

From: [Greg](#)
To: [Amy Bowne](#)
Subject: Proposed Rule 218 change
Date: Wednesday, May 22, 2019 11:46:19 AM

To whom it may concern:

I am writing to express my strong objection to the proposed changes to Rule 218. The rule's broad language violates federal, state and constitutional rights of plaintiffs involved in litigation. The proposed rule forces individuals to waive their constitutional rights to privacy by forcing them to consent to the disclosure of information that is not related to the subject litigation and by placing no restrictions on the insurance industry's use of the information for purposes other than the subject litigation. In fact the enumerated purposes 1-11 seem to have little or no connection to whatever the subject litigation might be. The proposed rule also invites the insurance industry to do what the Illinois Supreme Court prohibited long ago - "fishing exhibitions" - by restricting the production of medical records that tend to prove the issues in the litigation. *Firebaugh v. Traff*, 353 Ill. 82, 85 (1933).

Moreover, the proposed amendment violates HIPPA in several ways. By way of example, the proposed rule does not require the court to make a determination as to whether the information sought is relevant, nor does it expressly state that the information be used solely for the present litigation purposes or require the destruction of the records at the conclusion of the litigation process. This is a terrible rule that will step all over the privacy rights of individuals who have done nothing other than exercising their constitutional right to recover for the harms and losses caused by a tortfeasor.

Additionally, the proposed rule change would eliminate the protections afforded to plaintiffs by *Petrillo v. Syntex Laboratories, Inc.*, 148 Ill.App.3d 581 (1st Dist. 1986). For over three decades, Petrillo has prevented defense counsel from access to a plaintiffs' health care providers outside the formal discovery process. This amendment would, without explanation or justification, wipe out those protections. There is no just reason to do so.

Some of the other commenters have illustrated quite well the absurd and horrible consequences of the proposed changes under certain very foreseeable situations, so I will not restate those. I would simply urge the committee to take those into account with all of the other reasons why this is a terrible idea.

Thank you for your attention to this matter.

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