

AMENDMENT TO H.R. _____
OFFERED BY MR. ROGERS OF MICHIGAN
Amendment to the PRO(TECH)T Act

Strike title III of the bill and insert the following
(and make such conforming changes as may be necessary):

1 **TITLE III—PRIVACY AND**
2 **SECURITY**

3 **SEC. 301. PRIVACY AND SECURITY.**

4 Title XXX of the Public Health Service Act, as added
5 and amended by sections 101 and 121, is amended by adding
6 at the end the following:

7 **“Subtitle C—Privacy and Security**

8 **“SEC. 3021. ENSURING PRIVACY AND SECURITY.**

9 “(a) **PRIVACY PROTECTIONS APPLY TO HEALTH INFORMATION ELECTRONIC DATABASES.**—An operator of a
10 health information electronic database shall be deemed to
11 be a ‘covered entity’ for purposes of sections 1171 through
12 1179 of the Social Security Act and the regulations promulgated
13 under section 264(c) of the Health Insurance Portability and
14 Accountability Act of 1996 (referred to in
15 this section as the ‘HIPAA privacy regulations’).

1 “(b) HEALTH INFORMATION ELECTRONIC DATABASE
2 DEFINED.—In this section, the term ‘operator of a health
3 information electronic database’ means an entity that—

4 “(1) is constituted, organized, or chartered for
5 the primary purpose of maintaining or transmitting
6 protected health information in a designated record
7 set or sets;

8 “(2) receives valuable consideration for main-
9 taining or transmitting protected health information
10 in a designated record set or sets; and

11 “(3) is not a provider, a payer, a health care
12 clearinghouse or business associate of a covered enti-
13 ty as such terms are defined in the HIPAA privacy
14 regulations.

15 “(c) RIGHT OF INDIVIDUALS TO INSPECT THEIR
16 MEDICAL RECORDS MAINTAINED IN ELECTRONIC FOR-
17 MAT.—To the extent provided for under the HIPAA pri-
18 vacy regulations with respect to protected health informa-
19 tion, an individual shall have a right of access to inspect
20 and obtain a copy of protected health information about
21 the individual stored in electronic format.

22 “(d) RIGHTS OF INDIVIDUALS WHO ARE VICTIMS OF
23 MEDICAL FRAUD.—To the extent provided for under the
24 HIPAA privacy regulations and under the conditions spec-
25 ified in such regulations, with respect to protected health

1 information, an individual who is a victim of medical fraud
2 or who believes that there is an error in their protected
3 health information stored in an electronic format shall
4 have the right—

5 “(1) to have access to inspect and obtain a copy
6 of protected health information about the individual,
7 including the information fraudulently entered, in a
8 designated record set; and

9 “(2) to have a covered entity amend protected
10 health information or a record about the individual,
11 including information fraudulently entered, in a des-
12 ignated electronic record set for as long as the pro-
13 tected health information is maintained in the des-
14 ignated electronic record set to ensure that fraudu-
15 lent and inaccurate health information is not shared
16 or re-reported.

17 “(e) RIGHT OF INDIVIDUALS TO BE NOTIFIED FOL-
18 LOWING WRONGFUL DISCLOSURE.—In a manner con-
19 sistent with the HIPAA privacy regulations with respect
20 to accounting for disclosures of protected health informa-
21 tion, an individual shall have the right to be notified by
22 a covered entity if that covered entity wrongfully discloses
23 protected health information and the wrongful disclosure
24 is materially expected to result in medical fraud or identity

1 theft. The Secretary shall promulgate rules as necessary
2 to carry out this subsection.

3 “(f) RULE OF CONSTRUCTION.—Nothing in this sec-
4 tion shall be construed to supercede or otherwise limit the
5 provisions of any contract that provides for the application
6 of privacy protections that are greater than the privacy
7 protections provided for under the regulations promul-
8 gated under section 264 of the Health Insurance Port-
9 ability and Accountability Act of 1996.”.