Bill S.2296, An Act to protect access to confidential healthcare (PATCH Act), aims to strengthen the autonomy of people who are under someone else’s health insurance plan when they seek medical services. While the Health Insurance Portability and Accountability Act of 1996 (HIPAA) protects patient information from unwanted viewers, there is still a loophole left. Explanation of Benefits (EOB) are payment summaries of a patient’s visit to a healthcare provider. These summaries are automatically sent to the insurance policy subscriber that is listed in the patient’s health records. If the patient is a dependent of the subscriber, or if there are multiple people on the insurance plan, the information from the visit will be automatically disclosed to those members. While primary subscribers cannot call the facility about what type of care was received by the patient, the sensitive information is still explicitly disclosed in these EOB summaries. Minors, young adults, and anyone who is a dependent on someone’s health insurance plan are impacted by EOBs.

The Bill
S.2296: An Act to protect access to confidential healthcare

Elevator Speech
We are Brandon Ferrier and Erika Carter, students at Brandeis University. Only through responsible planning and common good will we improve protection of confidentiality in health care access. We are very concerned that 7 percent of teens and young adults said they would not seek care due to lack of confidentiality. This roughly amounts to over 300 million teens and young adults between the ages of 14 and 26 in the U.S. who are not seeking sensitive health services. This represents a major public health issue if people don’t feel safe seeking the care that they need. The 7 percent of teens that forgo care through their insurance may end up having to pay the out of pocket costs for services that can be covered by their insurance. And if the costs happen to be too great, they forgo care altogether.
This presents a major concern to themselves, and to a collective public health level as they will turn to safety net providers which are already stretched thin as it is. Most individuals who seek healthcare services want to know that what is said between them and their doctor remains confidential. Current HIPAA regulations make sure that what is meant to be confidential (insurance information, medication and prescriptions) is kept that way. But the same information from sensitive services like mental health, reproductive, and sexual health have the potential to have their confidential nature compromised when Explanations of Benefits are sent to other people on an insurance policy rather than the patient.

The passing of this bill will bring about a restored trust in the doctor patient relationship, and will give patients more oversight over the types of care they would continue to receive through their insurance. This safety that confidentiality isn’t breached will give a patient a better peace of mind when they want to have conversations with their families.

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**Excerpt from Storybooks**

Expert testimony from Jason Badoo, pharmacy technician: “I’ve had a few instances in which younger patients (under the age of 26), who were still adults, pay full price for certain drugs as a means of not having their parents billed for the service, just so they could keep their personal medical health confidential. It was very startling because some items were definitely fully covered under insurance but cost $100+ out of pocket.”

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**Op-Ed**

**Erika**

All residents in the state of Massachusetts should have the opportunity to make their own confidential choices and decisions in regards to their health services. Many health insurers unconsciously violate their basic right of privacy of dependents who are under the same health plan as a family member or spouse. As a result of this, dependent patients such as minors or spouses are left paying out of pocket for sensitive medical services or not seeking necessary medical services at all.

For many patients, this is both a dangerous and devastating experience. Imagine a patient going to the doctor as a minor or an abused spouse for treatment services and two weeks later, their explanation of benefits is sent home to primary insurance holder whom they don’t wish to disclose their medical services to. Or, think about a minor who is in need of an STI treatment but is too afraid of seeking treatment because of a fear of their medical services being disclosed to the primary policy holder who happens to be their parent. For some people, there is a good enough relationship where the dependent and the policyholder are comfortable enough to share health and medical information.

Unfortunately, not all people have a relationship with their parents or spouse where they can discuss medical health. Many patients, young and old struggle with making health decisions that will result in disclosing sensitive health service information. At what point is patient confidentiality protected? It’s protected in the doctor’s office, yet outside of that space, billing and explanation of benefits reveal all of their sensitive medical services that patients didn’t want the primary insurance holder to be aware of. This lack of privacy essentially violates a basic right and has created a hole in protecting access to confidential health care through insurers. Without filling this void, confidentiality in the doctor’s office means nothing.

Over 300 million teens and young adults between the ages of 14 and 26 in the U.S. are not seeking sensitive health services. This represents a major public health issue if people do not feel safe seeking the care that they need due to lack of confidentiality. The 7 percent of teens that forgo care through their insurance may end up having to pay the out of pocket costs for services that can be covered by their insurance. And if the costs happen to be too great, they forgo care completely. This presents a major concern to themselves, and on a public health level because they will make use of free public care.

Free clinics and public hospital resources are already limited. Fortunately, many coalitions and concerned patients have been working tirelessly to encourage legislators to recognize the extent of which people are affected by breach of contracts with medical service information.

Few states have laws that protect patient access to confidential health care, but many have to fill the hole that exists in protecting all patients. Fortunately, as of March 30th, legislators officially signed the PATCH Act in the state of Massachusetts, providing health insurance dependents access to confidentiality. The passing of this bill means insurers now have to implement a plan for educating insurance providers and holders of the rights of members and the responsibilities of carriers. Additionally, health insurance providers now have to comply with the new law which states that payment summaries and explanation of benefits for each specific service are to be sent separately to each individual under an insurance plan. As a supporter of this legislation, with great confidence, it is my belief that this legislation will provide the best privacy protections for the people of the Commonwealth than ever before. This legislation now specifically protects all patients regardless of their relationship with the policyholder. Health services tend to be sensitive in a variety of ways and it is imperative that this legislation continues to protect and respect the people of Massachusetts.
House Ways and Means Script

My name is Erika Carter and I, along with my colleague Brandon Ferrier are students of Brandeis University and residents of the city of Waltham. I’m writing you because I am concerned about the ways in which descriptions of patient Explanation of Benefits (EOBs) is so easily accessible to parents or spouse of dependents. It takes a major toll on dependents as it prevents people who are under their spouse or parent’s health insurance plan by forcing dependents to pay high of pocket costs for sensitive medical services due to lack of confidentiality. It also puts patients in dangerous predicaments where they are refusing to forgo the care they need. This is why I am writing to ask for your support with Senate Bill 2296, An Act to protect access to confidential health care (PATCH).

Part of the bill proposes that EOBs would consist of generalized descriptions and information regarding the medical services received by the patient. These EOBs would be made available to patients through an alternative address and/or via email, essentially saving costs for insurance carriers communications process. This bill has the potential to clear up the patches in respect to improving patient confidentiality. Currently, there are thirteen states with preparations that serve to protect the confidentiality of individuals insured as dependents. Two of those states, New York and Wisconsin have specific protections in place specific to the distribution of EOBs. Nearly a quarter of U.S. states taking preventative measures to ensure protection of confidentiality for dependents under their parent’s or spouse’s insurance plan. In the near future, I do not foresee this being a financial burden in any way as it will simply allow carriers to adjust their communications.

Representative Stanley, I beseech you to speak with the chair and members of the Committee on Health Care Finance and ask them to make this bill a priority and vote it out of committee favorably as it will assist in improving health care access for residents across the state. Thank you.

Letter to the Legislator

I am writing you because I am concerned about the disturbing effects regarding the lack of patient protection for insured dependents in the state of Massachusetts. In the state of Massachusetts, patients who are dependents on a spouse or parent’s health insurance are not guaranteed access to confidential health care. I truly value the welfare of all people and I believe that we can continue to protect all members of our community by taking preventative measures to ensure protection of patient confidentiality. A recent analysis of the National Survey of Family Growth 2013-2015, reported that 18% of respondents ages 15-17 and 9% those 18-25 would forgo medical services if one or more of their parents could find out about their health visit. Of those respondents with private health insurance, 22% said they would forgo services compared to the 12% of those with Medicaid. These numbers are very concerning because they suggest that a percentage of young adults are not seeking necessary medical services, thus putting themselves in harm’s way.

The Affordable Care Act allows young adults to stay on their parents’ health insurance until age 26. This great opportunity can create additional barriers, preventing young adults from obtaining treatment for sensitive services that they would not wish to disclose to their families. On the other hand, it is reasonable for parents or spouses of these dependents to be concerned about not knowing of the medical services being sought out, but it is important to respect and value the privacy of all people. Sometimes medical attention entails very personal services which causes risk of harm and/or stigma if Explanations of Benefits are not kept confidential.

I would like to thank you for your efforts in the passing of Bill S.2296, An Act to protect access to confidential health care (PATCH) on February 28th. This bill will give patients the opportunity to receive EOBs via email, at an alternate address, requiring insurers to use generic information about the services provided on EOBs rather than using more explicit descriptions of services.

Senator Barrett, as your constituent, I ask that moving forward, you do all you can to make PATCH a priority in an effort to provide our community with the ability to receive the care they need safely and confidentially. Thank you in advance for your time and consideration on this matter.

Excerpts from Campaign Journals

Erika

Meeting with Jacob Mueller, Senator Mike Barrett’s legislative aide

On February 28th, we met with Jacob Mueller before the hearing that took place that same day. In this meeting we discussed why we cared about the bill, and we explained how we were concerned about our peers who shared their concerns with us about their lack of confidentiality with health care on campus. We were also able to ask Jacob a few questions about why the bill struggled to get passed back in 2015 when it was a newly proposed bill. It was very helpful to understand why the bill was not favored before because it helped me to understand how the bill evolved in the past three years. Understanding the concerns of the opposing sides of the bill helped me to fill in some of the gaps that were a little unclear when first learning about the bill.
Brandon

Our professor and the students who previously worked on the bill in 2015 pointed us to several coalition groups we could get into contact with. The PATCH Alliance is a sub-group within Healthcare for All that directly deals with advocating for the bill. Other notable organizations within the support for the bill that we were pointed to included NARAL, and Planned Parenthood. Erika and I were able to get into contact with the PATCH Alliance’s head Alyssa Vangeli and tried to schedule a chance to meet in person, but our availability came into conflict with her day-to-day scheduling so we maintained correspondence about the bill’s progress through email threads. Our lobbying process taught me to not become discouraged when there is an obstacle.

Update

As of March 30, 2018, the bill has been passed and signed by the governor into Chapter 63 of the Acts of 2018.

For more information

View the bill:
malegislature.gov/Bills/190/S2296

PATCH Alliance
hcfama.org/coalition/patch-alliance-confidentiality-protection