation targeted at restricting the use of social security numbers, particularly as it would affect normal and customary business practices of the health insurance industry. Legislation such as that set forth in Sections 2-8 of SB 397 would have adverse effects on the operation of health insurers in the handling, adjudication and payment of health insurance claims. Both documents point out and analyze in good detail of those concerns, and possible alternative solutions if the Committee is inclined to allow those sections to move forward.

I trust this information is useful to the Committee in processing this measure during the work session.



Health Insurance Association of America

HIAA Policy Brief: State Social Security Number Use Restriction Legislation

Monday, April 07, 2003

If and/or when federal legislation is passed restricting the use of social security numbers (SSN) for identification purpose, HIAA prefers that such federal legislation create a national standard that will fully preempt any state laws that may be passed in the interim. However, states can be expected to pursue such local legislation in the short term. The following is a general representation of HIAA policy with regard to various proposed state legislation to restrict the use of SSNs. Note that not all bills will impose the same requirements and, therefore, not all of the following policy points may apply.

- **Oppose any restriction on the internal use of SSN by an insurer.** Insurance companies must be unencumbered in the use of SSN internally for the purpose of identifying policyholders. The vast majority of health insurers, employers, and health plan and third party administrators use the SSN as a reliable means to identify individual persons. This usage has evolved over time primarily because a person's address, phone numbers or other identifying information tend to change frequently. The SSN has been designed into the computer software of health insurers, employers, health plans and third party administrators. It would be extremely expensive for such organizations to modify their computer systems to stop using the SSN for identification purposes.
- **Oppose restrictions on the use of a SSN on mailed material.** The use of the SSN as an identifier on documents such as policy updates and explanations of benefits (EOBs) is necessary to ensure that policyholders, health plan sponsors and enrolled individuals receive an accurate accounting and other information about plan benefits and utilization.
- **Oppose expensive and untested encryption requirements for internet-based transactions involving SSN transmissions.** Current encryption technology is not standardized or thoroughly tested in such a manner that the current costs are outweighed by the anticipated benefits. Further, internet security should be an area of federal standardization and not a multiple and potentially conflicting patchwork of state laws.
- **Oppose any special authorization, notice or reporting requirements. Oppose reporting and compliance requirements for multiple audiences.** While generally supporting opt-out provisions, insurers oppose as administratively unworkable any opt-in provisions that require an authorization or consent be obtained from the individual to use their SSN as a requirement under the law. Federal privacy protections under the HIPAA Privacy Rule already require a complete notice of the uses and disclosures for treatment, payment and healthcare operations be delivered to the individual regarding their individually identifiable health information, which includes the SSN. Requiring an additional notice for SSN usage is duplicative. The HIPAA Rule already provides for an accounting of disclosures to the individual. An additional SSN reporting requirement to the individual or the state DOI is duplicative, unnecessary and administratively burdensome.

Amending Social Security Number Use Restriction Legislation

State-based SSN use restriction legislation must include the following:

- **Allow sufficient lead times for industry implementation that will minimize business disruption and compliance difficulties.** Implementation lead times should be in the range of two to three years for any conversion to a system that prohibits the usage or mandates the replacement of SSNs with other identifiers.
- **Provide compliance assistance and compliance extension options.** State authorities must not attempt to mandate compliance with the legislation without sufficient funding and staffing necessary to provide statutory and regulatory interpretation and guidance, including, but not limited to, interstate conflict of laws assistance, active compliance assistance and opportunities to phase in compliance based on business capabilities.
- **Allow unrestricted use of truncated SSNs.** As an alternative to a plethora of proprietary identifiers, all SSN restriction legislation should permit the unrestricted use of truncated SSNs as an alternative identifier (i.e., the last four digits of the social security number).
- **Prohibit private rights of action and class action suits.** To discourage frivolous litigation, state SSN use restriction laws should expressly prohibit an individual or the public from using such laws as a basis for law suits against businesses. Compliance and enforcement should be solely reserved to state government authorities.
- **Include commercial exceptions for the use the of SSN.** State law should recognize and incorporate identifiable commercial use exceptions to the restrictions on the use of SSNs, such as on claim forms, when requesting clinical records and for fraud control. In these examples, use of the SSN is important for inter-business communication purposes to ensure the correct identification of an individual when accessing contractual benefits, patient safety and confidentiality, and law enforcement and the protection of individual legal rights.