

**STATEMENT OF SENATOR EDWARD M. KENNEDY
AT THE OVERSIGHT HEARING ON MEDICAL PRIVACY**

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**Contact: Jim Manley & Stephanie Cutter
(202)224-3533**

I am pleased to hold this very important hearing on what is happening with patients' medical records.

The blessing of high technology can also be a curse to personal privacy.

With the click of a mouse, our most personal information can be launched into cyber-space for millions to see.

If we don't take steps forward to protect privacy in the information age, our most personal information will be available to every employer, every health insurance company, and every high tech Peeping Tom in America.

This is not only unfair to patients, it is bad for their health. A recent study found that one out of every six patients withdraws from full participation in their own health care because they worry their medical information will be misused.

We have worked hard to strengthen privacy protections for America's patients. In the Health Insurance Portability and Accountability Act of 1996, we said privacy protections were so important that if the Congress did not pass legislation to strengthen privacy, the Administration should put in place real protections.

The Clinton Administration did just that when it adopted a comprehensive set of protections to give all Americans control of their private medical records.

However, the new rules recently proposed by the Bush Administration would rescind these protections, and would make private medical records an open book. This is a serious step backwards. Each time patients see a doctor or fill a prescription, they are at a greater risk that their most private medical information will be available to prying eyes.

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The Administration has proposed new rules that say health providers don't have to get consent to determine how your medical records are used.

Requiring consent assures that the patient plays a role in how their health information is used. It is the only real way to assure that patients – and only patients – control sensitive information . It restores faith in the health care system.

Of course, certain narrow and commonsense exceptions are needed. For example, your personal physician should be allowed to phone in your prescription to your pharmacist. And there is no reason you should have to make a separate trip to the hospital before surgery just to consent. We can address these practical challenges without undermining the core protections in privacy.

But the Bush Administration proposal says patients simply have to be notified – not asked – about what is going to happen with their medical information.

We should not throw the baby out with the bath water. All Americans should be assured that their personal medical information is theirs – – and theirs alone.

The Administration's plan also provides a new **backdoor loophole that allows companies to use private medical records to market their products. This means, for example, that patients seeking treatment for mental illness would have that information shared with companies selling anti-depressants and other therapies. Those companies would be free to send open mailings to your work and your home.**

The Administration claims that the new regulation grants new protections against abuse. They argue that a new authorization is required before a health provider or business can market to a patient.

But the same proposal allows doctors and pharmacists to provide without permission the health information of their patients to businesses that will try to sell them new drugs, therapies, nursing home placements, and other care. This loophole is a telemarketer's dream, and a patient's nightmare, and it must be closed.

I look forward to working with my colleagues on legislation to assure Americans that their medical records will be kept private. And I welcome our distinguished witnesses to today's hearing.