

# AN ACT

To amend section 3701.74 and to enact sections 3701.741 and 3701.742 of the Revised Code relative to the fees health care providers and medical records companies may charge for providing copies of medical records.

*Be it enacted by the General Assembly of the State of Ohio:*

SECTION 1. That section 3701.74 be amended and sections 3701.741 and 3701.742 of the Revised Code be enacted to read as follows:

Sec. 3701.74. (A) As used in this section and section 3701.741 of the Revised Code:

(1) ~~"Hospital" means any institution registered as a hospital with the department of health pursuant to section 3701.07 of the Revised Code~~ "Chiropractor" means an individual licensed under Chapter 4734. of the Revised Code to practice chiropractic.

(2) "Health care provider" has the same meaning as in section 3729.01 of the Revised Code.

(3) ~~"Medical record" means data in any document or combination of documents 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 at a hospital.~~

~~(3) "Finalized medical record" means a medical record that is complete according to a hospital's bylaws.~~

(4) "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.

(5) "Patient" means any either of the following:

(a) An individual who received health care treatment at a hospital from a health care provider;

(b) A guardian, as defined in section 1337.11 of the Revised Code, of an individual described in division (A)(5)(a) of this section.

(6) "Patient's representative" means a person to whom a patient has

given written authorization to act on the patient's behalf regarding the patient's medical records, except that if the patient is deceased, "patient's representative" 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. "Patient's representative" does not include an insurer authorized under Title XXXIX of the Revised Code to do the business of sickness and accident insurance in this state or a health insuring corporation holding a certificate of authority under Chapter 1751. of the Revised Code.

(7) "Physician" means a person authorized under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatry.

~~(B) A hospital shall prepare a finalized medical record for each patient who receives health care treatment at the hospital, within a reasonable time after treatment.~~

~~(C) A patient or patient's representative who wishes to examine or obtain a copy of part or all of a finalized medical record covering a prior inpatient stay or outpatient treatment shall submit to the hospital health care provider a signed, written request signed by the patient dated not more than sixty days before the date on which it is submitted. The patient or patient's representative who wishes to obtain a copy of the record shall indicate in the request whether the copy is to be sent to the patient's residence, physician or chiropractor, or representative, or held for the patient at the hospital office of the health care provider. Within a reasonable time after receiving a request that meets the requirements of this division and includes sufficient information to identify the record requested, the hospital a health care provider that has the patient's medical records shall permit the patient to examine the record during regular business hours without charge or, on request, shall provide a copy of the record in accordance with the request section 3701.741 of the Revised Code, except that 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, the hospital health care provider shall provide the record to a physician or chiropractor designated by the patient. The hospital health care provider shall take reasonable steps to establish the identity of the patient-examining, person making the request to examine or requesting obtain a copy of; the patient's record.~~

~~(D)~~(C) If a hospital health care provider fails to furnish a finalized medical record as required by division ~~(C)~~(B) of this section, the patient or patient's representative who requested the record may bring a civil action to enforce the patient's right of access to the record.

~~(E)~~(D)(1) This section does not apply to medical records whose release is covered by section 173.20 or 3721.13 of the Revised Code, by Chapter 1347. or 5122. of the Revised Code or, by 42 C.F.R. part 2, "Confidentiality of Alcohol and Drug Abuse Patient Records, Nothing or by 42 C.F.R. 483.10.

(2) Nothing in this section is intended to supersede the confidentiality provisions of sections 2305.24 to 2305.251 of the Revised Code.

Sec. 3701.741. (A) Through December 31, 2004, each health care provider and medical records company shall provide copies of medical records in accordance with this section.

(B) Except as provided in divisions (C) and (E) of this section, a health care provider or medical records company that receives a request for a copy of a patient's medical record may charge not more than the amounts set forth in this section. Total costs for copies and all services related to those copies shall not exceed the sum of the following:

(1) An initial fee of fifteen dollars, which shall compensate for the records search;

(2) With respect to data recorded on paper, the following amounts:

(a) One dollar per page for the first ten pages;

(b) Fifty cents per page for pages eleven through fifty;

(c) Twenty cents per page for pages fifty-one 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.

(C) A health care provider or medical records company shall provide one copy without charge to the following:

(1) The bureau of workers' compensation, in accordance with Chapters 4121. and 4123. of the Revised Code and the rules adopted under those chapters;

(2) The industrial commission, in accordance with Chapters 4121. and 4123. of the Revised Code and the rules adopted under those chapters;

(3) The department of job and family services, in accordance with Chapter 5101. of the Revised Code and the rules adopted under those chapters;

(4) A patient or patient's 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, and the request is accompanied by documentation that a claim has been filed.

(D) Division (C) of this section shall not be construed to supersede any rule of the bureau of workers' compensation, the industrial commission, or the department of job and family services.

(E) A health care provider or medical records company may enter into a contract with a patient, a patient's representative, or an insurer for the copying of medical records at a fee other than as provided in division (B) of this section.

(F) This section does not apply to either of the following:

(1) Copies of medical records provided to insurers authorized under Title XXXIX of the Revised Code to do the business of sickness and accident insurance in this state or health insuring corporations holding a certificate of authority under Chapter 1751. of the Revised Code;

(2) Medical records the copying of which is covered by section 173.20 of the Revised Code or by 42 C.F.R. 483.10.

(G) Nothing in this section requires or precludes the distribution of medical records at any particular cost or fee to insurers authorized under Title XXXIX of the Revised Code to do the business of sickness and accident insurance in this state or health insuring corporations holding a certificate of authority under Chapter 1751. of the Revised Code.

Sec. 3701.742. If the date specified in section 3701.741 of the Revised Code is amended to reflect a date that occurs after December 31, 2004, then not later than January 31, 2005, the amounts specified in division (B) of section 3701.741 of the Revised Code and, not later than the first day of January of each year thereafter, any amounts computed by adjustments made under this section, shall be increased or decreased 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, for the twelve-calendar-month period prior to the immediately preceding first day of January over the immediately preceding twelve-calendar-month period, as reported by the bureau. The director of health shall make this determination and adjust the amounts accordingly. The director shall provide a list of the adjusted amounts to any party upon request.

SECTION 2. That existing section 3701.74 of the Revised Code is hereby repealed.

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*Speaker* \_\_\_\_\_ *of the House of Representatives.*

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*President* \_\_\_\_\_ *of the Senate.*

Passed \_\_\_\_\_, 20\_\_\_\_

Approved \_\_\_\_\_, 20\_\_\_\_

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*Governor.*

Am. Sub. H. B. No. 508

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The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

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*Director, Legislative Service Commission.*

Filed in the office of the Secretary of State at Columbus, Ohio, on the  
\_\_\_\_ day of \_\_\_\_\_, A. D. 20\_\_\_\_.

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*Secretary of State.*

File No. \_\_\_\_\_ Effective Date \_\_\_\_\_