

FEES FOR MEDICAL RECORDS

House Bill 5660

Sponsor: Rep. Andrew Richner

First Committee: Health Policy

Second Committee: Family and Civil Law

Complete to 5-22-00

A SUMMARY OF HOUSE BILL 5660 AS INTRODUCED 4-18-00

The bill would amend the Public Health Code to require health professionals and health facilities to provide patients copies of their medical records upon request and within a 30-day period, and allow them to charge fees for the records. (Currently, a provision in the code spelling out the rights and responsibilities of patients and residents of health facilities and agencies allows a patient to “inspect, or receive for a reasonable fee, a copy of his or her medical record upon request”, but does not specify a time frame. Another provision of the code, governing hospital applications for a certificate of need for a short-term nursing care program with up to 10 licensed hospital beds, allows a patient in a short-term nursing care program to inspect and copy his or her medical records, and requires a hospital to make the records available within seven days. The bill would amend both of these provisions to say that records would be available according to the bill’s provisions, as summarized below.)

Provision of medical records. Upon receipt of a written request from a patient, the patient’s agent (the parent or guardian of a minor, a legal guardian, or a legal representative), or other legally authorized individual to examine or copy all or part of a patient’s medical record, a licensee or registrant and a health facility or agency under the Public Health Code (or a person authorized by the licensee, registrant, facility or agency to retrieve or copy medical records) would have to meet certain requirements. (Licensees and registrants include: chiropractors, dentists, marriage and family therapists, physicians and osteopaths, nurses, optometrists, pharmacists, physical therapists, podiatrists, counselors, psychologists, occupational therapists, sanitarians, and veterinarians. Health facilities and agencies include: ambulance operations or medical first response services, clinical laboratories, county medical care facilities, freestanding surgical outpatient facilities, health maintenance organizations, homes for the aged, hospitals, nursing homes, hospices and hospice residences, and college or university health facilities.)

Upon receipt of a request, a licensee, registrant or facility would have to do one or more of the following within 30 days:

- make the medical record available for examination during regular business hours and provide a copy, if requested;
- if the record does not exist or cannot be found, inform the patient;
- inform the patient if the licensee, registrant, or facility does not maintain the record, and provide the name and address of the licensee, registrant, or facility that does maintain the record; or,

- with regard to licensees or registrants, if the licensee or registrant were unavailable during the 30-day period, immediately upon becoming available notify the patient and complete the request within 30 days.

Fees. The bill would allow licensees, registrants, and facilities to charge fees for medical records, and would allow them to refuse to retrieve or copy a record until the applicable fee was paid. With regard to health facilities, the bill would specify that a facility could charge a fee only for that part of the medical record actually retrieved or copied. Fees would be as follows:

- a retrieval fee of up to \$15;
- a copying fee of up to \$1.00 per page for a request of up to 20 pages, up to 75 cents per page for 21 to 59 pages, and up to 25 cents per page for 60 pages or more;
- the actual cost of copying microfilm, x-rays, electroencephalogram tracings, or other radiographic or photographic records; and,
- the actual cost of shipping and delivering the records.

If medical records were copied at the request of a prosecuting attorney, the licensee or registrant could charge only the \$15 retrieval fee and the actual cost of delivery. If records were copied at the request of a state executive agency, no fee could be charged unless a fee is permitted under state executive agency rule or guidelines.

Further, if medical records were copied for the purpose of supporting a claim for Medicare, Medicaid, or other need-based assistance programs, and that purpose was clearly shown by the person making the request, the licensee or registrant could charge only a retrieval fee of up to \$25 plus the actual cost of delivery.

Beginning one year after the bill's effective date, the Department of Consumer and Industry Services could adjust the allowable fees based on changes in the Detroit consumer price index. Further, the department would be required to develop a model request form for purposes of requesting medical records, and make it available to licensees and registrants.

Violations. A violation of these requirements by a licensee or registrant would result in a reprimand or fine by the appropriate occupational disciplinary board (and would also apply if the violation was committed by a person authorized by the licensee or registrant to copy or retrieve records). The bill specifies that if, after notice and the opportunity for a hearing, the department determined that a health facility or agency (or a person authorized by a health facility or agency)

violated the bill's requirements, the department would be required to impose an administrative fine on the facility or agency. Further, the bill specifies that, in addition, a health facility or agency that violated the bill would be subject to a reprimand and to an administrative fine of up to \$1,000 for each violation.

MCL 333.16221 et al.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.