

The Patient Data Protection Act: the Bundesrat considers whether to convene the conference committee

Article by Miriam Schuh

The [Patient Data Protection Act](#) (only in German) establishes an electronic patient file and introduces digital prescriptions. It states that, starting in 2021, health insurance companies will be required to offer insured persons a file in which their medical data can be stored and managed. Test results, medical reports and X-rays will be stored in this file, as will additional data and documents starting in 2022, such as vaccination records, pregnancy records and records of medical examinations. Starting in 2023, patients will have the option of making their medical data available for research purposes, and not just to physicians and the patients themselves.

Prevailing disagreements as to whether the provisions in the Patient Data Protection Act relating to the electronic patient file conform to the [General Data Protection Regulation \(GDPR\)](#) have raised the question as to whether the Bundesrat [the German Federal Council], will convene the conference committee for the legislation, which has already been adopted by the Bundestag, the German Federal Parliament.

The concerns with regard to data protection law are primarily based on the fact that users are not given the option to decide whether each and every document should be released to third parties (typically the user's physician) on a case-by-case basis: without an option to block individual documents, patients would have to choose between releasing all of their documents or none at all.

But the decision as to whether to convene the committee is not made by the health care committee (alone) but by the full Bundesrat. Such a course of action would have the overall effect of delaying the process even more, and it appears questionable whether there will an actual change to the text under the present circumstances.

At the moment, it does not appear that a conference committee will be convened, particularly since the Bundesrat's health care committee has only been engaged with the Patient Data Protection Act since Wednesday and since, as things stand, the legislation has been placed on the "green list" of miscellaneous undisputed items. However, the concerns relating to data protection law and the development of the Patient Data Protection Act should still be observed with caution.

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