

Second Regular Session  
Sixty-ninth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 14-0371.01 Kristen Forrestal x4217

HOUSE BILL 14-1186

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HOUSE SPONSORSHIP

Schafer,

SENATE SPONSORSHIP

Aguilar,

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House Committees  
Health, Insurance, & Environment

Senate Committees

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A BILL FOR AN ACT

101      **CONCERNING THE RELEASE OF MEDICAL RECORDS TO A PERSON OTHER**  
102            **THAN THE PATIENT, AND, IN CONNECTION THEREWITH, SETTING**  
103            **REASONABLE FEES TO BE PAID FOR THE RELEASE OF THE**  
104            **MEDICAL RECORDS.**

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Bill Summary

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)*

The bill clarifies that medical records in the custody of a health care facility or an individual health care provider may be released to a

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

third party with a valid subpoena or other valid authorization. The bill requires the facility or provider to deliver the medical records in electronic format if requested and if there is no additional cost to the facility or provider. The bill defines what reasonable fees may be charged for the copies of the medical records.

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*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1. Legislative declaration.** (1) The general assembly finds that:

(a) The state board of health recently repealed a rule that set the fees that may be charged to third parties for patient medical records;

(b) Having clearly established fees creates a stable and predictable business environment that allows for the provision of medical records at a reasonable price;

(c) The task of providing medical records is complex due to state and federal privacy laws that require the careful review of each record in order to protect patient privacy;

(d) The "Health Insurance Portability and Accountability Act of 1996", Pub.L. 104-191, as amended, has had significant impact on the treatment of medical records and patient privacy.

(2) Therefore, it is the intent of the general assembly to establish reasonable fees in statute, that reflect the fees previously set by rule of the state board of health.

**SECTION 2.** In Colorado Revised Statutes, 25-1-801, **amend** (1) (a), (1) (b) (I), and (2); and **add** (5) as follows:

**25-1-801. Patient records in custody of health care facility - definitions.** (1) (a) Every patient record in the custody of a health facility licensed or certified pursuant to section 25-1.5-103 (1) or article 3 of this title, or both, or any entity regulated under title 10, C.R.S., providing

1 health care services, as defined in section 10-16-102 (33), C.R.S., directly  
2 or indirectly through a managed care plan, as defined in section  
3 10-16-102 (43), C.R.S., or otherwise shall be available for inspection to  
4 the patient or the patient's ~~designated~~ PERSONAL representative through  
5 the attending health care provider or such provider's designated  
6 representative at reasonable times and upon reasonable notice, except  
7 records pertaining to mental health problems or notes by a physician that,  
8 in the opinion of a licensed physician who practices psychiatry and is an  
9 independent third party, would have significant negative psychological  
10 impact upon the patient. Such independent third-party physician shall  
11 consult with the attending physician prior to making a determination with  
12 regard to the availability for inspection of any patient record and shall  
13 report in writing findings to the attending physician and to the custodian  
14 of said record. A summary of records pertaining to a patient's mental  
15 health problems may, upon written request and signed and dated  
16 authorization, be made available to the patient or the patient's ~~designated~~  
17 PERSONAL representative following termination of the treatment program.

18 (b) (I) (A) Following any treatment, procedure, or health care  
19 service rendered by a health facility licensed or certified pursuant to  
20 section 25-1.5-103 (1) or article 3 of this title, or both, or by an entity  
21 regulated under title 10, C.R.S., providing health care services, as defined  
22 in section 10-16-102 (33), C.R.S., directly or indirectly through a  
23 managed care plan, as defined in section 10-16-102 (43), C.R.S., or  
24 otherwise, copies of ~~said~~ THE records, including X rays, ~~shall~~ MUST be  
25 furnished to the patient OR THE PATIENT'S PERSONAL REPRESENTATIVE  
26 UPON PAYMENT OF FEES AS ESTABLISHED BY THE "HEALTH INSURANCE  
27 PORTABILITY AND ACCOUNTABILITY ACT OF 1996", PUB.L. 104-191, AS

1 AMENDED, OR TO A PERSON WHO REQUESTS THE MEDICAL RECORDS upon  
2 submission of a ~~written authorization request for records, dated and~~  
3 ~~signed by the patient~~, VALID SUBPOENA OR OTHER VALID AUTHORIZATION,  
4 and upon the payment of the reasonable ~~costs~~ FEES.

5 (B) THE HEALTH CARE FACILITY MUST DELIVER THE MEDICAL  
6 RECORDS IN ELECTRONIC FORMAT IF THE AUTHORIZED PERSON REQUESTS  
7 ELECTRONIC FORMAT, THE ORIGINAL MEDICAL RECORDS ARE STORED IN  
8 ELECTRONIC FORMAT, AND THE PROVIDER OF THE MEDICAL RECORDS CAN  
9 PRODUCE THE MEDICAL RECORDS IN ELECTRONIC FORMAT WITHOUT AN  
10 ADDITIONAL COST.

11 (2) All requests by ~~patients~~ A PATIENT, THE PATIENT'S PERSONAL  
12 REPRESENTATIVE, OR ANOTHER AUTHORIZED PERSON for inspection of  
13 ~~their~~ THE PATIENT'S medical records made under this section shall be  
14 noted with the time and date of the ~~patient's~~ request, and the time and date  
15 of inspection noted by the attending health care provider or his OR HER  
16 designated representative. The patient, PERSONAL REPRESENTATIVE, OR  
17 OTHER AUTHORIZED PERSON shall acknowledge the fact of ~~his~~ THE  
18 inspection by dating and signing ~~his~~ THE record file.

19 (5) AS USED IN THIS PART 8, UNLESS THE CONTEXT OTHERWISE  
20 REQUIRES:

21 (a) "PERSONAL REPRESENTATIVE" MEANS A PERSON WHO HAS THE  
22 AUTHORITY TO ACT ON BEHALF OF AN ADULT PATIENT OR EMANCIPATED  
23 MINOR TO MAKE HEALTH CARE DECISIONS; A PARENT, GUARDIAN, OR  
24 OTHER PERSON ACTING IN LOCO PARENTIS FOR A MINOR WHO HAS THE  
25 AUTHORITY TO MAKE HEALTH CARE DECISIONS; OR AN EXECUTOR,  
26 ADMINISTRATOR, OR OTHER PERSON WHO HAS THE AUTHORITY TO ACT ON  
27 BEHALF OF A DECEASED PATIENT.

1 (b) (I) "REASONABLE FEES" MEANS:  
2 (A) SIXTEEN DOLLARS AND FIFTY CENTS FOR THE FIRST TEN PAGES,  
3 SEVENTY-FIVE CENTS PER PAGE FOR THE NEXT THIRTY PAGES, AND FIFTY  
4 CENTS PER PAGE FOR EACH ADDITIONAL PAGE; EXCEPT THAT, IF THE  
5 MEDICAL RECORDS ARE STORED ON MICROFILM, ONE DOLLAR AND FIFTY  
6 CENTS PER PAGE;  
7 (B) ACTUAL REPRODUCTION COSTS FOR EACH COPY OF AN X RAY;  
8 (C) IF THE AUTHORIZED PERSON REQUESTS CERTIFICATION OF THE  
9 MEDICAL RECORDS, A FEE OF TEN DOLLARS;  
10 (D) ACTUAL POSTAGE AND ELECTRONIC MEDIA COSTS, IF  
11 APPLICABLE; AND  
12 (E) APPLICABLE TAXES.  
13 (II) BEGINNING IN 2019 AND EVERY FIVE YEARS THEREAFTER, THE  
14 EXECUTIVE DIRECTOR OF THE DEPARTMENT SHALL CALCULATE NEW  
15 REASONABLE FEES BASED ON THE CONSUMER PRICE INDEX FOR  
16 DENVER-BOULDER-GREELEY IN EFFECT ON OCTOBER 1 OF THE CALENDAR  
17 YEAR IMMEDIATELY PRECEDING THE YEAR IN WHICH THE REQUEST IS  
18 MADE. THE NEW FEES SHALL REPLACE THE REASONABLE FEES IN THIS  
19 PARAGRAPH (b). THE EXECUTIVE DIRECTOR SHALL POST THE FEES ON THE  
20 DEPARTMENT'S WEB SITE.

21 **SECTION 3.** In Colorado Revised Statutes, 25-1-802, **amend** (1)  
22 and (4) as follows:

23 **25-1-802. Patient records in custody of individual health care**  
24 **providers.** (1) (a) Every patient record in the custody of a podiatrist,  
25 chiropractor, dentist, doctor of medicine, doctor of osteopathy, nurse,  
26 optometrist, audiologist, acupuncturist, direct-entry midwife, or physical  
27 therapist required to be licensed under title 12, C.R.S., or a person

1 practicing psychotherapy under the provisions of article 43 of title 12,  
2 C.R.S., except records pertaining to mental health problems, ~~shall~~ MUST  
3 be available to the patient OR THE PATIENT'S PERSONAL REPRESENTATIVE  
4 upon submission of a written authorization-request for inspection of  
5 records, dated and signed by the patient, at reasonable times and upon  
6 reasonable notice. A summary of records pertaining to a patient's mental  
7 health problems may, upon written request and signed and dated  
8 authorization, be made available to the patient or the patient's ~~designated~~  
9 PERSONAL representative following termination of the treatment program.

10 (b) (I) (A) A copy of ~~such~~ THE records, including X rays, ~~shall~~  
11 MUST be made available to the patient or the patient's ~~designated~~  
12 PERSONAL representative, upon ~~written authorization-request for a copy~~  
13 ~~of such records, dated and signed by the patient, upon reasonable notice~~  
14 ~~and~~ payment of ~~the~~ FEES AS ESTABLISHED BY THE "HEALTH INSURANCE  
15 PORTABILITY AND ACCOUNTABILITY ACT OF 1996", PUB.L. 104-191, AS  
16 AMENDED, AND TO ANY OTHER AUTHORIZED PERSON UPON SUBMISSION OF  
17 A VALID SUBPOENA OR OTHER VALID AUTHORIZATION AND PAYMENT OF  
18 reasonable ~~costs~~ FEES.

19 (B) THE HEALTH CARE PROVIDER MUST PROVIDE THE MEDICAL  
20 RECORDS IN ELECTRONIC FORMAT IF THE AUTHORIZED PERSON REQUESTS  
21 ELECTRONIC FORMAT, THE ORIGINAL MEDICAL RECORDS ARE STORED IN  
22 ELECTRONIC FORMAT, AND THE PROVIDER OF THE MEDICAL RECORDS CAN  
23 PRODUCE THE MEDICAL RECORDS IN ELECTRONIC FORMAT WITHOUT AN  
24 ADDITIONAL COST.

25 (II) ~~In the event that~~ IF a licensed health care professional  
26 determines that a copy of any X ray, mammogram, CT SCAN, MRI, or  
27 other film is not sufficient for diagnostic or other treatment purposes, the

1     podiatrist, chiropractor, dentist, doctor of medicine, doctor of osteopathy,  
2     nurse, optometrist, audiologist, acupuncturist, direct-entry midwife, or  
3     physical therapist required to be licensed under title 12, C.R.S., or, subject  
4     to the provisions of section 25-1-801 (1) (a) and paragraph (a) of this  
5     subsection (1), the person practicing psychotherapy under the provisions  
6     of article 43 of title 12, C.R.S., shall make the original of any ~~such~~ film  
7     available to the patient, THE PATIENT'S PERSONAL REPRESENTATIVE,  
8     ANOTHER AUTHORIZED PERSON, or another health care professional or  
9     facility as specifically directed by the patient OR THE PATIENT'S PERSONAL  
10    REPRESENTATIVE, ANOTHER AUTHORIZED PERSON pursuant to a written  
11    authorization-request for films and upon the payment of the reasonable  
12    ~~costs~~ FEES for ~~such~~ THE film. If a practitioner releases an original film  
13    pursuant to this subparagraph (II), the practitioner ~~shall~~ IS not ~~be~~  
14    responsible for any loss, damage, or other consequences as a result of  
15    ~~such~~ THE release. Any original X ray, mammogram, CT SCAN, MRI, or  
16    other film made available pursuant to this subparagraph (II) ~~shall~~ MUST  
17    be returned upon request to the lending practitioner within thirty days.

18         (4) All requests by ~~patients~~ A PATIENT OR THE PATIENT'S PERSONAL  
19    REPRESENTATIVE for inspection of ~~their~~ HIS OR HER medical records made  
20    under this section shall be noted with the time and date of the ~~patient's~~  
21    request and the time and date of inspection noted by the health care  
22    provider or his OR HER designated representative. The patient OR THE  
23    PATIENT'S PERSONAL REPRESENTATIVE shall acknowledge the fact of ~~his~~  
24    THE inspection by dating and signing ~~his~~ THE record file.

25         **SECTION 4.** In Colorado Revised Statutes, **amend** 25-1-803 as  
26    follows:

27         **25-1-803. Effect of this part 8 on similar rights of a patient.**

1 (1) Nothing in this part 8: ~~shall be construed so as to:~~

2 (a) ~~Limit~~ LIMITS the right of a patient, ~~or the patient's designated~~  
3 PERSONAL representative, OR A PERSON WHO REQUESTS THE MEDICAL  
4 RECORDS UPON SUBMISSION OF A VALID SUBPOENA OR OTHER VALID  
5 AUTHORIZATION to inspect the patient's medical or mental health data  
6 pursuant to section 24-72-204 (3) (a) (I), C.R.S.; or

7 (b) ~~Limit~~ LIMITS a right to inspect the patient's records ~~which~~  
8 THAT is otherwise granted by state statute to the patient, ~~or his designated~~  
9 THE PATIENT'S PERSONAL representative, OR A PERSON WHO REQUESTS THE  
10 MEDICAL RECORDS UPON SUBMISSION OF A VALID SUBPOENA OR OTHER  
11 VALID AUTHORIZATION.

12 **SECTION 5. Safety clause.** The general assembly hereby finds,  
13 determines, and declares that this act is necessary for the immediate  
14 preservation of the public peace, health, and safety.