



Aida S. Montano

Bill Analysis
Legislative Service Commission

H.B. 502

126th General Assembly
(As Introduced)

**Reps. Ujvagi, Yuko, Perry, Distel, Brown, DeGeeter, Skindell, Cassell,
Koziura, Williams, Allen, Beatty, Wagoner**

BILL SUMMARY

- Provides that on request, a health care provider or medical records company must provide one copy of the patient's medical record and one copy of any records regarding treatment performed subsequent to the original request, not including copies of records already provided, without charge, to an "authorized person" (defined in existing law as a person to whom a patient has given written authorization to act on the patient's behalf regarding the patient's medical record) if the medical record is necessary to support a claim under specified provisions of the Social Security Act and the request is accompanied by documentation that a claim has been filed.
- Expands existing law's requirement for a health care provider or medical records company to provide one copy of the patient's medical record, without charge, to the Bureau of Workers' Compensation, the Industrial Commission, the Department of Job and Family Services, and the Attorney General, and to a patient or patient's personal representative if the medical record is necessary to support a claim under specified provisions of the Social Security Act and the request is accompanied by documentation that a claim has been filed, to also provide one copy of any records regarding treatment performed subsequent to the original request, not including copies of records already provided.

CONTENT AND OPERATION

Existing law

Request to examine or obtain copy of medical record

Under existing law, a "patient," a "patient's personal representative," or an "authorized person" who wishes to examine or obtain a copy of part or all of a "medical record" must submit to the "health care provider" a written request signed by the patient, personal representative, or authorized person dated not more than 60 days before the date on which it is submitted. The request must indicate whether the copy is to be sent to the requestor, physician, or chiropractor, or held for the requestor at the office of the health care provider. Within a reasonable time after receiving a request that meets the requirements of existing law and includes sufficient information to identify the record requested, a health care provider that has the patient's medical records must permit the patient to examine the record during regular business hours without charge or, on request, must provide a copy of the record in accordance with R.C. 3701.741 (see below). The requirement in the preceding sentence does not apply if a physician or chiropractor who has treated the patient determines for clearly stated treatment reasons that disclosure of the requested record is likely to have an adverse effect on the patient. In that case, the health care provider must provide the record to a physician or chiropractor designated by the patient. The health care provider must take reasonable steps to establish the identity of the person making the request to examine or obtain a copy of the patient's record. (R.C. 3701.74(B)--not in the bill.) (See 'Definitions,' below, for definitions of the terms in quotation marks.)

Copy provided with charges

Through December 31, 2008, each "health care provider" and "medical records company" must provide copies of "medical records" in accordance with existing law (see 'Definitions,' below). The law sets forth the maximum amounts that can be charged generally for the total costs of the copies and all services related to those copies. The amounts vary depending upon whether the copies are requested by the *patient or the patient's personal representative* or by *any person other than the patient or the patient's personal representative* (see **COMMENT 1** and 2). (R.C. 3701.741(A) and (B).)

A health care provider or medical records company may enter into a contract with either of the following for the copying of medical records at a fee other than as provided in existing law: (1) *a patient, a patient's personal representative, or an authorized person*, or (2) an insurer authorized under Ohio insurance laws to do the business of sickness and accident insurance in Ohio or

health insuring corporations holding a certificate of authority under R.C. Chapter 1751. (R.C. 3701.741(E)).

Copy provided without charge

Existing law requires a health care provider or medical records company to provide one copy *without charge* to the following (R.C. 3701.741(C)(1)):

(1) The Bureau of Workers' Compensation, in accordance with R.C. Chapters 4121. and 4123. and the rules adopted under those chapters;

(2) The Industrial Commission, in accordance with R.C. Chapters 4121. and 4123. and the rules adopted under those chapters;

(3) The Department of Job and Family Services, in accordance with R.C. Chapter 5101. and the rules adopted under "those chapters";

(4) The Attorney General, in accordance with R.C. 2743.51 to 2743.72 (reparations awards to victims of crime) and any rules that may be adopted under those sections;

(5) *A patient or patient's personal representative* if the medical record is necessary to support a claim under Title II or Title XVI of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 401 and 1381, as amended (federal old-age, survivors, and disability insurance benefits and supplemental security income for the aged, blind, and disabled), and the request is accompanied by documentation that a claim has been filed.

Nothing in the above provisions requires a health care provider or medical records company to provide a copy without charge to any person or entity not listed in (1) to (5), above (R.C. 3701.741(C)(2)).

Definitions

Existing law, not affected by the bill, defines the following terms relevant to this analysis (R.C. 3701.74(A)(5), (8), (9), (10), (11), and (14)--not in the bill):

"Health care provider" means a hospital, ambulatory care facility, long-term care facility, pharmacy, emergency facility, or health care practitioner.

"Medical record" means data in any form that pertains to a patient's medical history, diagnosis, prognosis, or medical condition and that is generated and maintained by a health care provider in the process of the patient's health care treatment.

"Medical records company" means 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.

"Patient" means an individual who received health care treatment from a health care provider or a guardian, as defined in R.C. 1337.11, of such an individual.

"Patient's personal representative" means a minor patient's parent or other person acting in loco parentis, a court-appointed guardian, or a person with durable power of attorney for health care for a patient, 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. "Patient's personal representative" does not include an insurer authorized under the Ohio insurance laws to do the business of sickness and accident insurance in Ohio, a health insuring corporation holding a certificate of authority under R.C. Chapter 1751., or any other person not named in the definition of "patient's personal representative."

"Authorized person" means a person to whom a patient has given written authorization to act on the patient's behalf regarding the patient's medical record.

Operation of the bill

The bill modifies the provisions of existing law pertaining to providing one copy of medical records without charge. It provides that *on request*, a health care provider or medical records company must provide one copy *of the patient's medical record and one copy of any records regarding treatment performed subsequent to the original request, not including copies of records already provided* (italicized language is added by the bill), without charge to the Bureau of Workers' Compensation, the Industrial Commission, the Department of Job and Family Services, and the Attorney General as provided in (1) to (4) in "**Copy provided without charge**," above, and to a patient, patient's personal representative, *or authorized person* (added by the bill) if the medical record is necessary to support a claim under Title II or Title XVI of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 401 and 1381, as amended (federal old-age, survivors, and disability insurance benefits and supplemental security income for the aged, blind, and disabled), and the request is accompanied by documentation that a claim has been filed. (R.C. 3701.741(C)(1).)

COMMENT

1. Under existing law, not changed by the bill, it appears that the charges for the copies of medical records requested by an "authorized person" (see "Definitions," above) are different from the charges for copies requested by the patient or patient's personal representative. (See **COMMENT 2.**)

2. Under R.C. 3701.741(B), not changed by the bill, if the request is made by the *patient or the patient's personal representative*, the total costs for copies and all services related to those copies cannot exceed the sum of the following: (a) with respect to data recorded on paper, the following amounts: \$2.50 per page for the first ten pages; 51¢ per page for pages 11-50; and 20¢ per page for pages 51 and higher, (b) with respect to data recorded other than on paper, \$1.70 per page, and (c) the actual cost of any related postage incurred by the health care provider or medical records company.

If the request is made *other than by the patient or the patient's personal representative*, the total costs for copies and all services related to those copies cannot exceed the sum of the following: (a) an initial fee of \$15.35 that compensates for the records search, (b) with respect to data recorded on paper, the following amounts: \$1.02 per page for the first ten pages; 51¢ per page for pages 11-50; and 20¢ per page for pages 51 and higher, (c) with respect to data recorded other than on paper, \$1.70 per page, and (d) the actual cost of any related postage incurred by the health care provider or medical records company.

HISTORY

| ACTION | DATE |
|------------|----------|
| Introduced | 02-07-06 |

H0502-I-126.doc/kl