

2016 Regular Session

HOUSE BILL NO. 537

BY REPRESENTATIVE GAROFALO

CIVIL/DISCOVERY: Provides relative to applicable fees and costs incurred for the production of records

1 AN ACT

2 To amend and reenact R.S. 40:1165.1(A)(2)(b)(i) and (ii), relative to medical records; to
3 provide relative to the maximum charges for providing certain medical records; to
4 provide for the form in which to store and provide medical records; and to provide
5 for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 40:1165.1(A)(2)(b)(i) and (ii) are hereby amended and reenacted to
8 read as follows:

9 §1165.1. Health care information; records

10 A.

11 * * *

12 (2)

13 * * *

14 (b)(i) Except as provided in R.S. 44:17, a patient or his legal representative,
15 or in the case of a deceased patient, the executor of his will, the administrator of his
16 estate, the surviving spouse, the parents, or the children of the deceased patient, or
17 after a claim has been made, the insurance company or its counsel, or, after suit has
18 been instituted, defense counsel or a defendant seeking any treatment record,
19 including but not limited to any medical, hospital, laboratory, invoice or billing

1 statement, or other record, including test results, relating to or generated as a result
2 of or in connection to the patient's medical treatment, history, or condition, either
3 personally or through an attorney, shall have a right to obtain a copy of the entirety
4 of the records in the form ~~by which they are generated~~ in which they are stored,
5 except microfilm, upon furnishing a signed authorization. If the original treatment
6 records are ~~generated, maintained, or stored~~ in paper form, paper or digital copies
7 shall be provided upon payment of a reasonable copying charge, not to exceed one
8 dollar per page for the first twenty-five pages, fifty cents per page for twenty-six to
9 three hundred fifty pages, and twenty-five cents per page thereafter, a handling
10 charge not to exceed twenty-five dollars for hospitals, nursing homes, and other
11 health care providers, and actual postage. The charges set forth in this Section shall
12 be applied to all persons and legal entities duly authorized by the patient to obtain
13 a copy of their medical records. If treatment records are ~~generated, maintained, or~~
14 stored in digital format in the health care providers' electronic health record, copies
15 ~~may be~~ shall be provided in digital format if requested to be provided in digital
16 format and charged at the rate provided by this Item; however, the charges for
17 providing digital copies stored in digital format shall not exceed one hundred dollars,
18 ~~including plus~~ plus all postage ~~and handling~~ charges actually incurred. If the treatment
19 records are stored in both digital form and paper form, the maximum limit of one
20 hundred dollars shall apply only to the portion of records stored in digital form. If
21 requested, the health care provider shall provide the requestor, at no extra charge, a
22 certification page setting forth the extent of the completeness of records on file. In
23 the event a hospital record is not complete, the copy of the records furnished shall
24 indicate, through a stamp, coversheet, or otherwise, the extent of completeness of the
25 records. Each request for records submitted by the patient or other person authorized
26 to request records pursuant to the provisions of this Subparagraph shall be subject
27 to only one handling charge, and the health care provider shall not divide the
28 separate requests for different types of records, including but not limited to billing
29 or invoice statements. The health care provider or person or legal entity providing

1 records on behalf of the health care provider shall not charge any other fee which is
2 not specifically authorized by the provisions of this Subparagraph, except for notary
3 fees and fees for expedited requests as contracted by the parties.

4 (ii) The individuals authorized to obtain medical records pursuant to Item (i)
5 of this Subparagraph shall also have the right to obtain copies of patient X-rays, and
6 other imaging media, upon payment of reasonable reproduction costs and a handling
7 charge of twenty dollars for hospitals and ten dollars for other health care providers.
8 If the patient X-rays and other imaging media are ~~generated, maintained, or stored~~
9 in digital format, copies may be requested to be provided in digital format and
10 charged at the rate provided by this Item; however, the charges for providing digital
11 imaging media copies shall not exceed two hundred dollars, ~~including plus~~ all
12 postage ~~and handling~~ charges actually incurred. If requested, the health care
13 provider shall provide the requestor, at no extra charge, a certification page setting
14 forth the completeness of the X-rays and other imaging media on file. In the event
15 hospital patient X-rays and other imaging media are not complete, the copies
16 furnished shall indicate, through a stamp, coversheet, or otherwise, the extent of the
17 completeness of the records. Each request for copies of patient X-rays and other
18 imaging media submitted by the patient or other person authorized to request records
19 pursuant to Item (i) of this Subparagraph shall not be considered a separate request
20 and are subject to only one handling charge, and the health care provider shall not
21 divide the requests for different types of X-rays and other imaging media. The
22 health care provider shall not charge any other fee which is not specifically
23 authorized by the provisions of this Subparagraph, except for notary fees and fees for
24 expedited requests as contracted by the parties.

25 * * *

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

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)]

HB 537 Reengrossed

2016 Regular Session

Garofalo

Abstract: Provides for the maximum charges for obtaining copies of medical records.

Present law provides that each health care provider shall furnish each patient, upon request of the patient, a copy of any information related to the patient which the health care provider has transmitted to any company, or public or private agency, or person.

Present law provides that medical records of a patient maintained in a health care provider's office are the property and business records of the health care provider.

Present law provides that a patient, his legal representative, and certain other persons have a right to obtain a copy of the entirety of the medical records in the form by which they are generated. If the original treatment records are generated, maintained, or stored in paper form, copies shall be provided upon payment of a reasonable copying charge as further specified in present law.

Proposed law provides that a patient, his legal representative, and certain other persons shall have a right to obtain a copy of the entirety of the medical records in the form by which they are stored.

Present law provides that if records are generated, maintained, or stored in paper form, copies shall be provided upon payment of a copying charge as provided by present law.

Proposed law provides that if records are stored in paper form, paper or digital copies shall be provided upon payment of a copying charge as provided by present law.

Present law provides that if records are generated, maintained, or stored in digital format, copies may be requested in digital format and charged as provided by present law.

Proposed law provides that if records are stored in digital format in the health care provider's electronic health record, copies shall be provided in digital format if they are requested in digital format and charged as provided by present law, but also specifies that the maximum \$100 charge only applies to copies stored in digital format.

Present law provides that the maximum authorized charges of \$100 for records and \$200 for X-rays and other imaging includes all postage and handling.

Proposed law excludes postage charges from the \$100 and \$200 maximum charges.

Proposed law provides that if the treatment records are stored in both digital form and paper form, the maximum limit of \$100 shall only apply to the portion of records stored in digital form.

(Amends R.S. 40:1165.1(A)(2)(b)(i) and (ii))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Civil Law and Procedure to the original bill:

1. Deletes provisions authorizing the payment for handling charges.
2. Deletes adjustments of fees and maximum charges based on the consumer price index.

The House Floor Amendments to the engrossed bill:

1. Adds provision specifying that copies of records stored in digital format shall be provided in digital format if they are requested to be provided in digital format.