128 DORRANCE STREET, SUITE 400

PROVIDENCE, RI 02903

401.831.7171 (t)

401.831.7175 (f)

www.riaclu.org | info@riaclu.org

**STATEMENT IN SUPPORT OF THE REQUEST FOR A VETO OF 17 H-5469A**

 The ACLU considers this legislation to be one of the most dangerous and intrusive invasions of privacy to ever be passed by the General Assembly. It strikes at the heart of doctor-patient confidentiality and undermines the public’s faith in our state Department of Health to be a protector of the deeply private information kept in its care.

 Those in the medical profession can explain how the Department already has the ability – and exercises that ability – to look for doctors who may be overprescribing opioids or other medications. That fact alone makes this bill completely unnecessary. It’s unnecessary for another simple reason: police already have access to this very private information if they can convince a neutral magistrate to issue a warrant based on probable cause of criminal activity. To this day, we have yet to hear any compelling rationale as to why the warrant process is insufficient or prevents the legitimate investigation of so-called pill mills in the state. It may be more convenient not to have to convince a neutral judge that there is probable cause that criminal activity is occurring, but convenience should not be the standard for rifling through a person’s private medical information.

 Eliminating the warrant requirement allows state and federal law enforcement officials to engage in fishing expeditions of patients’ medical records – something they cannot do if they are required to get a warrant. There is no other reason to discard the current law. None.

 Proponents have pointed to purported safeguards in the bill to prevent fishing expeditions, but these are mere window-dressing. Limiting access to so-called “certified” investigators and requiring them to verify they are engaged in a “lawful” investigation does nothing to minimize the harm to privacy, or to prevent the misuse of this power. Giving the director of health the authority to call a halt to the program is no solution either – a law should not be passed in the hope that a particular person will exercise it wisely. Finally, nobody can seriously argue that a five-year sunset clause should give people solace about the potential intrusion on their most intimate medical information that takes place in the meantime.

 If police wanted to search the medicine cabinet in your home, they would need a warrant. The fact that the medicine cabinet is stored electronically shouldn’t change that equation. In fact, it’s worse. Unlike the PDMP, your actual medicine cabinet contains only the medicines you are using now, not an entire history of your prescription use.

 People trust the health department to protect the privacy of medical information, not to hand it over to police without judicial authority. If this bill is signed into law, it will be hard to maintain that trust. In fact, if it becomes law, we should be very wary of giving the Department any additional powers to obtain medical information for electronic storage, because we simply cannot be assured the agency will stand up for patient confidentiality. We urge the Governor to protect Rhode Islanders’ privacy and veto this bill.