



**Am. Sub. H.B. 508\***

123rd General Assembly

(As Reported by S. Insurance, Commerce & Labor)

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**BILL 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;

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\* *This analysis was prepared before the report of the Senate Insurance, Commerce and Labor Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.*

--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.

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## **CONTENT AND OPERATION**

### **Medical records requests**

(sec. 3701.74)

#### **Current law**

Current law requires a hospital to prepare a finalized medical record for each patient who receives health care treatment at the hospital, within a reasonable time after treatment. "Medical record" is defined as any document or combination of documents that pertains to a patient's medical history, diagnosis, prognosis, or medical condition and that is generated and maintained in the process of the patient's health care treatment at a hospital. A medical record is "finalized" when the record is complete according to the hospital's bylaws. A patient who wishes to examine or obtain a copy of a finalized medical record is required to submit a signed, written request to the hospital. If the patient wants a copy of the record, the request must indicate whether the copy should 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 must permit the patient to examine the record or provide a copy of the record.

If a hospital does not furnish a medical record to which a patient is entitled, the patient may bring a civil action to examine or obtain a copy of the record.

#### **The bill**

Under the bill, 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 current law. **Health care provider,** as defined in the bill, 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 is the case in current 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 current law).

### **Charges for medical records**

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

The medical records statute currently does not specify how much a patient can be charged for examining or obtaining a copy of the patient's medical record.

Under the bill, 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 bill 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 bill 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 bill 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 bill*

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

The bill 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 bill'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 bill 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 bill's "sunset" is extended*

(sec. 3701.742)

As mentioned above, the bill'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. (See **COMMENT.**)

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## COMMENT

The bill attempts to place conditions upon any future amendment by the General Assembly of the bill's fee structure by requiring that a consumer price index formula be used if the "sunset" date is extended. A future General Assembly, however, would be free to eliminate the condition.

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## 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	---	---

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