

United States Senator

**BOB BENNETT**

Utah

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CONTACT: Mary Jane Collipriest, 202-224-5444, Washington, D.C. 20510

## **BENNETT INTRODUCES BILL GOVERNING USE OF PERSONAL MEDICAL DATA**

**First federal law of its kind, legislation will balance  
medical confidentiality with medical advances**

**WASHINGTON, D.C.** -- As an August deadline fast approaches requiring Congress to pass a law governing the use and distribution of medical records, Senator Bob Bennett (R-Utah) today introduced legislation to safeguard personal medical records, penalize the wrongful disclosure of these records, and ensure access to the records by patients and for legitimate health care operations and research.

"Few dispute the need to protect the confidentiality of our personal medical records," said Senator Bennett, former chairman of the Senate Republican Health Care Task Force. "It is perhaps some of the most sensitive, private information in our lives. But it is very possible, in the name of protecting confidentiality, to inflict damage on the very progress and management of health care in this country. With this legislation, I believe we've struck the right balance between preserving the legitimate uses of health care data, while also protecting the confidentiality of this most personal information."

Under the Health Insurance Portability and Accountability Act of 1995, Congress is lawfully required to adopt federal standards ensuring the confidentiality of individual health information by August 21, 1999. Failure by Congress to do so will trigger the Secretary of Health and Human Services to promulgate regulations by February 21, 2000.

"Clearly the time has come to enact comprehensive, strong federal standards that mandate the protection of individual health information. And because this change marks a significant shift in state laws, it is constitutionally appropriate that this change originate in the Congress with the states' elected representatives, not the executive branch," Bennett said.

Specifically, The Medical Information Protection Act of 1999:

- Establishes comprehensive federal standards for protecting the confidentiality of all personal health information.

- Establishes the individual's right, which does not currently exist at the federal level, to inspect, copy, and amend their own patient record.
- Enacts strong, uniform federal law that would replace conflicting state laws which relate to matters covered under the Act.
- Specifies the responsibilities of health plans, providers, employers and others who collect, use and maintain personal health information.
- Imposes strong civil and criminal penalties to deter abuse and increase incentive to use non-identifiable information -- penalties range from \$50 and one year in jail to \$250,000 and 10 years in jail if the offense is committed for personal gain or the intent is to harm the individual.
- Requires law enforcement officials to demonstrate legitimate need in order to obtain protected health information.
- Establishes rules under which legitimate researchers may have continued access to archival medical records.

Why a federal standard? No comprehensive protection exists at the federal level to guarantee the confidentiality of medical records data. Bennett noted that currently 35 states have laws dealing with confidentiality of medical records; however, these laws vary from state to state, are inconsistent and at times, incompatible. Add to this the fact that 50 percent of Americans live on or near state lines, and the threat to the efficient delivery and management of health care is very clearly illustrated.

"Clearly, our medical records are no longer confined to the file drawers of our family doctor," Bennett continued. "Today, in the Information Age, the practice and science of medicine relies heavily on the art and science of managing information, information which now makes its way around the globe as quickly as it makes its way around the hospital."

Bennett stressed provisions in the bill which while preserving patients' confidentiality, provide for the continuation of legitimate medical records research efforts. For research involving contact with a human subject, or that which is federally funded, the Bennett bill allows the use and disclosure of protected health information after approval by an Institutional Review Board (IRB) or where the individual has provided specific authorization.

Further, the bill allows analyses of health care records and archival data only where 1) sufficient safeguards have been established to protect the confidentiality of the information; 2) an internal board or committee is designated with responsibility to review research programs; and 3) the person maintaining the information has policies and procedures in place to specify the permissible and impermissible uses of such information.