

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the District of Columbia Health Occupations Revision Act of 1985 to limit the amount of fees that a health care entity may charge persons authorized or designated to receive information by the patient or client or on behalf of the patient or client to obtain personal medical records and to extend the period of time personal medical records must be stored.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Personal Medical Record Fee Amendment Act of 2022”.

Sec. 2. The District of Columbia Health Occupations Revision Act of 1985, March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1201.01 *et seq.*), is amended as follows:

(a) The table of contents is amended by adding a new designation to read as follows: “Sec.1011a. Persons authorized by a patient or client to receive personal medical records.”.

(b) Section 101 (D.C. Official Code 3-1201.01) is amended as follows:

(1) The existing paragraph (11A) is redesignated as paragraph (11B).

(2) A new paragraph (11A) is added to read as follows:

“(11A) “Personal medical record” means:

“(A) A copy of a medical bill or a medical billing record with individually identifiable health information, including an audit trail of any additions, deletions, or revisions to the record; or

“(B) Protected health information as defined in 45 C.F.R. § 160.103.”.

(c) Section 1011 (D.C. Official Code § 3-1210.11) is amended as follows:

(1) Subsection (a) is amended as follows:

(A) The lead-in language is amended to read as follows:

“Upon written request from a patient or client, or person authorized to have access to the patient’s personal medical record under a health care power of attorney for the patient or client, a health care entity having custody and control of the patient’s or client’s personal medical record shall furnish a complete and current copy of that personal medical record. If the patient or client is deceased, the request may be made by:”.

(B) Paragraph (1) is repealed.

(C) Paragraph (6) is amended to read as follows:

“(6) Any survivor of the decedent or other persons involved in the decedent’s health care or payment prior to the decedent’s death, unless doing so would be inconsistent with any expressed preference of the decedent that is known to the health care entity.”.

(2) Subsection (b) is amended as follows:

(A) Paragraph (1) is amended by striking the phrase “A health care provider may require the patient or client, or person authorized to have access to the patient’s or client’s record,” and inserting the phrase “A health care entity may require the patient or client, a person authorized to have access to the patient’s or client’s record under a health care power of attorney for the patient or client, or, if the patient or client is deceased, a person listed under subsection (a) of this section,” in its place.

(B) Paragraph (2) is amended to read as follows:

“(2) A health care entity shall not charge a person authorized to have access to a patient’s or client’s personal medical record under a health care power of attorney for the patient or client or, if the patient or client is deceased, a person listed under subsection (a) of this section, a fee different than the one the health care entity would charge the patient or client.”.

(3) Subsection (c) is amended to read as follows:

“(c) Medical records shall be maintained for a minimum period of 5 years from the date of last contact for an adult and a minimum period of 5 years after a minor reaches the age of majority.”.

(4) A new subsection (d) is added to read as follows:

“(d) For purposes of this section, the term “health care entity” means a health care provider or a business associate as defined in 45 C.F.R. § 160.103.”.

(d) A new section 1011a is added to read as follows:

“Sec. 1011a. Persons authorized by a patient or client to receive personal medical records.

“(a)(1) Subject to paragraph (3) of this subsection and provided that the authorization is clear, conspicuous, and specific, if a patient or client authorizes a person to receive their personal medical records and the authorized person requests the patient’s or client’s personal medical record from a health care entity having custody and control of the personal medical record, the health care entity shall transmit to the requester, within 30 days from the date the request was received, a complete and current copy of the personal medical record in the form and format requested provided that the personal medical record is readily producible in the form and format requested.

“(2) If the personal medical record is not producible in the form and format requested, the health care entity shall produce the personal medical record to the requester in a readable electronic form and format either by email or by uploading the personal medical record to an electronic portal accessible to the requestor.

“(3)(A) If the personal medical record cannot be produced within the 30-day period as provided in paragraph (1) of this subsection, the health care entity shall state in writing the reason for the delay and the date by which the record will be produced; provided, that the health care entity shall transmit the record within 60 days from the date the request was received.

“(B) If the health care entity fails to furnish the requested personal medical record within the 60-day period, the health care entity shall reduce its fee for producing the personal medical record as provided for under subsection (b) of this section by 15 dollars for each day of non-compliance; provided, that the fee reduction shall not exceed the amount the health care entity would have otherwise charged the requestor.

“(C) No fee reduction shall be made when a health care entity has a legal basis for withholding a personal medical record.

“(b) A health care entity may require an authorized person to pay:

“(1) For a personal medical record that is produced in an electronic format:

“(A) A search and handling fee of \$22.88, even if no personal medical record is located; and

“(B) A per page fee not exceeding 66 cents; provided the total amount shall not exceed \$86.54.

“(2) For any personal medical record that is produced in a non-electronic format:

“(A) A search and handling fee of \$22.88, even if no personal medical record is located;

“(B) A per page fee not exceeding 88 cents; and

“(C) The actual cost for postage and handling.

“(c) The fees enumerated in subsection (b) of this section are the only fees that a health care entity may charge an authorized person for the production of a personal medical record; except, that nothing in this section shall be construed or applied to require or excuse noncompliance with any federal law or regulation.

“(d)(1) The fees enumerated in subsection (b) of this section shall be adjusted for inflation on an annual basis starting on January 1, 2024, in accordance with the Consumer Price Index (“CPI”) for the District as calculated by the United States Bureau of Labor Statistics.

“(2) The Department of Health shall calculate the CPI adjustments and publish the adjusted fee amounts on the Department’s website no later than February 1 of each year.

“(e) For purposes of this section, the term “health care entity” means a health care provider or a business associate as defined in 45 C.F.R. § 160.103.”.

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

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Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code §1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia