

JAN 14 2004
HUMAN RESOURCES

HOUSE FILE 2019
BY SWAIM

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to access to patient medical records, copying
2 costs, and related matters.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF-2019

1 Section 1. NEW SECTION. 135D.1 ACCESS TO HEALTH CARE
2 RECORDS.

3 1. DEFINITIONS. As used in this section, unless the
4 context otherwise requires:

5 a. "Authorization" means a written or printed document
6 signed by a patient or a patient's authorized representative
7 containing:

8 (1) A description of the health care records a health care
9 provider is authorized to produce.

10 (2) The patient's name, address, and date of birth.

11 (3) A designation of the person or entity authorized to
12 obtain copies of the health care records.

13 (4) A date or event upon which the authorization expires.

14 (5) If signed by a patient's authorized representative,
15 the authorized representative's name, address, telephone
16 number, and relationship or legal capacity in regard to the
17 patient.

18 (6) A statement setting forth the right of the person
19 signing the authorization to revoke it in writing.

20 b. "Authorized representative" means the person designated
21 in writing by the patient to obtain the health care records of
22 the patient or the person otherwise authorized by law to
23 obtain the health care records of the patient.

24 c. "Health care provider" means either of the following:

25 (1) A person licensed or certified under chapter 148,
26 148A, 148B, 148C, 148D, 148E, 149, 150, 150A, 151, 152, 152A,
27 152B, 152C, 152D, 152E, 153, 154, 154A, 154B, 154C, or 155A to
28 provide in this state professional health care service to an
29 individual during that individual's medical care, treatment,
30 or confinement.

31 (2) An institutional health facility as defined in section
32 135.61.

33 2. a. A health care provider shall furnish copies of a
34 patient's health care records to a patient, a patient's
35 authorized representative, or any other person authorized by

1 law to obtain or reproduce such records, within thirty days of
2 the receipt of the authorization, or the health care provider
3 shall notify the patient or the patient's authorized
4 representative of the reasons why copies are not available.

5 b. A health care provider may withhold copies of health
6 care records if the health care provider reasonably believes
7 that providing copies of the requested records will cause
8 substantial harm to the patient or another person.

9 c. A health care provider may condition the furnishing of
10 the patient's health care records to the patient, the
11 patient's authorized representative, or any other person or
12 entity authorized by law to obtain or reproduce such records,
13 upon the payment of charges not to exceed a fifteen dollar fee
14 for the cost of supplies and labor; and for copies of health
15 care records routinely duplicated on a standard photocopy
16 machine, fifty cents per page for the first two hundred fifty
17 pages and thirty-five cents per page for additional pages. A
18 health care provider may charge for the reasonable cost of all
19 duplications of health care record information that cannot be
20 routinely duplicated on a standard photocopy machine.

21 3. a. A health care provider, patient, authorized
22 representative, or any other entity authorized by law to
23 obtain or reproduce health care records may bring a judicial
24 claim or action to enforce the provisions of this section.

25 b. An action pursuant to this subsection shall include an
26 allegation that the party bringing the action has in good
27 faith conferred or attempted to confer with the other party
28 concerning the matter in dispute without court action.

29 c. Upon a showing that the failure to comply with this
30 section was without just cause or excuse, the court shall
31 award the costs of the action to the prevailing party and
32 order the records produced without cost or expense to the
33 prevailing party.

34 4. a. The Iowa department of public health shall adopt
35 and enforce rules consistent with this chapter that require

1 licensees of the department to furnish health care records to
2 patients or to their authorized representatives. To the
3 extent that the department determines that an administrative
4 disciplinary remedy is appropriate for violation of such
5 rules, that remedy is separate from and in addition to any
6 remedy provided under this chapter.

7 b. The examining boards provided for in sections 147.12
8 and 147.13 shall adopt and enforce rules consistent with this
9 chapter that require licensed or certified persons under
10 chapters 148, 148A, 148B, 148C, 148D, 148E, 149, 150, 150A,
11 151, 152, 152A, 152B, 152C, 152D, 152E, 153, 154, 154A, 154B,
12 154C, and 155A to furnish health care records to patients or
13 to their authorized representatives. To the extent that an
14 examining board determines that an administrative disciplinary
15 remedy is appropriate for violation of such rules, that remedy
16 is separate from and in addition to any remedy provided under
17 this chapter.

18 c. The EMS advisory council established in section 147A.2
19 may recommend to the Iowa department of public health rules
20 consistent with this chapter that require licensed or
21 certified persons under chapter 147A to furnish health care
22 records to patients or to their authorized representatives.

23 5. a. This chapter shall take precedence with regard to
24 the calculation of fees for copies of medical records over all
25 other contrary or conflicting provisions of law.

26 b. This chapter shall not take precedence with regard to
27 provisions of law that are more protective of a patient's
28 medical records and a patient's right to privacy and
29 confidentiality, including but not limited to chapters 141A
30 and 228.

31 Sec. 2. Section 622.10, subsection 3, paragraph d, Code
32 2003, is amended to read as follows:

33 d. Any physician or surgeon, physician assistant, advanced
34 registered nurse practitioner, or mental health professional
35 who provides records or consults with the counsel for the

1 adverse party shall be entitled to charge a reasonable fee for
2 production of the records, diagnostic imaging, and
3 consultation. Any party seeking consultation shall be
4 responsible for payment of all charges. The fee for copies of
5 any records shall be ~~based-upon-actual-cost-of-production~~
6 calculated according to section 135D.1.

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EXPLANATION

8 This bill creates new Code chapter 135D regulating access
9 to medical records and costs for copies of the medical
10 records.

11 The bill provides that copies of a patient's health care
12 records shall be furnished within 30 days of receipt of
13 authorization to a patient or other person authorized to
14 obtain or reproduce the records, or the health care provider
15 shall explain why copies are not available. A health care
16 provider may withhold records if the provider reasonably
17 believes the records will cause substantial harm to the
18 patient or another person.

19 Copy costs are set by statute. Supplies and labor are not
20 to exceed \$15. Photocopies are 50 cents per page for the
21 first 250 pages and 35 cents per additional page. Other types
22 of records that cannot be photocopied may be duplicated at a
23 reasonable fee.

24 The bill provides definitions for the terms
25 "authorization", "authorized representative", and "health care
26 provider". The bill also allows the Iowa department of public
27 health and the various health licensing boards to set separate
28 administrative penalties for violations of the new chapter.

29 The bill provides that Code section 135D.1 takes precedence
30 over all provisions of law with regard to copying costs for
31 medical records, but not with regard to confidentiality,
32 privacy, or other patient protection issues, including but not
33 limited to those provisions in Code chapters 141A and 228,
34 relating to medical information about HIV and mental health,
35 respectively.

1 A corresponding amendment is made to Code section 622.10
2 relating to copy costs during discovery in medical cases. The
3 language is changed to provide that copy costs will be
4 calculated according to new Code section 135D.1.

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