



Kirsten J. Gross

Final Analysis
Legislative Service Commission

Am. Sub. H.B. 508
123rd General Assembly
(As Passed by the General Assembly)

Reps. Olman, Willamowski, Patton, Redfern, Allen, Terwilleger, Hartnett, Callender, D. Miller, Britton, Vesper, Perry, Jolivette, Logan, Ogg, Taylor, Gerberry, Peterson, R. Miller, Krupinski, J. Beatty, DePiero, Harris, Corbin, Hoops, Sutton, Hollister, Evans, Bender, Wilson, Womer Benjamin, Jones, Distel, Verich, Hartley, Mettler, Tiberi, Buehrer, Damschroder, Mottley, Schuler, Boyd, Barrett, O'Brien, Gooding, Barnes, Cates, Ferderber, Jacobson, Smith, Widener

Sens. Cupp, Blessing, Drake, Spada, Herington, Espy

Effective date: *

ACT SUMMARY

- With respect to medical records requests:
 - Establishes procedures for requesting medical records from health care providers;
 - Permits requests for medical records to be submitted by a patient's representative as long as the request is signed by the patient;
 - Requires a health care provider, after receiving a properly executed request, to permit a patient to examine the patient's medical record without charge or to provide a copy of the record in accordance with the requirements described below.
- With respect to charges for medical records:
 - Establishes the maximum fee that a health care provider or medical records company can charge for providing copies of medical records;

* *The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared.*

--Requires health care providers and medical records companies to provide one copy, without charge, to certain persons and government entities;

--Exempts copies of medical records provided to sickness and accident insurers and health insuring corporations from these provisions;

--"Sunsets" these provisions on January 1, 2005, but if that date is extended, requires the Director of Health to annually adjust the maximum charge in accordance with the U.S. Consumer Price Index.

CONTENT AND OPERATION

Medical records requests

(sec. 3701.74)

Background

Prior law required a hospital to prepare a finalized medical record for each patient who received health care treatment at the hospital, within a reasonable time after treatment. "Medical record" was defined as any document or combination of documents that pertained to a patient's medical history, diagnosis, prognosis, or medical condition and that was generated and maintained in the process of the patient's health care treatment at a hospital. A medical record was "finalized" when the record was complete according to the hospital's bylaws. A patient who wished to examine or obtain a copy of a finalized medical record was required to submit a signed, written request to the hospital. If the patient wanted a copy of the record, the request was required to indicate whether the copy was to be sent to the patient's residence or held for the patient at the hospital. Within a reasonable time after receiving the request, the hospital had to permit the patient to examine the record or to provide a copy of the record to the patient.

If a hospital failed to furnish a medical record to which a patient was entitled, the patient was entitled to bring a civil action to examine or obtain a copy of the record.

The act

Under the act, the medical records statute is modified as follows:

(1) The requirement that a hospital prepare a finalized medical record for each patient treated at the hospital is removed.

(2) Application of the statute is expanded to include the medical records generated and maintained by health care providers rather than only hospitals, as is the case under prior law. "**Health care provider**," as defined in the act, means a hospital, ambulatory care facility, long-term care facility, pharmacy, emergency facility, dentist, dental hygienist, registered or licensed practical nurse, optometrist, dispensing optician, pharmacist, physician, physician assistant, certified practitioner of a limited branch of medicine, psychologist, chiropractor, hearing aid dealer or fitter, occupational therapist, occupational therapy assistant, speech-language pathologist, audiologist, physical therapist, physical therapy assistant, professional clinical counselor, professional counselor, social worker, independent social worker, social work assistant, dietitian, respiratory care professional, emergency medical technician-basic, emergency medical technician-intermediate, or emergency medical technician-paramedic. The definition of "**medical record**" is expanded to mean "data in any form" rather than "any document or combination of documents," as was the case under prior law.

(3) A "patient's representative" is also permitted to submit a request to examine or obtain a copy of a patient's medical record, as long as the request is signed by the patient. If the health care provider fails to furnish the medical record, the patient's representative may bring a civil action to enforce the patient's right of access to the record.

"**Patient's representative**" is defined as a person to whom a patient has given written authorization to act on the patient's behalf regarding the patient's medical records. If the patient is deceased, the term means the executor or administrator of the patient's estate or the person responsible for the patient's estate if it is not to be probated. Sickness and accident insurers and health insuring corporations are excluded from the definition.

(4) The definition of "**patient**" is expanded to include either an individual who received health care treatment from a health care provider *or* that individual's guardian.

(5) A patient or patient's representative may request that the copy of the patient's medical record be sent to the patient's physician or chiropractor or to the patient's representative (in addition to the patient's residence, as is provided in continuing law).

Charges for medical records

(secs. 3701.74(A)(4) and (B) and 3701.741)

Under prior law the medical records statute did not specify the amount of money a patient could be charged for examining or obtaining a copy of the patient's medical record.

Under the act, a health care provider must permit a patient to examine the patient's medical record *without charge*. Through December 31, 2004, health care providers and medical records companies must provide copies of medical records, as follows:

--One copy, *without charge*, to the Bureau of Workers' Compensation, the Industrial Commission, and the Department of Job and Family Services, in accordance with the Ohio statutes and administrative rules that govern each of those agencies. The act stipulates that this provision does not supersede any administrative rule of the Bureau, Commission, or Department.

--One copy, *without charge*, to a patient or patient's representative, if the record is necessary to support a claim for Social Security disability benefits and the request is accompanied by documentation that the claim has been filed.

--For all other purposes, the health care provider or medical records company may charge not more than the sum of the following:

- (1) An initial fee of \$15, which compensates for the records search;
- (2) With respect to data recorded on paper:
 - (a) One dollar per page for the first 10 pages;
 - (b) 50 cents per page for pages 11-50;
 - (c) 20 cents per page for pages 51 and higher.
- (3) With respect to data recorded other than on paper, the actual cost of making the copy;
- (4) The actual cost of any related postage incurred by the health care provider or medical records company.

However, the act allows a health care provider or medical records company to enter into a contract with a patient, a patient's representative, or an insurance company for the copying of medical records at a fee other than as cited above.

("Medical records company" is defined by the act as a person who stores, locates, or copies medical records for a health care provider, or is compensated for doing so by a health care provider, and charges a fee for providing medical records to a patient or patient's representative.)

Exemptions from the act

(secs. 3701.74(D)(1) and 3701.741(F) and (G))

The act adds that the medical records statute (3701.74) does *not* apply to medical records whose release is covered by Ohio's Long-Term Care Ombudsman Program (sec. 173.20), by the statutory rights granted to residents of nursing homes (sec. 3721.13), or by the federal requirements for certain long-term care facilities (42 C.F.R. 483.10).

In addition, the act's provisions establishing maximum fees that a health care provider or medical records company may charge for providing copies of medical records do *not* apply to either of the following:

(1) Copies of medical records provided to sickness and accident insurers authorized to do business in this state or to health insuring corporations holding a certificate of authority under Ohio law;

(2) Medical records the copying of which is covered by Ohio's Long-Term Care Ombudsman Program (sec. 173.20) or by the federal requirements for certain long-term care facilities (42 C.F.R. 483.10).

Lastly, the act states that its provisions governing the copying of medical records neither require nor preclude the distribution of medical records at any particular cost or fee to sickness and accident insurers or health insuring corporations.

Application of the Consumer Price Index formula if the act's "sunset" is extended

(sec. 3701.742)

As mentioned above, the act's provisions governing the copying of medical records are scheduled to "sunset" on December 31, 2004. If that date is amended to reflect a date that is later than December 31, 2004, then not later than January 31, 2005, and not later than January 1 of each year thereafter, the maximum fees that health care providers or medical records companies may charge for copies of medical records must be adjusted in accordance with the consumer price index formula. Under this formula, the Director of Health is to adjust the maximum charges in effect for the prior year by the average percentage of increase or decrease

in the Consumer Price Index for all urban consumers (United States city average, all items) prepared by the United States Department of Labor, Bureau of Labor Statistics. The Director must provide a list of the adjusted amounts to any party upon request.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	11-23-99	p. 1373
Reported, H. Commerce & Labor	09-13-00	p. 2245
Passed House (94-1)	09-19-00	pp. 2252-2253
Reported, S. Insurance, Commerce & Labor	11-14-00	p. 2207
Passed Senate (32-0)	11-14-00	p. 2215

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