

FIRST REGULAR SESSION

SENATE BILL NO. 806

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR BERNSKOETTER.

3179S.011

KRISTINA MARTIN, Secretary

AN ACT

To repeal section 191.227, RSMo, and to enact in lieu thereof one new section relating to medical records.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 191.227, RSMo, is repealed and one new
2 section enacted in lieu thereof, to be known as section 191.227,
3 to read as follows:

191.227. 1. All physicians, chiropractors, hospitals,
2 dentists, and other duly licensed practitioners in this
3 state, herein called "providers", shall, upon written
4 request of a patient, or guardian or legally authorized
5 representative of a patient, furnish a copy of his or her
6 record of that patient's health history and treatment
7 rendered to the person submitting a written request, except
8 that such right shall be limited to access consistent with
9 the patient's condition and sound therapeutic treatment as
10 determined by the provider. Beginning August 28, [1994]
11 **2025**, such record shall be furnished within [a reasonable
12 time] **twenty-four hours** of the receipt of the request
13 therefor and upon payment of a fee as provided in this
14 section.

15 2. Health care providers may condition the furnishing
16 of the patient's health care records to the patient, the
17 patient's authorized representative or any other person or

EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

entity authorized by law to obtain or reproduce such records upon payment of a fee for:

(1) (a) Search and retrieval, in an amount not more than twenty-four dollars and eighty-five cents plus copying in the amount of fifty-seven cents per page for the cost of supplies and labor plus, if the health care provider has contracted for off-site records storage and management, any additional labor costs of outside storage retrieval, not to exceed twenty-three dollars and twenty-six cents, as adjusted annually pursuant to subsection 6 of this section; or

(b) The records shall be furnished electronically upon payment of the search, retrieval, and copying fees set under this section at the time of the request or one hundred eight dollars and eighty-eight cents total, whichever is less, if such person:

a. Requests health records to be delivered electronically in a format of the health care provider's choice;

b. The health care provider stores such records completely in an electronic health record; and

c. The health care provider is capable of providing the requested records and affidavit, if requested, in an electronic format;

(2) Postage, to include packaging and delivery cost;

(3) Notary fee, not to exceed two dollars, if requested.

Such fee shall be the fee in effect on February 1, 2018, increased or decreased annually under this section.

3. For purposes of subsections 1 and 2 of this section, "a copy of his or her record of that patient's

49 health history and treatment rendered" or "the patient's
50 health care records" includes a statement or record that no
51 such health history or treatment record responsive to the
52 request exists.

53 4. Notwithstanding provisions of this section to the
54 contrary, providers may charge for the reasonable cost of
55 all duplications of health care record material or
56 information which cannot routinely be copied or duplicated
57 on a standard commercial photocopy machine.

58 5. The transfer of the patient's record done in good
59 faith shall not render the provider liable to the patient or
60 any other person for any consequences which resulted or may
61 result from disclosure of the patient's record as required
62 by this section.

63 6. Effective February first of each year, the fees
64 listed in subsection 2 of this section shall be increased or
65 decreased annually based on the annual percentage change in
66 the unadjusted, U.S. city average, annual average inflation
67 rate of the medical care component of the Consumer Price
68 Index for All Urban Consumers (CPI-U). The current
69 reference base of the index, as published by the Bureau of
70 Labor Statistics of the United States Department of Labor,
71 shall be used as the reference base. For purposes of this
72 subsection, the annual average inflation rate shall be based
73 on a twelve-month calendar year beginning in January and
74 ending in December of each preceding calendar year. The
75 department of health and senior services shall report the
76 annual adjustment and the adjusted fees authorized in this
77 section on the department's internet website by February
78 first of each year.

79 7. A health care provider may disclose a deceased
80 patient's health care records or payment records to the

81 executor or administrator of the deceased person's estate,
82 or pursuant to a valid, unrevoked power of attorney for
83 health care that specifically directs that the deceased
84 person's health care records be released to the agent after
85 death. If an executor, administrator, or agent has not been
86 appointed, the deceased prior to death did not specifically
87 object to disclosure of his or her records in writing, and
88 such disclosure is not inconsistent with any prior expressed
89 preference of the deceased that is known to the health care
90 provider, a deceased patient's health care records may be
91 released upon written request of a person who is deemed as
92 the personal representative of the deceased person under
93 this subsection. Priority shall be given to the deceased
94 patient's spouse and the records shall be released on the
95 affidavit of the surviving spouse that he or she is the
96 surviving spouse. If there is no surviving spouse, the
97 health care records may be released to one of the following
98 persons:

99 (1) The acting trustee of a trust created by the
100 deceased patient either alone or with the deceased patient's
101 spouse;

102 (2) An adult child of the deceased patient on the
103 affidavit of the adult child that he or she is the adult
104 child of the deceased;

105 (3) A parent of the deceased patient on the affidavit
106 of the parent that he or she is the parent of the deceased;

107 (4) An adult brother or sister of the deceased patient
108 on the affidavit of the adult brother or sister that he or
109 she is the adult brother or sister of the deceased;

110 (5) A guardian or conservator of the deceased patient
111 at the time of the patient's death on the affidavit of the

112 guardian or conservator that he or she is the guardian or
113 conservator of the deceased; or

114 (6) A guardian ad litem of the deceased's minor child
115 based on the affidavit of the guardian that he or she is the
116 guardian ad litem of the minor child of the deceased.

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