Congress's Secret Plans to Get Our Medical Records

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Americans were outraged to learn about the Federal Government's plans to assign a personal identification number to every medical patient. But Congress nevertheless passed H.R. 4250, the so-called Patient Protection Act, which allows anyone who maintains your personal medical records to gather, exchange and distribute them.

The only condition on distribution is that the information be used for "health care operations," which is a vague and meaningless limitation that does not even exclude marketing. Even worse, H.R. 4250 preempts state laws that currently protect patients from unauthorized distribution of their medical records.

While the sponsors of H.R. 4250 claim that they did not intend for the information to be circulated for "just anything," their spokesman confirmed that personal medical records would be used for future programs concerning health quality and disease management.

When the Kennedy-Kassebaum law was passed in 1996, we were told it was to improve access to health insurance. The law became explosively controversial last month when the Department of Health and Human Services (HHS) began to implement the Kennedy-Kassebaum "unique health care identifiers" so that government can electronically tag, track and monitor every citizen's personal medical records.

After this news broke on July 18, embarrassed Congressmen inserted a line in H.R. 4250, which passed July 24, ordering HHS not to promulgate "a final standard" without Congressional authorization. That language is a total phony; it doesn't prevent HHS from issuing proposed or interim standards (which will become de facto standards) or from collecting medical data.

So much money is involved in accessing and controlling personal information that the Washington lobbyists are moving rapidly to lock in the extraordinary powers conferred by the Kennedy-Kassebaum law. That explains these sneaky eleventh-hour inserts in pending legislation.

On August 4, the House passed yet another bill to protect the gathering of personal information on private citizens. To paraphrase Ronald Reagan, there they go again.

Just before passing H.R. 2281, a bill about copyrights on the Internet, the House quietly attached a separate and dangerous bill deceptively entitled the "Collections of Information Antipiracy Act."

No one, of course, is in favor of "piracy," but the impact of this bill goes far beyond any reasonable definition of piracy. By the legerdemain of inserting it in another bill, it will go straight to a House-Senate conference committee under a procedure designed to avoid debate or amendments in the Senate.

This Collections of Information bill (now part of H.R. 2281), in effect, creates a new federal property right to own, manage and control personal information about you, including your name, address, telephone number, medical records, and "any other intangible material capable of being collected and organized in a systematic way." This new property right provides a powerful incentive for corporations to build nationwide databases of the personal medical information envisioned by the Kennedy-Kassebaum law and the Patient Protection bill.

Under the Collections of Information bill, any information about you can be owned and controlled by others under protection of Federal law. Your medical chart detailing your visits to your doctor, for example, would suddenly become the federally protected property of other persons or corporations, and their rights (not your rights) would be protected by Federal police power.

This bill will encourage health care corporations to assign a unique national health identifier to each patient. The government can then simply agree to use a privately-assigned national identifier, and Clinton's longtime goal of government control of health care will be achieved.

This bill creates a new federal crime that penalizes a first offense by a fine of up to $250,000 or imprisonment for up to 5 years, or both, for interfering with this new property right. It even authorizes Federal judges to order seizure of property before a finding of wrongdoing.

H.R. 2281 grants these new Federal rights only to private databases, and pretends to exclude the government's own efforts to collect information about citizens. But a loophole in the bill permits private firms to share their Federally protected data with the government so long as the information is not collected under a specific government agency or license agreement.

This loophole will encourage corporations, foundations, Washington insiders and political donors, to build massive databases of citizens' medical and other personal records, and then share that data with the government. And, under the House-passed bill cynically called the Patient Protection Act, patients would be unable to invoke state privacy laws to protect their personal records.

Meanwhile, in another aspect of the Federal takeover of all Americans' health care, the Centers for Disease Control is aggressively building a national database of all children's medical records through the ruse of tracking immunizations.

Tell your Congressman and Senators you won't vote for them in the upcoming elections unless they immediately stop all Federal plans to track and monitor our health or immunization records.