

SENATE, No. 487

STATE OF NEW JERSEY 220th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2022 SESSION

Sponsored by:

Senator NICHOLAS P. SCUTARI

District 22 (Middlesex, Somerset and Union)

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District 11 (Monmouth)

SYNOPSIS

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

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



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**

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 required to respond to such requests and the applicable fees shall
2 apply; and

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

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

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

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

13 (c) the record can be delivered electronically.

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

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

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

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

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

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

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

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

44 b. Access to a copy of a patient's medical record shall be
45 limited only to the extent necessary to protect the patient. The
46 patient's attending physician shall provide a verbal explanation for
47 any denial of access to the patient, legally authorized representative,

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

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

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

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

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

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

46 e. As used in this section:

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

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

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

20 (cf: P.L.2019, c.217, s.1)

21
22 2. This act shall take effect on the first day of the fourth month
23 next following the date of enactment.
24

25 26 STATEMENT

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

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

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

1 records, such as a \$10 records search fee, a surcharge for
2 reproductions of x-rays or other materials that are difficult to
3 reproduce on a commercial photocopy machine, a \$10 fee per
4 certified copy of a medical or billing record, and any postage and
5 delivery charges.

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