

1 **PATIENT ACCESS TO MEDICAL RECORDS AMENDMENTS**

2 2018 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: LaVar Christensen**

5 Senate Sponsor: _____

7 **LONG TITLE**

8 **General Description:**

9 This bill amends provisions relating to access to medical records by a patient or the
10 patient's representative.

11 **Highlighted Provisions:**

12 This bill:

13 ▶ creates certain requirements for a health care provider when a patient or the patient's
14 representative requests medical records to support a claim or appeal for federal or
15 state public benefits.

16 **Money Appropriated in this Bill:**

17 None

18 **Other Special Clauses:**

19 None

20 **Utah Code Sections Affected:**

21 AMENDS:

22 **78B-5-618**, as last amended by Laws of Utah 2015, Chapter 217

24 *Be it enacted by the Legislature of the state of Utah:*

25 Section 1. Section **78B-5-618** is amended to read:

26 **78B-5-618. Patient access to medical records -- Third party access to medical**
27 **records.**



28 (1) Pursuant to Standards for Privacy of Individually Identifiable Health Information,
29 45 C.F.R., Parts 160 and 164, a patient or a patient's personal representative may inspect or
30 receive a copy of the patient's records from a health care provider as defined in Section
31 78B-3-403, when that health care provider is governed by the provisions of 45 C.F.R., Parts
32 160 and 164.

33 (2) When a health care provider as defined in Section 78B-3-403 is not governed by
34 Standards for Privacy of Individually Identifiable Health Information, 45 C.F.R., Parts 160 and
35 164, a patient or a patient's personal representative may inspect or receive a copy of the
36 patient's records unless access to the records is restricted by law or judicial order.

37 (3) A health care provider who provides a copy of a patient's records to the patient or
38 the patient's personal representative:

39 (a) shall provide the copy within the deadlines required by the Health Insurance
40 Portability and Accountability Act of 1996, Administrative Simplification rule, 45 C.F.R. Sec.
41 164.524(b); and

42 (b) may charge a reasonable cost-based fee provided that the fee includes only the cost
43 of:

44 (i) copying, including the cost of supplies for and labor of copying; and

45 (ii) postage, when the patient or patient representative has requested the copy be
46 mailed.

47 (4) Except for records provided by a health care provider under Section 26-1-37, a
48 health care provider who provides a copy of a patient's records to a third party authorized to
49 receive records:

50 (a) shall provide the copy within 30 days after receipt of notice; and

51 (b) may charge a reasonable fee, but may not exceed the following rates:

52 (i) \$21.16 for locating a patient's records, per request;

53 (ii) reproduction charges may not exceed 53 cents per page for the first 40 pages and 32
54 cents per page for each additional page;

55 (iii) the cost of postage when the third party has requested the copy be mailed; and

56 (iv) any sales tax owed under Title 59, Chapter 12, Sales and Use Tax Act.

57 (5) Except for records provided under Section 26-1-37, a contracted third party service
58 which provides medical records, other than a health care provider under Subsections (3) and

- 59 (4), who provides a copy of a patient's records to a party authorized to receive records:
60 (a) shall provide the copy within 30 days after the request; and
61 (b) may charge a reasonable fee, but may not exceed the following rates:
62 (i) \$21.16 per request for locating a patient's records;
63 (ii) reproduction charges may not exceed 53 cents per page for the first 40 pages and 32
64 cents per page for each additional page;
65 (iii) the cost of postage when the third party has requested the copy be mailed; and
66 (iv) any sales tax owed under Title 59, Chapter 12, Sales and Use Tax Act.
67 (6) A health care provider or its contracted third party service shall deliver the medical
68 records in the digital or electronic medium customarily used by the health care provider or its
69 contracted third party service or in a portable document format:
70 (a) if the patient, patient's personal representative, or a third party authorized to receive
71 the records requests the records be delivered in a digital or electronic medium; and
72 (b) the original medical record is readily producible in a digital or electronic medium.
73 (7) (a) The per page fee in Subsections (3), (4), [~~and~~] (5), and (9) applies to medical
74 records reproduced on paper.
75 (b) For record requests made on or before June 30, 2018, the per page fee for
76 producing a copy of records on a digital or electronic medium shall be 60% of the per page fee
77 otherwise provided in this section, regardless of whether the original medical records are stored
78 in electronic format.
79 (c) For record requests made on or after July 1, 2018, the per page fee for producing a
80 copy of records on a digital or electronic medium shall be 50% of the per page fee otherwise
81 provided in this section, regardless of whether the original medical records are stored in
82 electronic format.
83 (8) Beginning January 1, 2016, the fee described in Subsections (3) through (5) for
84 providing patient's records shall be adjusted annually as specified in this section based on the
85 most recent changes to the Consumer Price Index, as published by the Bureau of Labor
86 Statistics of the United States Department of Labor, that measures the average changes in
87 prices of goods and services purchased by urban wage earners, clerical workers' families, and
88 single workers living alone.
89 (9) (a) As used in this section, "qualified claim or appeal" means a claim or appeal

90 under any:

91 (i) provision of the Social Security Act, 42 U.S.C. Sec. 301 et seq., as amended; or

92 (ii) federal or state financial needs-based benefit program.

93 (b) Notwithstanding Subsections (3) through (5), if a request for a health record is

94 accompanied by documentation of a qualified claim or appeal, a health care provider:

95 (i) for the first copy of any records that are necessary to support the qualified claim or
96 appeal, may not charge a fee;

97 (ii) for a second or subsequent copy of any records that are necessary to support the
98 qualified claim or appeal, may charge a reasonable fee that may not:

99 (A) exceed 60 cents per page for photocopies;

100 (B) exceed a reasonable cost for copies of X-ray photographs and other health care
101 records produced by similar processes; or

102 (C) include an administrative fee or additional service fee of any kind;

103 (iii) shall provide the health record within 30 days after the day on which the request is
104 received by the health care provider; and

105 (iv) may not deny a request for a health care record solely because the patient or the
106 patient's agent is unable to pay the fees described in this Subsection (9).

Legislative Review Note
Office of Legislative Research and General Counsel