

House Bill 321

By: Representatives Cooke of the 18th, Allison of the 8th, Hightower of the 68th, Frye of the 118th, Quick of the 117th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 33 of Title 31 of the Official Code of Georgia Annotated, relating to
2 health records, so as to revise provisions regarding imposition of costs for providing copies
3 of health records; to authorize certain charges for producing records in various forms; to
4 provide limitations on certain charges; to provide for estimated costs; to provide for
5 prepayment of charges; to provide for sanctions for violations; to provide for related matters;
6 to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Chapter 33 of Title 31 of the Official Code of Georgia Annotated, relating to health records,
10 is amended by revising Code Section 31-33-3, relating to costs of copying and mailing health
11 records, as follows:

12 "31-33-3.

13 (a) The party requesting the patient's records shall be responsible to the provider for ~~the~~
14 ~~costs of copying~~ charges of producing such records in accordance with subsection (b) of
15 this Code section and for the actual cost of postage incurred in mailing the patient's record.
16 Such charges and costs shall not exceed the lesser of the amounts provided for under this
17 Code section or as allowed under the federal Health Insurance Portability and
18 Accountability Act of 1996. ~~A charge of up to \$20.00 may be collected for search,~~
19 ~~retrieval, and other direct administrative costs related to compliance with the request under~~
20 ~~this chapter. A fee for certifying the medical records may also be charged not to exceed~~
21 ~~\$7.50 for each record certified. The actual cost of postage incurred in mailing the~~
22 ~~requested records may also be charged. In addition, copying costs for a record which is in~~
23 ~~paper form shall not exceed \$.75 per page for the first 20 pages of the patient's records~~
24 ~~which are copied; \$.65 per page for pages 21 through 100; and \$.50 for each page copied~~
25 ~~in excess of 100 pages. All of the fees allowed by this Code section may be adjusted~~
26 ~~annually in accordance with the medical component of the consumer price index. The~~

27 ~~Office of Planning and Budget shall be responsible for calculating this annual adjustment,~~
28 ~~which will become effective on July 1 of each year. To the extent the request for medical~~
29 ~~records includes portions of records which are not in paper form, including but not limited~~
30 ~~to radiology films, models, or fetal monitoring strips, the provider shall be entitled to~~
31 ~~recover the full reasonable cost of such reproduction.~~

32 (b)(1) The provider may charge a party requesting a patient's records as follows:

33 (A) Copying charges for a record stored in paper form, electronically, or on microfilm
34 or similar media and produced in paper form shall not exceed \$30.00 for up to 150
35 pages and 20¢ for each page copied in excess of 150 pages;

36 (B) Copying charges for a record stored electronically and produced in electronic form
37 shall not exceed \$20.00 and the actual cost of the media, if any, on which the record is
38 produced;

39 (C) Copying charges for a record stored in paper form or on microfilm or similar media
40 and produced in electronic form shall not exceed 10¢ per page and the actual cost of the
41 media, if any, on which the record is produced; and

42 (D) Reproducing charges for portions of records which are not in paper or electronic
43 form, including but not limited to radiology films, models, fetal monitoring strips, or
44 any other invasive study, shall not exceed the actual reasonable cost of reproducing
45 such portions of records.

46 (2) In addition to the copying and reproducing charges authorized pursuant to paragraph
47 (1) of this subsection, a provider may charge an additional fee:

48 (A) For certifying medical records not to exceed \$5.00 for each record certified,
49 regardless of the number of pages in such record; and

50 (B) For expedited requests for records to be furnished within three or fewer business
51 days of the request not to exceed \$10.00.

52 (3) A provider shall not charge:

53 (A) Any amount to a patient or his or her agent for a copy of the patient's billing
54 statement or itemized charges;

55 (B) Any fee for the electronic transmission of providing records via facsimile or
56 e-mail;

57 (C) Any fee or per page amount for records requested in order to make or complete an
58 application for a disability benefits program; provided, however, that the actual cost of
59 postage incurred in mailing the requested records may be charged;

60 (D) Any search, retrieval, or other administrative fee or charge beyond the charges
61 authorized pursuant to paragraphs (1) and (2) of this subsection; or

62 (E) Any amount if no records are located.

63 (c) If a provider has the ability to produce records in both paper and electronic form, the
 64 provider shall provide to the requesting party within ten days of receiving the request an
 65 itemized statement of charges of producing such records in paper or electronic form.

66 (d) Payment of costs may be required by the provider prior to the records being furnished.

67 (e) If prepayment is required, the provider shall mail or electronically transmit the records
 68 to the requesting party no later than ten days after the provider receives the prepayment.

69 If prepayment is not required, the provider shall mail or electronically transmit the records
 70 to the requesting party no later than 20 days after the provider receives the request. This

71 subsection shall not apply to requests subject to paragraph (2) of subsection (c) of Code
 72 Section 9-11-34. This subsection shall not apply to records requested in order to make or

73 complete an application for a disability benefits program.

74 (f) No provider shall deny a request from the patient or his or her agent for the patient's
 75 records because of an unpaid balance owed by the patient to the provider.

76 ~~(b)~~(g) The rights granted to a patient or other person under this chapter are in addition to
 77 any other rights such patient or person may have relating to access to a patient's records;
 78 provided, however, that nothing in this chapter shall be construed as granting to a patient
 79 or person any right of ownership in the records, as such records are owned by and are the
 80 property of the provider.

81 (h) The provisions of this Code section shall apply to any agents, contractors,
 82 subcontractors, or vendors of a provider which provide photocopying services to a provider
 83 in the same manner as the provisions of this Code section apply to the provider.

84 (i) A violation of this Code section by a provider or any contractor with whom the provider
 85 has contracted for the provision of health records shall subject such provider or contractor
 86 to liability to the patient or any agent acting on the patient's behalf for any actual loss or
 87 a penalty of \$5,000.00, whichever is greater, and all reasonable attorney's fees for the
 88 prosecution of the action against the provider or contractor to obtain compliance with the
 89 provisions of this Code section."

90 **SECTION 2.**

91 Said chapter is further amended by revising Code Section 31-33-8, relating to electronic
 92 records, as follows:

93 "31-33-8.

94 (a) Notwithstanding any other provision of the law to the contrary, any provider may, in
 95 its sole discretion, create, maintain, transmit, receive, and store records in an electronic
 96 format within the meaning of Code Section 10-12-2 and may, in its sole discretion,
 97 temporarily or permanently convert records into an electronic format.

98 (b) A provider shall not be required to maintain separate tangible copies of electronically
99 stored records.

100 (c) The ~~other~~ provisions of this chapter shall apply to electronic records to the same extent
101 as those provisions apply to tangible records.

102 (d) This Code section is subject to all applicable federal laws governing the security and
103 confidentiality of a patient's personal health information.

104 (e) A tangible copy of a record reproduced from an electronically stored record shall be
105 considered an original for purposes of providing copies to patients or other authorized
106 parties and for introduction of the records into evidence in administrative or court
107 proceedings.

108 (f) Except as provided otherwise under federal law, upon receiving a request for a copy
109 of a record from a patient or an authorized person under Code Section 31-33-3, a provider
110 shall provide copies of the record in ~~either tangible or electronically stored form~~ the form
111 specified by the person requesting the records, if the provider has the ability to produce
112 records in both paper and electronic form.

113 (g) Subsections (a), (b), (d), and (e) of this Code section shall apply to psychiatric,
114 psychological, or other mental health records of a patient."

115 **SECTION 3.**

116 All laws and parts of laws in conflict with this Act are repealed.