

SENATE BILL No. 213

By Senator Francisco

2-8

1 AN ACT concerning public health and welfare; relating to healthcare data;
2 requiring healthcare providers to charge the same amount for medical
3 records requests related to a patient's social security disability, workers
4 compensation, medical malpractice or personal injury claims whether
5 requested by a patient or a patient's legal representative; amending
6 K.S.A. 65-6821 and 65-6836 and repealing the existing sections.
7

8 *Be it enacted by the Legislature of the State of Kansas:*

9 Section 1. K.S.A. 65-6821 is hereby amended to read as follows: 65-
10 6821. K.S.A. 65-6821 through ~~65-6834~~ and ~~65-6835~~ 65-6836, and
11 amendments thereto, shall be known and may be cited as the Kansas health
12 information technology act.

13 Sec. 2. K.S.A. 65-6836 is hereby amended to read as follows: 65-
14 6836. (a) As used in this section:

15 (1) ~~"Health care provider" means any person licensed by the state~~
16 ~~board of healing arts.~~

17 (2) "Authorized representative" means the person designated in
18 writing by the patient to obtain the ~~health care~~ healthcare records of the
19 patient or the person otherwise authorized by law to obtain the ~~health care~~
20 healthcare records of the patient.

21 (3)(2) "Authorization" means a written or printed document signed by
22 a patient or a patient's authorized representative containing:

23 (A) A description of the ~~health care~~ healthcare records a ~~health care~~
24 healthcare provider is authorized to produce;

25 (B) the patient's name, address and date of birth;

26 (C) a designation of the person or entity authorized to obtain copies
27 of the ~~health care~~ healthcare records;

28 (D) a date or event upon which the force of the authorization shall
29 expire which shall not exceed one year;

30 (E) if signed by a patient's authorized representative, the authorized
31 representative's name, address, telephone number and relationship or
32 capacity to the patient; and

33 (F) a statement setting forth the right of the person signing the
34 authorization to revoke it in writing.

35 (b) Subject to K.S.A. 65-6824, and amendments thereto, except as
36 otherwise provided herein, copies of ~~health care~~ healthcare records shall

1 be furnished to a patient, a patient's authorized representative or any other
2 person or entity authorized by law to obtain or reproduce such records,
3 within 30 days of the receipt of the authorization, or the ~~health care~~
4 *healthcare* provider shall notify the patient or the patient's authorized
5 representative of the reasons why copies are not available. A ~~health care~~
6 *healthcare* provider may withhold copies of ~~health care~~ *healthcare* records
7 if the ~~health care~~ *healthcare* provider reasonably believes that providing
8 copies of the requested records will cause substantial harm to the patient or
9 another person. ~~Health care~~ *healthcare* providers may condition the
10 furnishing of the patient's ~~health care~~ *healthcare* records to the patient, the
11 patient's authorized representative or any other person or entity authorized
12 by law to obtain or reproduce such records, upon the payment of charges
13 not to exceed those established and updated not less than every two years
14 by rules and regulations adopted by the state board of healing arts. In
15 establishing such charges, the board shall consider changes in the all-items
16 consumer price index published by the United States department of labor.
17 Providers may charge for the reasonable cost of all duplications of ~~health~~
18 ~~care~~ *healthcare* record information which cannot be routinely duplicated
19 on a standard photocopy machine.

20 (c) ~~Any health care~~ *A healthcare* provider, patient, authorized
21 representative or any other entity authorized by law to obtain or reproduce
22 such records may bring a claim or action to enforce the provisions of this
23 section. The petition shall include an averment that the party bringing the
24 action has in good faith conferred or attempted to confer with the other
25 party concerning the matter in dispute without court action. Upon a
26 showing that the failure to comply with this section was without just cause
27 or excuse, the court shall award the costs of the action and order the
28 records produced without cost or expense to the prevailing party.

29 (d) Nothing in this section shall be construed to prohibit the state
30 board of healing arts from adopting and enforcing rules and regulations not
31 inconsistent with this section that require licensees of the board to furnish
32 ~~health care~~ *healthcare* records to patients or to their authorized
33 representative. To the extent that the board determines that an
34 administrative disciplinary remedy is appropriate for violation of such
35 rules and regulations, that remedy is separate from and in addition to the
36 provisions of this section.

37 (e) *Healthcare providers shall not charge a fee for medical records*
38 *requested by the authorized representative of a patient or former patient*
39 *that is greater than the amount the healthcare provider would charge the*
40 *patient or former patient if such records were requested personally*
41 *pursuant to public law 111-5 § 13405 if such records request is related to a*
42 *claim for social security disability, workers compensation, medical*
43 *malpractice or personal injury.*

1 Sec. 3. K.S.A. 65-6821 and 65-6836 are hereby repealed.

2 Sec. 4. This act shall take effect and be in force from and after its
3 publication in the statute book.