
OLR Bill Analysis

sHB 5411

AN ACT CONCERNING REQUESTS FOR HEALTH RECORDS AND THE FEES CHARGED FOR ACCESS TO SUCH RECORDS.

SUMMARY

This bill makes various changes to deadlines, fees, and penalties related to patient health records requests. Principally, it:

1. authorizes workers' compensation administrative law judges to penalize physicians, or third-party vendors acting on their behalf, who fail to submit medical reports for workers' compensation cases within 30 days after they are completed;
2. allows an entity acting on a health care provider's or institution's behalf to fulfill a patient's written health records request instead of the provider or institution;
3. requires providers, institutions, and entities representing them to give patients (or their attorneys or authorized representatives) copies of requested health records electronically, if the requestors prefer it and they can be produced;
4. replaces current law's patient health records fee of 65 cents per page with fees that vary based on the record's format (i.e., paper or electronic) and number of pages;
5. prohibits providers, institutions, and entities representing them from charging research or handling fees for paper or electronic health records but allows them to charge an additional fee of up to \$50 for requests to (a) make redactions to the records or (b) provide them within 72 hours;
6. requires the Department of Public Health (DPH) commissioner,

starting January 1, 2025, to publish patient health records fees on the DPH website and, starting January 1, 2026, annually adjust the fees based on changes to the national consumer price index; and

7. requires providers, institutions, and entities that represent them that fail to supply patient health records within 30 days after receiving a request to reduce the fees that they charge.

The bill also makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2024

§ 1 — WORKERS' COMPENSATION MEDICAL REPORTS

The bill authorizes workers' compensation administrative law judges to penalize practicing physicians, or third-party vendors acting on their behalf, who fail to submit medical reports for workers' compensation cases within 30 days after they are completed as required under existing law. Under the bill, penalties must include the following:

1. a written noncompliance notice to the physician or third-party vendor;
2. an order requiring the physician or third-party vendor to appear at a hearing and explain the reasons for not meeting the report deadline; and
3. a fine of up to \$500 payable to the workers' compensation claimant.

Existing law requires workers' compensation claimants, when seeking or receiving compensation, to submit to a physician evaluation when an administrative law judge orders it, or an employer reasonably requests it. Physicians must submit all medical reports for these claimants within 30 days after the date they are completed to the employer and the employee (claimant), or the employee's attorney.

§§ 2 & 3 — ACCESS TO PATIENT HEALTH RECORDS

Records Requests

By law, patients (or their attorneys or authorized representatives) can generally obtain copies of their health records by asking a provider or health care institution (e.g., hospital, outpatient clinic, or long-term care facility) in writing. The bill requires providers and institutions to give the health records to the requestor within 30 days after they receive the request, instead of 30 days after it is made, as under current law. Existing law, unchanged by the bill, requires institutions, if the request was received less than 30 days from the patient's discharge, to provide the record when it is completed.

The bill also allows entities acting on a provider's or institution's behalf (hereafter "entity") to supply the health records instead of the provider or institution.

Additionally, the bill requires the written request to specify if the requestor prefers a paper or electronic copy of the health record. If an electronic copy is preferred and can be produced, it requires the provider, institution, or entity to give the requestor the electronic copy.

Under current law and the bill, a provider, institution, or entity cannot refuse to return to a patient original or copied health records from another provider.

The bill specifies that it does not require a provider, institution, or entity to supply a requested health record until they receive a HIPAA-compliant medical authorization form (presumably from the patient, or patient's attorney or authorized representative).

By law, health records include bills, x-rays, copies of lab report results, prescriptions, contact lens specifications under certain conditions, and other technical information used to assess the patient's health condition.

Fees

Current law allows a health care provider or institution to charge up to 65 cents per page, including any applicable research or handling fees, related costs, and first-class postage, to supply a patient's health record. The bill instead establishes fees based on the format in which the health

record is provided as described below.

Under the bill, these fees cover clerical fees, related costs, and first-class postage to supply the record. As under current law, patients may also be charged an additional amount necessary to cover the cost of material for (1) providing a copy of an x-ray or (2) furnishing an original retained slide or tissue block or a new section cut from a retained tissue block.

Existing law, unchanged by the bill, prohibits providers and institutions from charging fees for health records requests that are necessary for a documented claim or appeal for Social Security or veterans' benefits.

Paper Copies. For paper copies, the bill authorizes providers, institutions, or entities to charge up to the following amounts:

1. 75 cents per page for the first 25 pages,
2. 50 cents per page for pages 26 through 50,
3. 25 cents per page for pages 51 through 99, and
4. 10 cents per page for pages 100 and beyond.

Electronic Copies. For electronic health records requests, the bill allows providers, institutions, or entities to charge up to 35 cents per page up to \$250 per health record.

Reduction in Fees for Late Delivery. Under the bill, providers, institutions, or entities that fail to supply health records within 30 days after they receive the request must reduce the fees they charge as follows:

1. by 50%, if they fail to provide the records within 30 days after they receive the request;
2. by 75%, if they fail to do so within 60 days after they receive the request; and

3. by 90%, if they fail to do so within 90 days after they receive the request.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable

Yea 35 Nay 0 (04/01/2024)