

SENATE BILL NO. 1115

November 14, 2024, Introduced by Senators IRWIN and SHINK and referred to the Committee on Housing and Human Services.

A bill to amend 2004 PA 47, entitled
"Medical records access act,"
by amending sections 3 and 9 (MCL 333.26263 and 333.26269), section
3 as amended by 2008 PA 124.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 3. As used in this act:
- 2 (a) "Authorized representative" means any of the following:
- 3 (i) A person empowered by the patient by explicit written
- 4 authorization to act on the patient's behalf to access, disclose,
- 5 or consent to the disclosure of the patient's medical record, in

1 accordance with this act.

2 (ii) If the patient is deceased, any of the following:

3 (A) ~~His or her~~ **The patient's** personal representative.

4 (B) ~~His or her~~ **The patient's** heirs at law including, but not
5 limited to, ~~his or her~~ **the patient's** spouse.

6 (C) The beneficiary of the patient's life insurance policy, to
7 the extent provided by section 2157 of the revised judicature act
8 of 1961, 1961 PA 236, MCL 600.2157.

9 (iii) For the purpose of obtaining a copy of an autopsy report
10 regarding a deceased patient, any of the following:

11 (A) The deceased patient's heirs at law including, but not
12 limited to, the deceased patient's spouse.

13 (B) The deceased patient's personal representative.

14 (C) The beneficiary of the deceased patient's life insurance
15 policy, to the extent provided by section 2157 of the revised
16 judicature act of 1961, 1961 PA 236, MCL 600.2157.

17 (b) "~~Detroit consumer price index~~" **Consumer Price Index**" means
18 the most comprehensive index of consumer prices available for the
19 Detroit area from the ~~bureau of labor statistics~~ **Bureau of Labor**
20 **Statistics** of the United States ~~department of labor~~ **Department of**
21 **Labor**.

22 (c) "Guardian" means an individual who is appointed under
23 section 5306 of the estates and protected individuals code, 1998 PA
24 386, MCL 700.5306, to the extent that the scope of the guardianship
25 includes the authority to act on the individual's behalf with
26 regard to ~~his or her~~ **the individual's** health care. Guardian
27 includes an individual who is appointed as the guardian of a minor
28 under section 5202 or 5204 of the estates and protected individuals
29 code, 1998 PA 386, MCL 700.5202 and 700.5204, or under the mental

1 health code, 1974 PA 258, MCL 330.1001 to 330.2106, to the extent
2 that the scope of the guardianship includes the authority to act on
3 the individual's behalf with regard to ~~his or her~~ **the individual's**
4 health care.

5 (d) "Health care" means any care, service, or procedure
6 provided by a health care provider or health facility to diagnose,
7 treat, or maintain a patient's physical condition, or that affects
8 the structure or a function of the human body.

9 (e) "Health care provider" means a person who is licensed or
10 registered or otherwise authorized under article 15 of the public
11 health code, 1978 PA 368, MCL 333.16101 to 333.18838, to provide
12 health care in the ordinary course of business or practice of a
13 health profession. Health care provider does not include a person
14 who provides health care solely through the sale or dispensing of
15 drugs or medical devices or a psychiatrist, psychologist, social
16 worker, or professional counselor who provides only mental health
17 services.

18 (f) "Health facility" means a health facility or agency
19 licensed under article 17 of the public health code, 1978 PA 368,
20 MCL 333.20101 to 333.22260, or any other organized entity where a
21 health care provider provides health care to patients.

22 (g) "Maintain", as related to medical records, means to hold,
23 possess, preserve, retain, store, or control medical records.

24 (h) "Medicaid" means that term as defined in section 2701 of
25 the public health code, 1978 PA 368, MCL 333.2701.

26 (i) "Medical record" means information oral or recorded in any
27 form or medium that pertains to a patient's health care, medical
28 history, diagnosis, prognosis, or medical condition and that is
29 maintained by a health care provider or health facility in the

1 process of caring for the patient's health.

2 (j) "Medical records company" means a person who stores,
3 locates, or copies medical records for a health care provider or
4 health facility under a contract or agreement with that health care
5 provider or health facility and charges a fee for providing medical
6 records to a patient or ~~his or her~~ **the patient's** authorized
7 representative for that health care provider or health facility.

8 (k) "Medically indigent individual" means that term as defined
9 in section 106 of the social welfare act, 1939 PA 280, MCL 400.106.

10 (l) "Medicare" means that term as defined in section 2701 of
11 the public health code, 1978 PA 368, MCL 333.2701.

12 (m) "Minor" means an individual who is less than 18 years of
13 age, but does not include an individual who is emancipated under
14 section 4 of 1968 PA 293, MCL 722.4.

15 (n) "Patient" means an individual who receives or has received
16 health care from a health care provider or health facility. Patient
17 includes a guardian, if appointed, and a parent, guardian, or
18 person acting in loco parentis, if the individual is a minor,
19 unless the minor lawfully obtained health care without the consent
20 or notification of a parent, guardian, or other person acting in
21 loco parentis, in which case the minor has the exclusive right to
22 exercise the rights of a patient under this act with respect to
23 those medical records relating to that care.

24 (o) "Person" means an individual, corporation, estate, trust,
25 partnership, association, joint venture, government, governmental
26 subdivision or agency, or other legal or commercial entity.

27 (p) "Personal representative" means that term as defined in
28 section 1106 of the estates and protected individuals code, 1998 PA
29 386, MCL 700.1106.

1 (q) "Qualified individual" means any of the following:

2 (i) An individual who meets both of the following requirements:

3 (A) The individual has submitted an application to receive
4 payments under supplemental security income as that term is defined
5 in section 57 of the social welfare act, 1939 PA 280, MCL 400.57,
6 or the Social Security disability income program.

7 (B) The individual has not received a determination of
8 eligibility for the payments described in sub-subparagraph (A) or
9 has submitted a request for reconsideration of the determination or
10 is otherwise appealing the determination in a manner provided by
11 law.

12 (ii) An individual who meets both of the following
13 requirements:

14 (A) The individual is a veteran as that term is defined in
15 section 1 of 1965 PA 190, MCL 35.61, who submitted an application
16 to the United States Department of Veterans Affairs for disability
17 compensation for a service-connected condition.

18 (B) The individual has not received a determination of
19 eligibility for the compensation described in sub-subparagraph (A)
20 or has submitted a request for reconsideration of the determination
21 or is otherwise appealing the determination in a manner provided by
22 law.

23 (r) ~~(q)~~ "Third party payer" means a public or private health
24 care payment or benefits program including, but not limited to, all
25 of the following:

26 (i) A health insurer.

27 (ii) A nonprofit health care corporation.

28 (iii) A health maintenance organization.

29 (iv) A preferred provider organization.

(v) A nonprofit dental care corporation.

(vi) Medicaid or ~~medicare~~. **Medicare.**

Sec. 9. (1) Except as otherwise provided in this section, if a patient or ~~his or her~~ **the patient's** authorized representative makes a request for a copy of all or part of ~~his or her~~ **the patient's** medical record under section 5, the health care provider, health facility, or medical records company to which the request is directed may charge the patient or ~~his or her~~ **the patient's** authorized representative a fee that is not more than the following amounts:

(a) An initial fee of \$20.00 per request for a copy of the record.

(b) Paper copies as follows:

(i) One dollar per page for the first 20 pages.

(ii) Fifty cents per page for pages 21 through 50.

(iii) Twenty cents for pages 51 and over.

(c) If the medical record is in some form or medium other than paper, the actual cost of preparing a duplicate.

(d) Any postage or shipping costs incurred by the health care provider, health facility, or medical records company in providing the copies.

(e) Any actual costs incurred by the health care provider, health facility, or medical records company in retrieving medical records that are 7 years old or older and not maintained or accessible on-site.

(2) A health care provider, health facility, or medical records company may refuse to retrieve or copy all or part of a medical record for a patient or ~~his or her~~ **the patient's** authorized representative until the applicable fee is paid.

(3) A health care provider, health facility, or medical records company shall not charge a fee for retrieving, copying, or mailing all or part of a medical record other than a fee allowed under subsection (1). Except as otherwise provided in subsection (4), a health care provider, health facility, or medical records company shall waive all fees for a medically indigent individual **or a qualified individual**. The health care provider, health facility, or medical records company may require the patient or ~~his or her~~ **the patient's** authorized representative to provide proof that the patient is a ~~recipient of assistance as described in this subsection~~ **medically indigent individual or a qualified individual**.

(4) A medically indigent individual ~~that or qualified individual who~~ receives copies of medical records at no charge under subsection (3) is limited to 1 set of copies per health care provider, health facility, or medical records company. Any additional requests for the same records from the same health care provider, health facility, or medical records company ~~shall be~~ **is** subject to the fee provisions under subsection (1).

(5) Notwithstanding subsection (1), a health care provider, health facility, or medical records company shall not charge a patient an initial fee for ~~his or her~~ **the patient's** medical record.

(6) Beginning ~~2 years after the effective date of this act,~~ **April 1, 2006**, the department of ~~community health and human services~~ shall adjust on an annual basis the fees prescribed by subsection (1) by an amount determined by the state treasurer to reflect the cumulative annual percentage change in the Detroit ~~consumer price index~~ **Consumer Price Index**.