

106TH CONGRESS  
1ST SESSION

# S. 782

To amend title 18, United States Code, to modify the exception to the prohibition on the interception of wire, oral, or electronic communications to require a health insurance issuer, health plan, or health care provider obtain an enrollee's or patient's consent to their interception, and for other purposes.

---

## IN THE SENATE OF THE UNITED STATES

APRIL 13, 1999

Mrs. FEINSTEIN introduced the following bill; which was read twice and referred to the Committee on the Judiciary

---

## A BILL

To amend title 18, United States Code, to modify the exception to the prohibition on the interception of wire, oral, or electronic communications to require a health insurance issuer, health plan, or health care provider obtain an enrollee's or patient's consent to their interception, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Patients’ Telephone  
5       Privacy Act of 1999”.

1 **SEC. 2. MODIFICATION OF EXCEPTION TO PROHIBITION ON**  
2 **INTERCEPTION OF COMMUNICATIONS.**

3 (a) MODIFICATION.—Section 2511(2)(d) of title 18,  
4 United States Code, is amended—

5 (1) by striking “It shall not be unlawful” and  
6 inserting “(i) Subject to clause (ii), it shall not be  
7 unlawful”; and

8 (2) by adding at the end the following:

9 “(ii)(I) With respect to a wire, oral, or electronic  
10 communication between a health insurance issuer or  
11 health plan and an enrollee of such health insurance issuer  
12 or health plan, or between a health care provider and a  
13 patient, it shall not be unlawful under this chapter for a  
14 health insurance issuer, health plan, or health care pro-  
15 vider to intercept such communication only if the patient  
16 has given prior express consent to such interception.

17 “(II) In this paragraph—

18 “(A) the term ‘health insurance issuer’ has the  
19 meaning given that term in section 733 of the Em-  
20 ployee Retirement Income Security Act of 1974 (29  
21 U.S.C. 1191b);

22 “(B) the term ‘health plan’ means a group  
23 health plan, as defined in section 733 of the Em-  
24 ployee Retirement Income Security Act of 1974 (29  
25 U.S.C. 1191b), an individual or self-insured health  
26 plan, the medicare program under title XVIII of the

1 Social Security Act (42 U.S.C. 1395 et seq.), the  
 2 medicaid program under title XIX of such Act (42  
 3 U.S.C. 1396 et seq.), the State children’s health in-  
 4 surance program under title XXI of such Act (42  
 5 U.S.C. 1397aa et seq.), the Civilian Health and  
 6 Medical Program of the Uniformed Services under  
 7 chapter 55 of title 10, and a health plan offered  
 8 under chapter 89 of title 5; and

9 “(C) the term ‘health care provider’ means a  
 10 physician or other health care professional.”.

11 (b) RECORDING AND MONITORING OF COMMUNICA-  
 12 TIONS WITH HEALTH INSURERS.—

13 (1) COMMUNICATION WITHOUT RECORDING OR  
 14 MONITORING.—Notwithstanding any other provision  
 15 of law, a health insurance issuer, health plan, or  
 16 health care provider that notifies any customer of its  
 17 intent to record or monitor any communication with  
 18 such customer shall provide the customer the option  
 19 to conduct the communication without being re-  
 20 corded or monitored by the health insurance issuer,  
 21 health plan, or health care provider.

22 (2) DEFINITIONS.—In this subsection:

23 (A) HEALTH CARE PROVIDER.—The term  
 24 “health care provider” means a physician or  
 25 other health care professional.

1 (B) HEALTH INSURANCE ISSUER.—The  
2 term “health insurance issuer” has the meaning  
3 given that term in section 733 of the Employee  
4 Retirement Income Security Act of 1974 (29  
5 U.S.C. 1191b).

6 (C) HEALTH PLAN.—The term “health  
7 plan” means—

8 (i) a group health plan, as defined in  
9 section 733 of the Employee Retirement  
10 Income Security Act of 1974 (29 U.S.C.  
11 1191b);

12 (ii) an individual or self-insured  
13 health plan;

14 (iii) the medicare program under title  
15 XVIII of the Social Security Act (42  
16 U.S.C. 1395 et seq.);

17 (iv) the medicaid program under title  
18 XIX of such Act (42 U.S.C. 1396 et seq.);

19 (v) the State children’s health insur-  
20 ance program under title XXI of such Act  
21 (42 U.S.C. 1397aa et seq.);

22 (vi) the Civilian Health and Medical  
23 Program of the Uniformed Services under  
24 chapter 55 of title 10, United States Code;  
25 and

1 (vii) a health plan offered under chap-  
2 ter 89 of title 5, United States Code.

3 (c) EFFECTIVE DATE.—The amendments made by  
4 this Act shall take effect on the date that is 60 days after  
5 the date of enactment of this Act.

