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State of Minnesota

# HOUSE OF REPRESENTATIVES

**EIGHTY-SIXTH SESSION**

## HOUSE FILE NO. 969

February 19, 2009
Authored by Atkins and Thissen
The bill was read for the first time and referred to the Committee on Health Care and Human Services Policy and Oversight

A bill for an act

relating to health; modifying provisions governing patient access to health records and costs; amending Minnesota Statutes 2008, sections 144.292, subdivisions 5, 6; 144.293, subdivisions 4, 6.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2008, section 144.292, subdivision 5, is amended to read:

Subd. 5. **Copies of health records to patients.** Except as provided in section 144.296, upon ~~a patient's~~ written request from a patient or a person who is authorized by the patient to obtain access for a lawful purpose, a provider~~, at a reasonable cost to the patient,~~ shall promptly furnish to the patient or authorized person:

(1) copies of the patient's health record in the possession of the provider, regardless of whether the record was generated by the provider or received by the provider from another source, including but not limited to laboratory reports, x-rays, prescriptions, and other technical information used in assessing the patient's health conditions; or

(2) the pertinent portion of the record relating to a condition specified by the patient or authorized person.

With the consent of the patient or authorized person, the provider may instead furnish only a summary of the record. The provider may exclude from the health record written speculations about the patient's health condition, except that all information necessary for the patient's informed consent must be provided.

Sec. 2. Minnesota Statutes 2008, section 144.292, subdivision 6, is amended to read:

Subd. 6. **Cost.** (a) When a patient requests a copy of the patient's record for purposes of reviewing current medical care, the provider must not charge a fee.

(b) When a provider or its representative makes paper copies of patient records upon a patient's request under this section or the request of a person who is authorized by the patient to obtain access for a lawful purpose, the provider or its representative may charge ~~the patient or the patient's representative~~ no more than ~~75~~ five cents per page, ~~plus $10~~ or the actual cost of making the copies, whichever is less. The following fees are the maximum that may be charged for time spent retrieving and copying ~~the~~ paper records, unless other law or a rule or contract provide for a lower maximum charge~~.~~:

(1) $10 for up to ten pages of records;

(2) $20 for 11 to 100 pages; or

(3) $30 for more than 100 pages.

~~This limitation does not apply to x-rays.~~ (c) If a provider maintains health records electronically, the provider must make the records available by electronic means if requested by the patient or authorized person. A fee of up to $10 may be charged for transmitting electronic copies of health records and no other fee or charge may be imposed.

~~The~~ (d) A provider may charge a patient no more than the actual cost of reproducing x-rays, CAT scans, magnetic resonance images, or similar types of diagnostic images, plus no more than $10 for the time spent retrieving and copying the x-rays or images.

~~(c) The respective maximum charges of 75 cents per page and $10 for time provided in this subdivision are in effect for calendar year 1992 and may be adjusted annually each calendar year as provided in this subdivision. The permissible maximum charges shall change each year by an amount that reflects the change, as compared to the previous year, in the Consumer Price Index for all Urban Consumers, Minneapolis-St. Paul (CPI-U), published by the Department of Labor.~~

(e) Only one retrieval fee may be charged for each request under paragraph (b), (c), or (d) for copies or electronic transmittal of records maintained by a provider. A provider must not charge multiple retrieval fees by requiring separate requests for records maintained by different departments within the same health care entity.

~~(d)~~ (f) A provider or its representative must not charge a fee to provide copies of records requested by a patient or the patient's authorized representative if the request for copies of records is for purposes of appealing a denial of Social Security disability income or Social Security disability benefits under title II or title XVI of the Social Security Act. For the purpose of further appeals, a patient may receive no more than two medical record updates without charge, but only for medical record information previously not provided. For purposes of this paragraph, a patient's authorized representative does not include units of state government engaged in the adjudication of Social Security disability claims.

Sec. 3. Minnesota Statutes 2008, section 144.293, subdivision 4, is amended to read:

Subd. 4. **Duration of consent; scope.** Except as provided in this section, a consent is valid for one year or for a lesser period specified in the consent or for a different period provided by law. During the period of time a consent is valid, it applies to all health records generated up to the time the request is made, regardless of when the consent was executed, subject to any limitation specified in the consent.

Sec. 4. Minnesota Statutes 2008, section 144.293, subdivision 6, is amended to read:

Subd. 6. **Consent does not expire.** Notwithstanding subdivision 4, if a patient explicitly gives informed consent to the release of health records for the purposes and restrictions in clauses (1) ~~and (2)~~ to (3), the consent does not expire after one year for:

(1) the release of health records to a provider who is being advised or consulted with in connection with the releasing provider's current treatment of the patient;

(2) the release of health records to an accident and health insurer, health service plan corporation, health maintenance organization, or third-party administrator for purposes of payment of claims, fraud investigation, or quality of care review and studies, provided that:

(i) the use or release of the records complies with sections 72A.49 to 72A.505;

(ii) further use or release of the records in individually identifiable form to a person other than the patient without the patient's consent is prohibited; and

(iii) the recipient establishes adequate safeguards to protect the records from unauthorized disclosure, including a procedure for removal or destruction of information that identifies the patient~~.~~; or

(3) the release of health records to the patient's attorney or other legal representative, subject to any period of time or duration specified in the consent.