

PUBLIC CHAPTER NO. 862

HOUSE BILL NO. 2651

By Representative Kevin Brooks, Bone, Bell, Watson, White

Substituted for: Senate Bill No. 2563

By Senators Bunch, Black

AN ACT to amend Tennessee Code Annotated, Title 63, Chapter 2, Part 1 and Title 68, Chapter 11, Part 15, to enact the "Colby Stansberry Act" relative to the authorized release of medical records.

WHEREAS, health care providers may use and disclose de-identified patient information for appropriate medical educational purposes; and

WHEREAS, individuals interested in health related careers, public health and public safety benefit greatly from studying real cases of patient diseases, health conditions, injuries and outcomes, and

WHEREAS, some unusual or tragic patient diseases, health conditions, injuries and outcomes by the nature of the characteristics of disease condition or injury and timing of use or disclosure could be connected to a particular patient by relatives, friends, or acquaintances of the patient, and the result of use and disclosure of this information could cause emotional distress, now, therefore:

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

SECTION 1. This act shall be known and may be cited as the "Colby Stansberry Act."

SECTION 2. Tennessee Code Annotated, Section 63-2-101(b), is amended by adding the following language as a new subdivision (3):

(3) Except as otherwise authorized in this section, title 68, chapter 11, part 3 and title 68, chapter 11, part 15, and in title 38, chapter 7, part 1, a health care provider shall have in place a policy to protect the dignity of a patient, even if the patient dies or becomes incapacitated, by limiting the use and disclosure of medical records, images, videos or pictures intended to be used for appropriate medical educational purposes, even if the patient's information is de-identified. The policy shall include when and to whom it is appropriate to use and disclose the patient's information, and when a written authorization from the patient or their authorized representative is required, whenever it is reasonably possible to obtain it, prior to use or disclosure. If the patient becomes incapacitated or dies, and there is no legal representative for the patient, the patient's next of kin will be considered to be an authorized representative for the patient. When required the written authorization will include the core elements required by 45 CFR Parts 160 and 164, "Standards for Privacy of Individually Identifiable Health Information."

SECTION 3. Tennessee Code Annotated, Section 63-2-101(c) is amended by adding the following language as new appropriately designated subdivisions:

() “Incapacitated” means that a patient is in a physical or mental condition such that the patient is incapable of granting or denying informed consent;

() “De-identified” means there is no reasonable basis to believe that the information can be used to identify an individual and there is compliance with the requirements for de-identification outlined in 45 CFR Part 164, §164.514 “Other requirements relating to uses and disclosures of protected health information”.

SECTION 4. Tennessee Code Annotated, Section 68-11-1503(a), is amended by adding the following language as a new, appropriately designated subdivision:

() Except as otherwise provided in this part, § 63-2-101, and title 68, chapter 11, part 3, a health care provider shall have in place a policy to protect the dignity of a patient, even if the patient dies or becomes incapacitated, by limiting the use and disclosure of medical records, images, videos or pictures intended to be used for appropriate medical educational purposes, even if the patient’s information is de-identified. The policy shall include when and to whom it is appropriate to use and disclose the patient’s information, and when a written authorization from the patient or their authorized representative is required, whenever it is reasonably possible to obtain it, prior to use or disclosure. If the patient becomes incapacitated or dies, and there is no legal representative for the patient, the patient’s next of kin will be considered to be an authorized representative for the patient. When required, the written authorization will include the core elements required by 45 CFR Parts 160 and 164, “Standards for Privacy of Individually Identifiable Health Information.”

SECTION 5. Tennessee Code Annotated, Section 68-11-1503, is amended by adding the following language as new, appropriately designated subsection:

() For purposes of this part:

() “Incapacitated” means that a patient is in a physical or mental condition such that the patient is incapable of granting or denying informed consent;

() “De-identified” means there is no reasonable basis to believe that the information can be used to identify an individual and there is compliance with the requirements for de-identification outlined in 45 CFR Part 164, §164.514 “Other requirements relating to uses and disclosures of protected health information”.

() “Medical records” means “hospital records” as that term is defined in § 68-11-302.

SECTION 6. This act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: April 15, 2010



KENT WILLIAMS, SPEAKER
HOUSE OF REPRESENTATIVES



RON RAMSEY
SPEAKER OF THE SENATE

APPROVED this 30th day of April 2010



PHIL BREDESEN, GOVERNOR