

**SENATE, No. 4233**

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**STATE OF NEW JERSEY**  
**219th LEGISLATURE**

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INTRODUCED DECEMBER 6, 2021

**Sponsored by:**

**Senator NICHOLAS P. SCUTARI**

**District 22 (Middlesex, Somerset and Union)**

**Senator VIN GOPAL**

**District 11 (Monmouth)**

**SYNOPSIS**

Limits fees charged to patients and authorized third parties for copies of medical and billing records.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning access to patient medical and billing records,  
2 and amending P.L.2019, c.217.

3  
4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6  
7 1. Section 1 of P.L.2019, c.217 (C.26:2H-5n) is amended to  
8 read as follows:

9 1. a. Except as provided in subsection d. of this section, if a  
10 patient of a general, special, or psychiatric hospital licensed  
11 pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) or of a State-  
12 licensed health care professional, the patient's legally authorized  
13 representative, or an authorized third party requests, in writing, a  
14 copy of the patient's medical **【or billing】** records**【, or both】**, the  
15 hospital or the health care professional shall provide a legible paper  
16 or electronic reproduction of the requested records within the dates  
17 requested to the patient, the patient's legally authorized  
18 representative, or the authorized third party within 30 days of the  
19 request, in accordance with the following:

20 (1) (a) For a request by a patient or the patient's legally  
21 authorized representative for a medical **【or billing】** record **【that is**  
22 **not】**, whether such record is stored electronically, on microfilm or  
23 microfiche, or on paper, the fee for reproducing the record shall not  
24 exceed \$1 per page or **【\$10】**\$50 per individual admission record **【for**  
25 **the first 100 pages】**, whichever is less. **【For medical and billing**  
26 **records that are not stored on microfilm or microfiche that contain**  
27 **more than 100 pages, a reproduction fee of no more than \$0.25 per**  
28 **page may be charged for pages in excess of the first 100 pages, up**  
29 **to a maximum of \$200 for each request. For medical and billing**  
30 **records stored on microfilm or microfiche, the fee for reproducing**  
31 **the record shall be \$1.50 per image, up to a maximum of \$200 for**  
32 **each request.】** The fee for reproducing a medical record shall not  
33 exceed \$50 per individual admission or patient record, inclusive of  
34 any additional fees specified in paragraph (3) of this subsection;

35 (b) **【For a request by an authorized third party, the fee for**  
36 **reproducing medical and billing records that are not stored on**  
37 **microfilm or microfiche shall be no more than \$1 per page, and the**  
38 **fee for reproducing records stored on microfilm or microfiche shall**  
39 **be \$1.50 per image; and**

40 (c)**】**If a patient requests a copy of the patient's own medical  
41 records in accordance with the federal "Health Insurance Portability  
42 and Accountability Act of 1996," Pub.L.104-191, the requirements  
43 provided under 45 C.F.R. 164.524(b) with respect to the time  
44 required to respond to such requests and the applicable fees shall  
45 apply; and

**EXPLANATION – Matter enclosed in bold-faced brackets **【thus】** in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1       (c) A hospital or a health care professional shall not charge any  
2 fee to provide an electronic or paper reproduction of a billing record  
3 requested by a patient, a patient's legally authorized representative,  
4 or an authorized third party.

5       (2) Delivery of an electronic reproduction of a patient's medical  
6 or billing record shall be required only if:

7       (a) the entire request can be reproduced from an electronic  
8 health record system;

9       (b) the record is specifically requested to be delivered in  
10 electronic format; and

11       (c) the record can be delivered electronically.

12       (3) In addition to per-page fees, a hospital or a health care  
13 professional shall apply the following charges, provided that the  
14 total fees charged per individual admission record or patient record  
15 do not exceed \$50:

16       (a) a search fee of no more than \$10 per request; provided that  
17 no search fee shall be charged to a patient who is requesting the  
18 patient's own record. If a search fee may be charged under this  
19 subparagraph, the fee shall apply even if no medical **【or billing】**  
20 records are found as a result of the search;

21       (b) a fee for the reproduction of x-rays or any other material that  
22 cannot be routinely copied or duplicated on a commercial  
23 photocopy machine, which shall be no more than \$15 per printed  
24 image or \$30 per compact disc (CD) or digital video disc (DVD),  
25 plus an administrative fee of \$10;

26       (c) a fee for certification of a copy of a medical **【and billing】**  
27 record of no more than \$10 per certification; and

28       (d) costs for delivering records in any medium, plus sales tax, if  
29 applicable.

30       (4) The fees established in this subsection shall be charged for  
31 electronic reproductions as well as paper copies of medical **【and**  
32 **billing】** records.

33       (5) The hospital or the health care professional shall establish a  
34 policy assuring access to copies of medical **【and billing】** records  
35 for patients who do not have the ability to pay for the copies.

36       (6) The hospital or the health care professional shall establish a  
37 fee policy providing an incentive for the use of abstracts or  
38 summaries of medical records; however, a patient, a patient's  
39 legally authorized representative, or an authorized third party shall  
40 have the right to receive a full or certified copy of the medical  
41 record.

42       b. Access to a copy of a patient's medical record shall be  
43 limited only to the extent necessary to protect the patient. The  
44 patient's attending physician shall provide a verbal explanation for  
45 any denial of access to the patient, legally authorized representative,  
46 or authorized third party, and shall document the denial and  
47 explanation in the medical record. In the event that direct access to

1 a copy by the patient is medically contraindicated, as documented  
2 by a physician in the patient's medical record, the hospital or the  
3 health care professional shall not limit access to the record to a  
4 legally authorized representative of the patient, an authorized third  
5 party, or the patient's attending physician.

6 c. A hospital or a health care professional shall not assess any  
7 fees or charges for a copy of a patient's medical **【and billing】**  
8 records as provided herein other than those provided for in this  
9 section.

10 d. The fees authorized by this section shall not be imposed on:

11 (1) A patient who does not have the ability to pay and who  
12 presents either: (a) a statement certifying to annual income at or  
13 below 250 percent of the federal poverty level; or (b) proof of  
14 eligibility for, or enrollment in, a State or federal assistance  
15 program including, but not limited to: the federal Supplemental  
16 Nutrition Assistance Program established pursuant to the "Food and  
17 Nutrition Act of 2008," Pub.L.110-246 (7 U.S.C. s.2011 et seq.);  
18 the federal Supplemental Security Income program established  
19 pursuant to Title XVI of the federal Social Security Act, Pub.L.92-  
20 603 (42 U.S.C. s.1381 et seq.); the National School Lunch Program  
21 established pursuant to the "Richard B. Russell National School  
22 Lunch Act," Pub.L.79-396 (42 U.S.C. s.1751 et seq.); the federal  
23 special supplemental food program for women, infants, and children  
24 established pursuant to Pub.L.95-627 (42 U.S.C. s.1786); the State  
25 Medicaid program established pursuant to the "New Jersey Medical  
26 Assistance and Health Services Act," P.L.1968, c.413 (C.30:4D-  
27 1 et seq.); the NJ FamilyCare Program established pursuant to the  
28 "Family Health Care Coverage Act," P.L.2005, c.156 (C.30:4J-  
29 8 et al.); the Work First New Jersey program established pursuant to  
30 the "Work First New Jersey Act," P.L.1997, c.38 (C.44:10-  
31 55 et seq.); the New Jersey Supplementary Food Stamp Program  
32 established pursuant to the "New Jersey Supplementary Food Stamp  
33 Program Act," P.L.1998, c.32 (C.44:10-79 et seq.); any successor  
34 program; or any other State or federal assistance program now or  
35 hereafter established by law;

36 (2) A not-for-profit corporation indicating in writing that it is  
37 representing a patient; or

38 (3) An attorney representing a patient on a pro bono basis,  
39 provided that the attorney submits with the request a certification  
40 that the attorney is representing the patient on a pro bono basis. An  
41 attorney representing a patient on a contingency fee basis shall be  
42 assessed the ordinary fees to obtain a copy of the patient's medical  
43 **【and billing】** records.

44 e. As used in this section:

45 "Authorized third party" means a third party with a valid  
46 authorization, subpoena, legal process, or court order granting  
47 access to a patient's medical or billing records.

1     "Health care professional" means an individual who, acting  
2     within the scope of the individual's licensure or certification,  
3     provides health care services, and includes, but is not limited to, a  
4     physician, dentist, nurse, pharmacist, or other health care  
5     professional whose professional practice is regulated pursuant to  
6     Title 45 of the Revised Statutes.

7     "Legally authorized representative" means: the patient's spouse,  
8     domestic partner, or civil union partner; the patient's immediate  
9     next of kin; the patient's legal guardian; the patient's attorney; the  
10    patient's third party insurer; or the patient's worker's compensation  
11    carrier, if the carrier is authorized to access to the patient's  
12    treatment or billing records by contract or law, provided that access  
13    by a worker's compensation carrier shall be limited only to that  
14    portion of the treatment or billing record that is relevant to the  
15    specific work-related incident at issue in the worker's compensation  
16    claim.

17    (cf: P.L.2019, c.217, s.1)

18  
19    2. This act shall take effect on the first day of the fourth month  
20    next following the date of enactment.

#### 21 22 23                                   STATEMENT

24  
25    This bill would limit fees charged to patients, patients' legally  
26    authorized representatives, and other authorized third parties by  
27    hospitals and health care professionals for electronic or paper  
28    reproductions of medical or billing records. Pursuant to the bill,  
29    total costs for reproductions of a medical record, whether the record  
30    is stored electronically, on microfilm or microfiche, or on paper, are  
31    capped at \$50, inclusive of any additional administrative fees  
32    charged by the hospital or health care professional for reproducing  
33    the requested records.

34    The bill additionally prohibits hospitals and health care  
35    professionals from assessing a fee for copies of a patient's billing  
36    record if the record is requested by the patient himself, the patient's  
37    legally authorized representative, or an authorized third party.

38    Current statute, pursuant to section 1 of P.L.2019, c.217  
39    (C.26:2H-5n), limits fees charged by general, special, and  
40    psychiatric hospitals for copies of patient medical or billing records  
41    at \$200 per request. These fee limits, however, do not extend to  
42    medical records requested from health care professionals, such as a  
43    physician practice, a psychotherapist or a dentist. Pursuant to  
44    current statute, hospitals may additionally assess a variety of  
45    administrative fees for copies of patients' medical and billing  
46    records, such as a \$10 records search fee, a surcharge for  
47    reproductions of x-rays or other materials that are difficult to  
48    reproduce on a commercial photocopy machine, a \$10 fee per

1 certified copy of a medical or billing record, and any postage and  
2 delivery charges.

3 It is the intent of the bill's sponsor to facilitate access to patient  
4 medical and medical billing records for New Jersey residents and  
5 their authorized representatives. Although low-income patients  
6 may access copies of their medical records free-of-charge, the  
7 exorbitant copying and administrative fees charged by some New  
8 Jersey hospitals for patient records prove to be a financial burden  
9 for many moderate-income patients.