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FREE CONFERENCE COMMITTEE REPORT ADOPTED -- NOT PRINTED

June 19, 2014

**H. 4354**

Introduced by Reps. Harrell, Cobb‑Hunter, G.M. Smith, Long, Douglas, Felder, R.L. Brown and Goldfinch

S. Printed 5/29/14--S.

Read the first time April 15, 2014.

**A** **BILL**

TO AMEND SECTION 44‑115‑30, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE RIGHT OF A PATIENT TO RECEIVE A COPY OF HIS MEDICAL RECORD OR HAVE IT TRANSFERRED TO ANOTHER PHYSICIAN, SO AS TO PROVIDE THE PATIENT MAY CHOOSE TO RECEIVE THE RECORD EITHER AS A PHOTOCOPY REPRODUCTION OR IN AN ELECTRONIC FORMAT STORED ON DIGITAL MEDIA; AND TO AMEND SECTION 44‑115‑80, RELATING TO FEES PHYSICIANS MAY CHARGE TO SEARCH AND DUPLICATE A MEDICAL RECORD, SO AS TO SPECIFY WHAT FEES MAY BE CHARGED FOR A PHOTOCOPY REPRODUCTION AND FOR AN ELECTRONIC REPRODUCTION, AND TO PROVIDE AN EXEMPTION FROM FEES FOR REPRODUCTIONS REQUESTED TO SATISFY A REQUIREMENT OF AN INSURER OR GOVERNMENTAL ENTITY THAT PROVIDES BENEFITS RELATED TO THE MEDICAL NEEDS OF THE PATIENT.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 44‑7‑325 of the 1976 Code is amended to read:

“Section 44‑7‑325. (A)(1) A health care facility, as defined in Section 44‑7‑130, and a health care provider licensed pursuant to Title 40 may charge a fee for the search and duplication of a medical record, whether in paper format or electronic format, but the fee may not exceed:

(a) for records requested to be produced in an electronic format, the total charge to the requestor may not exceed one hundred fifty dollars per request regardless of the number of records produced or number of times the patient has been admitted to the health care facility. The charge, not to exceed one hundred fifty dollars, shall be calculated as follows: sixty‑five cents per page for the first thirty pages provided in an electronic format and fifty cents per page for all other pages provided in an electronic format, plus a clerical fee not to exceed twenty‑five dollars for searching and handling, which combined with the per page costs may not exceed a total of one hundred fifty dollars per request, and to which may be added actual postage and applicable sales tax.

(b) for paper requests, sixty‑five cents per page for the first thirty printed pages and fifty cents per page for all other printed pages, ~~and~~ plus a clerical fee not to exceed twenty‑five dollars for searching and handling, which combined with the per page print costs may not ~~to~~ exceed ~~fifteen~~ two hundred dollars per ~~request plus~~ admission to the health care facility, and to which may be added actual postage and applicable sales tax. The patient may have more than one admission on file when the record request is made. If multiple admissions exist, the print fee applies per admission, but only one clerical fee may be charged. Multiple emergency room records without an admission to the hospital are considered one admission.

(c) Notwithstanding whether the records are requested in print or electronic format, the search and handling fees in subsections (a) and (b) are permitted even though no medical record is found as a result of the search, except where the request is made by the patient.

(d) All of the fees allowed by this section, including the maximum, must be adjusted annually in accordance with the Consumer Price Index for all Urban Consumers, South Region (CPI‑U), published by the U.S. Department of Labor. The Department of Health and Environmental Control is responsible for calculating this annual adjustment, which is effective on July first of each year, starting July 1, 2015.

(2) ~~However~~ Notwithstanding the provisions of subsection (A), no fee may be charged for records copied at the request of a health care provider or for records sent to a health care provider at the request of the patient for the purpose of continuing medical care.

(3) The facility or provider may charge a patient or the patient’s representative no more than the actual cost of reproduction of an X‑ray. Actual cost means the cost of materials and supplies used to duplicate the X‑ray and the labor and overhead costs associated with the duplication.

(B) Except for those requests for medical records pursuant to Section 42‑15‑95:

(1) A health care facility shall comply with a request for copies of a medical record:

(a) no later than forty‑five days after the patient has been discharged or forty‑five days after the request is received, whichever is later; and

(b) in a printed format or in an electronic format if requested to be delivered in electronic format, but only if the record is stored in an electronic format at the time of the request and the health care facility has the ability to produce the medical record in an electronic format without incurring additional cost.

(2) Nothing in this section may compel a health care facility to release a copy of a medical record prior to thirty days after discharge of the patient.”

SECTION 2. Section 44‑115‑30 of the 1976 Code is amended to read:

“Section 44‑115‑30. A patient or his legal representative has a right to receive a copy of his medical record, or have the record transferred to another physician, upon request, when accompanied by a written authorization from the patient or his legal representative to release the record. The patient or his legal representative is entitled to receive a copy of the record either in a printed format or an electronic format but only if the record is stored in an electronic format at the time of the request and the physician or other owner of the record has the ability to produce the medical record in an electronic format without incurring additional cost.”

SECTION 3. Section 44‑115‑80 of the 1976 Code is amended to read:

“Section 44‑115‑80. (A) A physician, or other owner of medical records as provided for in Section 44‑115‑130, may charge a fee for the search and duplication of a paper or electronic medical record, but the fee may not exceed:

(1) Sixty‑five cents per page for the first thirty pages provided in an electronic format and fifty cents per page for all other pages provided in an electronic format, plus a clerical fee not to exceed twenty‑five dollars for searching and handling, which combined with the per page costs may not exceed one hundred fifty dollars per request, but to which may be added actual postage and applicable sales tax. The search and handling fee is permitted even though no medical record is found as a result of the search, except where the request is made by the patient.

(2) Sixty‑five cents per page for the first thirty printed pages and fifty cents per page for all other printed pages, ~~and~~ plus a clerical fee not to exceed twenty‑five dollars for searching and handling, which combined with the per page print costs may not ~~to~~ exceed ~~fifteen~~ two hundred dollars per ~~request plus~~ request, and to which may be added actual postage and applicable sales tax. The search and handling fee is permitted even though no medical record is found as a result of the search, except where the request is made by the patient.

(3) All fees allowed by this section, including the maximum, must be adjusted annually in accordance with the Consumer Price Index for all Urban Consumers, South Region (CPI‑U), published by the U.S. Department of Labor. The Department of Health and Environmental Control is responsible for calculating this annual adjustment, which is effective on July first of each year, starting July 1, 2015.

(B) A physician, health care provider, or other owner of medical records must provide a patient’s medical records at no charge when the patient is referred by the physician, health care provider, or an employee, agent, or contractor of the owner of the record to another physician or health care provider for continuation of treatment for a specific condition or conditions.

(C) The physician may charge a patient or the patient’s legal representative no more than the actual cost of reproduction of an X‑ray. Actual cost means the cost of materials and supplies used to duplicate the X‑ray and the labor and overhead costs associated with the duplication.”

SECTION 4. Chapter 115, Title 44 of the 1976 Code is amended by adding:

“Section 44‑115‑15. For purposes of this chapter, ‘medical records’ includes the patient’s medical bills.”

SECTION 5. This act takes effect upon approval by the Governor.

/s/Sen. Raymond E. Cleary III /s/Rep. Jenny A. Horne

/s/Sen. Tom Davis /s/Rep. Gilda Y. Cobb‑Hunter

Sen. Kevin L. Johnson /s/Rep. Wm. Weston J. Newton

On Part of the Senate. On Part of the House.

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