

2016 Regular Session

HOUSE BILL NO. 537

BY REPRESENTATIVE GAROFALO

CIVIL/DISCOVERY: Provides relative to applicable fees and costs incurred for the production of records

1 AN ACT

2 To amend and reenact R.S. 40:1165.1(A)(2)(b)(i) and (ii) and to enact R.S.
3 40:1165.1(A)(2)(f), relative to medical records; to provide relative to the maximum
4 charges for providing certain medical records; to provide for the form in which to
5 store and provide medical records; to provide for annual adjustment to the maximum
6 charges; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 40:1165.1(A)(2)(b)(i) and (ii) are hereby amended and reenacted and
9 R.S. 40:1165.1(A)(2)(f) is hereby enacted to read as follows:

10 §1165.1. Health care information; records

11 A.

12 * * *

13 (2)

14 * * *

15 (b)(i) Except as provided in R.S. 44:17, a patient or his legal
16 representative, or in the case of a deceased patient, the executor of his will, the
17 administrator of his estate, the surviving spouse, the parents, or the children of the
18 deceased patient, or after a claim has been made, the insurance company or its
19 counsel, or, after suit has been instituted, defense counsel or a defendant seeking any
20 treatment record, including but not limited to any medical, hospital, laboratory,

1 invoice or billing statement, or other record, including test results, relating to or
2 generated as a result of or in connection to the patient's medical treatment, history,
3 or condition, either personally or through an attorney, shall have a right to obtain a
4 copy of the entirety of the records in the form ~~by which they are generated~~ in which
5 they are stored, except microfilm, upon furnishing a signed authorization. If the
6 original treatment records are ~~generated, maintained, or stored~~ in paper form, paper
7 or digital copies shall be provided upon payment of a reasonable copying charge, not
8 to exceed one dollar per page for the first twenty-five pages, fifty cents per page for
9 twenty-six to three hundred fifty pages, and twenty-five cents per page thereafter, a
10 handling charge not to exceed twenty-five dollars for hospitals, nursing homes, and
11 other health care providers, and actual postage. The charges set forth in this Section
12 shall be applied to all persons and legal entities duly authorized by the patient to
13 obtain a copy of their medical records. If treatment records are ~~generated,~~
14 ~~maintained, or stored~~ in digital format in the health care providers' electronic health
15 record, copies may be requested to be provided in digital format and charged at the
16 rate provided by this Item; however, the charges for providing digital copies stored
17 in digital format shall not exceed one hundred dollars, ~~including~~ plus all postage and
18 handling charges actually incurred. If the treatment records are stored in both digital
19 form and paper form, the maximum limit of one hundred dollars shall only apply to
20 the portion of records stored in digital form. If requested, the health care provider
21 shall provide the requestor, at no extra charge, a certification page setting forth the
22 extent of the completeness of records on file. In the event a hospital record is not
23 complete, the copy of the records furnished shall indicate, through a stamp,
24 coversheet, or otherwise, the extent of completeness of the records. Each request for
25 records submitted by the patient or other person authorized to request records
26 pursuant to the provisions of this Subparagraph shall be subject to only one handling
27 charge, and the health care provider shall not divide the separate requests for
28 different types of records, including but not limited to billing or invoice statements.
29 The health care provider or person or legal entity providing records on behalf of the

1 health care provider shall not charge any other fee which is not specifically
2 authorized by the provisions of this Subparagraph, except for notary fees and fees for
3 expedited requests as contracted by the parties.

4 (ii) The individuals authorized to obtain medical records pursuant to Item (i)
5 of this Subparagraph shall also have the right to obtain copies of patient X-rays, and
6 other imaging media, upon payment of reasonable reproduction costs and a handling
7 charge of twenty dollars for hospitals and ten dollars for other health care providers.
8 If the patient X-rays and other imaging media are ~~generated, maintained, or stored~~
9 in digital format, copies may be requested to be provided in digital format and
10 charged at the rate provided by this Item; however, the charges for providing digital
11 imaging media copies shall not exceed two hundred dollars, ~~including plus~~ all
12 postage and handling charges actually incurred. If requested, the health care
13 provider shall provide the requestor, at no extra charge, a certification page setting
14 forth the completeness of the X-rays and other imaging media on file. In the event
15 hospital patient X-rays and other imaging media are not complete, the copies
16 furnished shall indicate, through a stamp, coversheet, or otherwise, the extent of the
17 completeness of the records. Each request for copies of patient X-rays and other
18 imaging media submitted by the patient or other person authorized to request records
19 pursuant to Item (i) of this Subparagraph shall not be considered a separate request
20 and are subject to only one handling charge, and the health care provider shall not
21 divide the requests for different types of X-rays and other imaging media. The
22 health care provider shall not charge any other fee which is not specifically
23 authorized by the provisions of this Subparagraph, except for notary fees and fees for
24 expedited requests as contracted by the parties.

25 * * *

26 (f) Effective July 1, 2016, and annually thereafter, the fees and maximum
27 amounts for providing health care information as specified in this Section shall be
28 adjusted accordingly based on the most recent changes to the consumer price index
29 as published by the Bureau of Labor Statistics of the United States Department of

1 Labor that measures the average changes in prices of goods and services purchased
2 by urban wage earners and clerical workers' families and single workers living alone.
3 * * *

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 537 Original

2016 Regular Session

Garofalo

Abstract: Provides for the maximum charges for obtaining copies of medical records.

Present law provides that each health care provider shall furnish each patient, upon request of the patient, a copy of any information related to the patient which the health care provider has transmitted to any company, or public or private agency, or person.

Present law provides that medical records of a patient maintained in a health care provider's office are the property and business records of the health care provider.

Present law provides that a patient, his legal representative, and certain other persons shall have a right to obtain a copy of the entirety of the medical records in the form by which they are generated. If the original treatment records are generated, maintained, or stored in paper form, copies shall be provided upon payment of a reasonable copying charge as further specified in present law.

Proposed law provides that a patient, his legal representative, and certain other persons shall have a right to obtain a copy of the entirety of the medical records in the form by which they are stored.

Present law provides that if records are generated, maintained, or stored in paper form, copies shall be provided upon payment of a copying charge as provided by present law.

Proposed law provides that if records are stored in paper form, paper or digital copies shall be provided upon payment of a copying charge as provided by present law.

Present law provides that if records are generated, maintained, or stored in digital format, copies may be requested in digital format and charged as provided by present law.

Proposed law provides that if records are stored in digital format in the health care provider's electronic health record, copies may be requested in digital format and charged as provided by present law, but also specifies that the maximum \$100 charge only applies to copies stored in digital format.

Present law provides that the maximum authorized charges of \$100 for records and \$200 for X-rays and other imaging includes all postage and handling.

Proposed law excludes postage and handling from the \$100 and \$200 maximum charges.

Proposed law provides that if the treatment records are stored in both digital form and paper form, the maximum limit of \$100 shall only apply to the portion of records stored in digital form.

Proposed law provides that, beginning on July 1, 2016, the maximum fees provided by present law are subject to annual adjustments based on the most recent changes to the consumer price index.

(Amends R.S. 40:1165.1(A)(2)(b)(i) and (ii); Adds R.S. 40:1165.1(A)(2)(f))