

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 381
99TH GENERAL ASSEMBLY

Reported from the Committee on Health and Pensions, April 13, 2017, with recommendation that the Senate Committee Substitute do pass.

1092S.03C

ADRIANE D. CROUSE, Secretary.

AN ACT

To repeal sections 191.227 and 193.245, RSMo, and to enact in lieu thereof two new sections relating to health care records.

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

Section A. Sections 191.227 and 193.245, RSMo, are repealed and two new
2 sections enacted in lieu thereof, to be known as sections 191.227 and 193.245, to
3 read as follows:

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

10 2. Health care providers may condition the furnishing of the patient's
11 health care records to the patient, the patient's authorized representative or any
12 other person or entity authorized by law to obtain or reproduce such records upon
13 payment of a fee for:

14 (1) (a) Search and retrieval, in an amount not more than [twenty-two]
15 **twenty-four** dollars and [eighty-two] **eighty-five** cents plus copying in the
16 amount of [fifty-three] **fifty-seven** cents per page for the cost of supplies and

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

17 labor plus, if the health care provider has contracted for off-site records storage
18 and management, any additional labor costs of outside storage retrieval, not to
19 exceed [twenty-one] **twenty-three** dollars and [thirty-six] **twenty-six** cents, as
20 adjusted annually pursuant to subsection 5 of this section; or

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

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

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

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

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

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

33 3. Notwithstanding provisions of this section to the contrary, providers
34 may charge for the reasonable cost of all duplications of health care record
35 material or information which cannot routinely be copied or duplicated on a
36 standard commercial photocopy machine.

37 4. The transfer of the patient's record done in good faith shall not render
38 the provider liable to the patient or any other person for any consequences which
39 resulted or may result from disclosure of the patient's record as required by this
40 section.

41 5. Effective February first of each year, the fees listed in subsection 2 of
42 this section shall be increased or decreased annually based on the annual
43 percentage change in the unadjusted, U.S. city average, annual average inflation
44 rate of the medical care component of the Consumer Price Index for All Urban
45 Consumers (CPI-U). The current reference base of the index, as published by the
46 Bureau of Labor Statistics of the United States Department of Labor, shall be
47 used as the reference base. For purposes of this subsection, the annual average
48 inflation rate shall be based on a twelve-month calendar year beginning in
49 January and ending in December of each preceding calendar year. The
50 department of health and senior services shall report the annual adjustment and
51 the adjusted fees authorized in this section on the department's internet website
52 by February first of each year.

53 **6. A health care provider may disclose a deceased patient's**
54 **health care records or payment records to the executor or**
55 **administrator of the deceased person's estate, or pursuant to a valid,**
56 **unrevoked power of attorney for health care that specifically directs**
57 **that the deceased person's health care records be released to the agent**
58 **after death. If an executor, administrator, or agent has not been**
59 **appointed, the deceased prior to death did not specifically object to**
60 **disclosure of his or her records in writing, and such disclosure is not**
61 **inconsistent with any prior expressed preference of the deceased that**
62 **is known to the health care provider, a deceased patient's health care**
63 **records may be released upon written request of a person who is**
64 **deemed as the personal representative of the deceased person under**
65 **this subsection. Priority shall be given to the deceased patient's spouse**
66 **and the records shall be released on the affidavit of the surviving**
67 **spouse that he or she is the surviving spouse. If there is no surviving**
68 **spouse, the health care records may be released to one of the following**
69 **persons:**

70 **(1) The acting trustee of a trust created by the deceased patient**
71 **either alone or with the deceased patient's spouse;**

72 **(2) An adult child of the deceased patient on the affidavit of the**
73 **adult child that he or she is the adult child of the deceased;**

74 **(3) A parent of the deceased patient on the affidavit of the parent**
75 **that he or she is the parent of the deceased;**

76 **(4) An adult brother or sister of the deceased patient on the**
77 **affidavit of the adult brother or sister that he or she is the adult**
78 **brother or sister of the deceased;**

79 **(5) A guardian or conservator of the deceased patient at the time**
80 **of the patient's death on the affidavit of the guardian or conservator**
81 **that he or she is the guardian or conservator of the deceased; or**

82 **(6) A guardian ad litem of the deceased's minor child based on**
83 **the affidavit of the guardian that he or she is the guardian ad litem of**
84 **the minor child of the deceased.**

193.245. It shall be unlawful for any person to permit inspection of, or to
2 disclose information contained in, vital records or to copy or issue a copy of all or
3 part of any such record except as authorized by this law and by regulation or by
4 order of a court of competent jurisdiction or in the following situations:

5 **(1) [A listing of persons who are born or who die on a particular date may**

6 be disclosed upon request, but no information from the record other than the
7 name and the date of such birth or death shall be disclosed;

8 (2)] The department may authorize the disclosure of information contained
9 in vital records for legitimate research purposes;

10 [(3)] **(2)** To a qualified applicant as provided in section 193.255;

11 [(4)] **(3)** Copies of death records over fifty years old may be disclosed
12 upon request.

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