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COMMITTEE REPORT

April 2, 2014

**H. 4354**

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

S. Printed 4/2/14--H.

Read the first time January 14, 2014.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 4354) 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, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by deleting all after the enacting words and inserting:

/ 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) Sixty‑five cents per page for the first thirty printed pages and fifty cents per page for all other pages, ~~and~~ plus a clerical fee not to exceed twenty dollars for searching and handling, which combined with the per page print costs may not ~~to~~ exceed ~~fifteen~~ two hundred dollars per request ~~plus~~, and to which may be added actual postage and applicable sales tax.

(b) 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 dollars for searching and handling, which combined with the per page costs may not exceed one hundred and fifty dollars, but to which may be added actual postage and applicable sales tax.

(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.

(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 an electronic format or as a photocopied reproduction, and the physician or other owner of the record shall provide the record in the format requested by the patient or his legal representative; provided, however, that if the physician or other owner of the record does not possess an electronic version of the record, it may satisfy the request by providing a photocopied reproduction.”

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 printed pages and fifty cents per page for all other printed pages, ~~and~~ plus a clerical fee not to exceed twenty dollars for searching and handling, which combined with the per page print costs may not ~~to~~ exceed ~~fifteen~~ two hundred dollars per request ~~plus~~, and to which may be added actual postage and applicable sales tax.

(2) 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 dollars for searching and handling, which combined with the per page costs may not exceed one hundred and fifty dollars, but to which may be added actual postage and applicable sales tax.

(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. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

F. GREGORY DELLENEY, JR. for Committee.

**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 44‑115‑30 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 representative to release the record. The patient or his legal representative is entitled to receive a copy of the record either in an electronic format stored on digital media or as a photocopied reproduction, and the physician or other owner of the record shall provide the record in the format requested by the patient or his legal representative; provided, however, that if the physician or other owner of the record does not possess an electronic version of the record, it may satisfy the request by providing a photocopied reproduction.”

SECTION 2. 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 medical record, but the fee may not exceed:

(1) sixty‑five cents per page for the first thirty pages and fifty cents per page for all other pages, and a clerical fee for searching and handling not to exceed fifteen dollars per request plus actual postage and applicable sales tax; or

(2) for a reproduction provided in a digital format stored on digital media, no per page fee may be charged but a clerical fee for searching and handling not to exceed fifteen dollars per request plus actual postage and applicable sales tax may be charged.

(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, or when the patient or his legal representative requests the records to satisfy a request from an insurer or governmental entity that provides benefits related to the medical needs of the patient.

(C) The physician 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.”

SECTION 3. This act takes effect upon approval by the Governor.

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