

State of South Dakota

NINETIETH SESSION
LEGISLATIVE ASSEMBLY, 2015

247W0407

HOUSE JUDICIARY ENGROSSED NO. **HB 1067** -
02/11/2015

Introduced by: Representatives Schoenbeck, Gibson, Haugaard, Hunt, Johns, Russell, and Stevens and Senators Rusch, Brown, Buhl O'Donnell, and Vehle

1 FOR AN ACT ENTITLED, An Act to establish maximum reproduction costs for medical
2 records.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 36-2-16 be amended to read as follows:

5 36-2-16. A licensee of the healing arts shall provide copies of all medical records, reports
6 and X-rays pertinent to the health of the patient, if available, to a patient or the patient's designee
7 upon receipt by the licensee of a written request or a legible copy of a written request signed by
8 the patient. A violation of this section is a Class 2 misdemeanor. The licensee may require
9 before delivery that the patient pay the actual reproduction and mailing expense. The
10 reproduction expense may not exceed ten dollars for the first ten pages and thirty-three cents for
11 each additional page. Notwithstanding this expense limit, entities covered by the Health
12 Information Technology for Economic and Clinical Health Act may not charge more than the
13 limit provided in 42 USCA Section 17935.

14 Section 2. That § 34-12-15 be amended to read as follows:



1 34-12-15. All superintendents, or managers, or other persons in charge of hospitals, lying-in,
2 or other institutions, public or private, to which persons resort for treatment of disease,
3 confinement, or are committed by process of law, shall make and keep a record of all the
4 personal and statistical particulars relative to the inmates, such record to be made at the time of
5 their admittance and in such form of certificate as directed by the secretary of health. In case of
6 persons admitted or committed for treatment of disease, the physician in charge shall specify
7 for entry in such record the nature of the disease and where in the physician's opinion it was
8 contracted. The personal particulars and information required by this section shall be obtained
9 from the individual, if it is practicable to do so, and if not practicable, shall be obtained in as
10 complete a manner as possible from relatives, friends, or other persons acquainted with the
11 facts. Such record shall be open at all times to the inspection of the secretary of health or an
12 accredited agent of the secretary.

13 A health care facility shall provide copies of all medical records, reports, and X rays
14 pertinent to the health of the patient, if available, to a discharged patient or the patient's designee
15 upon receipt by the health care facility of a written request or a legible copy of a written request
16 signed by the patient. The health care facility may require before delivery that the patient pay
17 the actual reproduction and mailing expense. The reproduction expense may not exceed ten
18 dollars for the first ten pages and thirty-three cents for each additional page. Notwithstanding
19 this expense limit, entities covered by the Health Information Technology for Economic and
20 Clinical Health Act may not charge more than the limit provided in 42 USCA Section 17935.

21 If a personal representative of a deceased patient has not been appointed, the following
22 surviving family members, in the priority stated, have the right to copies of the patient's medical
23 record to the same extent as the patient would have the right to copies of the medical record
24 while alive:

- 1 (1) The spouse, if not legally separated at the time of the patient's death;
- 2 (2) An adult child;
- 3 (3) A parent;
- 4 (4) An adult sibling;
- 5 (5) A grandparent or an adult grandchild;
- 6 (6) An adult aunt or uncle, or an adult niece or nephew.

7 A health care facility, complying in good faith with the provisions of this section, may not
8 be held liable for any injury or damage proximately resulting from compliance with this section.

9 This section does not apply to chemical dependency treatment facilities.

10 Section 3. That chapter 62-7 be amended by adding thereto a NEW SECTION to read as
11 follows:

12 Notwithstanding any other provision of law or regulation of this state, entities covered by
13 the Health Information Technology for Economic and Clinical Health Act may not charge more
14 for copies of medical records than the limit provided in 42 USCA Section 17935.