Regular Session, 2010

HOUSE BILL NO. 987

BY REPRESENTATIVE GARY SMITH

HEALTH CARE/RECORDS: Prohibits laboratory or medical facilities from withholding test results to individuals

AN ACT

To amend and reenact R.S. 40:1299.41(A)(10) and 1299.96(A)(2)(b) and to enact R.S. 40:1299.96(A)(4), relative to health care information; to provide for definitions; to provide for the report of certain test results directly to the patient; to require reporting to the health care professional who requested the test under certain circumstances; to require verification of patient identification prior to the delivery of test results; to prohibit the liability of clinical laboratories or medical facilities that comply with statutory reporting requirements; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 40:1299.41(A)(10) and 1299.96(A)(2)(b) are hereby amended and reenacted and R.S. 40:1299.96(A)(4) is hereby enacted to read as follows:

§1299.41. Definitions and general applications

A. As used in this Part:

* * *

(10) "Health care provider" means a person, partnership, limited liability partnership, limited liability company, corporation, facility, or institution licensed or certified by this state to provide health care or professional services as a physician, hospital, <u>clinical laboratory, medical facility,</u> nursing home, community blood center, tissue bank, dentist, registered or licensed practical nurse or certified nurse assistant, offshore health service provider, ambulance service under circumstances

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in which the provisions of R.S. 40:1299.39 are not applicable, certified registered nurse anesthetist, nurse midwife, licensed midwife, nurse practitioner, clinical nurse specialist, pharmacist, optometrist, podiatrist, chiropractor, physical therapist, occupational therapist, psychologist, social worker, licensed professional counselor, licensed perfusionist, or any nonprofit facility considered tax-exempt under Section 501(c)(3), Internal Revenue Code, pursuant to 26 U.S.C. 501(c)(3), for the diagnosis and treatment of cancer or cancer-related diseases, whether or not such a facility is required to be licensed by this state, or any professional corporation a health care provider is authorized to form under the provisions of Title 12 of the Louisiana Revised Statutes of 1950, or any partnership, limited liability partnership, limited liability company, management company, or corporation whose business is conducted principally by health care providers, or an officer, employee, partner, member, shareholder, or agent thereof acting in the course and scope of his employment.

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§1299.96. Health care information; records

A.

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(2)

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(b) Except as provided in R.S. 44:17, a patient or his legal representative, or in the case of a deceased patient, the executor of his will, the administrator of his estate, the surviving spouse, the parents, or the children of the deceased patient, or after a claim has been made, the insurance company or its counsel, or, after suit has been instituted, defense counsel or a defendant seeking any medical, hospital, <u>laboratory,</u> or other record<u>, including test results,</u> relating to the patient's medical treatment, history, or condition, either personally or through an attorney, shall have a right to obtain a copy of such record upon furnishing a signed authorization and upon payment of a reasonable copying charge, not to exceed one dollar per page for

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the first twenty-five pages, fifty cents per page for twenty-six to five hundred pages, and twenty-five cents per page thereafter, a handling charge not to exceed fifteen dollars for hospitals, nursing homes, and other health care providers, and actual postage. If requested, the health care provider shall provide the requestor, at no extra charge, a certification page setting forth the completeness of records on file. The individuals named herein shall also have the right to obtain copies of patient X-rays, microfilm, and electronic and imaging media, upon payment of reasonable reproduction costs and a handling charge of twenty dollars for hospitals and ten dollars for other health care providers. In the event a hospital record is not complete, the copy of the records furnished hereunder may indicate, through a stamp, coversheet, or otherwise, that the record is incomplete.

* * *

(4)(a) Any person conducting or operating a clinical laboratory or medical facility shall report results to the patient who is the subject of the test upon the request of that patient. No approval of a physician or surgeon shall be required for a patient's test results to be reported to that patient.

(b) Whenever a clinical laboratory or medical facility provides the test results to a patient directly pursuant to this Paragraph, that facility or laboratory shall also report those results to the health care professional who ordered that laboratory test.

(c) Notwithstanding any other statutory provision to the contrary, the clinical laboratory or medical facility shall only deliver the requested test results directly to the patient who is the subject of the test after verifying the identification of the patient, and may deliver those results by mail to the patient, or any other person or representative of the patient, if the facility has written certification by the patient verifying his identity and express authorization to deliver such results by mail.

(d) Release of results of clinical laboratory or medical facility tests directly to a patient pursuant to this Paragraph by that laboratory or facility shall not result

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in any liability of that laboratory or facility, so long as the test results are delivered in accordance with this Paragraph.

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Gary Smith HB No. 987

Abstract: Authorizes a clinical laboratory or medical facility to release test results directly to the patient without prior physician approval.

Present law defines "health care provider" by providing a list of enumerated people or entities which qualify under the definition to be characterized as health care providers, including those certified by this state to provide health care or professional services.

Proposed law retains present law and adds "clinical laboratory" or "medical facility" to the definition of health care provider.

Present law provides that medical, hospital, and other records relating to a patient's medical treatment or condition may be obtained by a patient, his legal representative, or other enumerated people for a fee.

Proposed law retains present law and adds laboratory and test results to the list of enumerated records that a patient or his legal representative or other statutorily authorized people have a right to obtain a copy of with a signed authorization and payment of a copy fee.

Proposed law requires clinical laboratories or medical facilities to report results directly to the patient upon request of that patient. Also, authorizes the release of the test results directly to the patient without prior approval of a physician or surgeon.

Proposed law also requires clinical laboratories or medical facilities to report test results to the health care professional who ordered the test whenever the results are reported directly to the patient.

Proposed law requires the delivery of requested test results directly to the patient who is the subject of the test after verification of the identity of the patient. Also, allows the test results to be delivered by mail to the patient, or any other person or representative of the patient, if the facility has written certification by the patient verifying his identity and express authorization to deliver such results by mail.

Proposed law shields clinical laboratories or medical facilities from liability if the test results were delivered in a manner that complies with proposed law.

(Amends R.S. 40:1299.41(A)(10) and 1299.96(A)(2)(b); Adds R.S. 40:1299.96(A)(4))

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