



Obamacare HHS rule would give government everybody's health records

By: **Rep. Tim Huelskamp** | 09/23/11 3:29 PM

OpEd Contributor

It's been said a thousand times: Congress had to pass President Obama's health care law in order to find out what's in it. But, despite the repetitiveness, the level of shock from each new discovery never seems to recede.

This time, America is learning about the federal government's plan to collect and aggregate confidential patient records for every one of us.

In a proposed rule from Secretary Kathleen Sebelius and the Department of Health and Human Services (HHS), the federal government is demanding insurance companies submit detailed health care information about their patients.



Secretary of Health and Human Services Kathleen Sebelius has proposed that medical records of all Americans be turned over to the federal government by private health insurers.

(See Proposed Rule: Patient Protection and Affordable Care Act; Standards Related to Reinsurance, Risk Corridors and Risk Adjustment, Volume 76, page 41930. Proposed rule docket ID is HHS-OS-2011-0022 <http://www.gpo.gov/fdsys/pkg/FR-2011-07-15/pdf/2011-17609.pdf>)

The HHS has proposed the federal government pursue one of three paths to obtain this sensitive information: A "centralized approach" wherein insurers' data go directly to Washington; an "intermediate state-level approach" in which insurers give the information to the 50 states; or a "distributed approach" in which health insurance companies crunch the numbers according to federal bureaucrat edict.

It's par for the course with the federal government, but abstract terms are used to distract from the real objectives of this idea: no matter which "option" is chosen, government bureaucrats would have access to the health records of every American - including you.

There are major problems with any one of these three "options." First is the obvious breach of patient confidentiality. The federal government does not exactly have a stellar track record when it comes to managing private information about its citizens.

Why should we trust that the federal government would somehow keep all patient records confidential? In one case, a government employee's laptop containing information about 26.5 million veterans and their spouses was stolen from the employee's home.

There's also the HHS contractor who lost a laptop containing medical information about nearly 50,000 Medicare beneficiaries. And, we cannot forget when the USDA's computer system was compromised and information and photos of 26,000 employees, contractors, and retirees potentially accessed.

The second concern is the government compulsion to seize details about private business practices. Certainly many health insurance companies defended and advocated for the president's health care law, but they likely did not know this was part of the bargain.

They are being asked to provide proprietary information to governments for purposes that will undermine their competitiveness. Obama and 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.

Certainly businesses have lost confidential data like the federal government has, but the power of the market can punish the private sector. A victim can fire a health insurance company; he cannot fire a bureaucrat.

What happens to the federal government if it loses a laptop full of patient data or business information? What recourse do individual citizens have against an inept bureaucrat who leaves the computer unlocked? Imagine a Wikileaks-sized disclosure of every Americans' health histories. The results could be devastating - embarrassing - even Orwellian.

With its extensive rule-making decrees, ObamaCare has been an exercise in creating authority out of thin air at the expense of individuals' rights, freedoms, and liberties.

The ability of the federal government to spy on, review, and approve individuals' private patient-doctor interactions is an excessive power-grab.

Like other discoveries that have occurred since the law's passage, this one leaves us scratching our heads as to the necessity not just of this provision, but the entire law.

The HHS attempts to justify its proposal on the grounds that it has to be able to compare performance. No matter what the explanation is, however, this type of data collection is an egregious violation of patient-doctor confidentiality and business privacy. It is like J. Edgar Hoover in a lab coat.

And, no matter what assurances Obama, Sebelius and their unelected and unaccountable HHS bureaucrats make about protections and safeguards of data, too many people already know what can result when their confidential information gets into the wrong hands, either intentionally or unintentionally.

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