

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 381
99TH GENERAL ASSEMBLY

1092H.02C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 191.227, RSMo, and to enact in lieu thereof one new section relating to health care records of deceased patients.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 191.227, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 191.227, to read as follows:

191.227. 1. All physicians, chiropractors, hospitals, dentists, and other duly licensed practitioners in this state, herein called "providers", shall, upon written request of a patient, or guardian or legally authorized representative of a patient, furnish a copy of his or her record of that patient's health history and treatment rendered to the person submitting a written request, except that such right shall be limited to access consistent with the patient's condition and sound therapeutic treatment as determined by the provider. Beginning August 28, 1994, such record shall be furnished within a reasonable time of the receipt of the request therefor and upon payment of a fee as provided in this section.

2. Health care providers may condition the furnishing of the patient's health care records to the patient, the patient's authorized representative or any other person or entity authorized by law to obtain or reproduce such records upon payment of a fee for:

(1) (a) Search and retrieval, in an amount not more than ~~twenty-two~~ **twenty-four** dollars and ~~eighty-two~~ **eighty-five** cents plus copying in the amount of ~~fifty-three~~ **fifty-seven** cents per page for the cost of supplies and labor plus, if the health care provider has contracted for off-site records storage and management, any additional labor costs of outside storage retrieval, not to exceed ~~twenty-one~~ **twenty-three** dollars and ~~thirty-six~~ **twenty-six** cents, as adjusted annually pursuant to subsection 5 of this section; or

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 (b) The records shall be furnished electronically upon payment of the search, retrieval,
19 and copying fees set under this section at the time of the request or one hundred **eight** dollars
20 **and eighty-eight cents** total, whichever is less, if such person:

21 a. Requests health records to be delivered electronically in a format of the health care
22 provider's choice;

23 b. The health care provider stores such records completely in an electronic health record;
24 and

25 c. The health care provider is capable of providing the requested records and affidavit,
26 if requested, in an electronic format;

27 (2) Postage, to include packaging and delivery cost; and

28 (3) Notary fee, not to exceed two dollars, if requested.

29 3. Notwithstanding provisions of this section to the contrary, providers may charge for
30 the reasonable cost of all duplications of health care record material or information which cannot
31 routinely be copied or duplicated on a standard commercial photocopy machine.

32 4. The transfer of the patient's record done in good faith shall not render the provider
33 liable to the patient or any other person for any consequences which resulted or may result from
34 disclosure of the patient's record as required by this section.

35 5. Effective February first of each year, the fees listed in subsection 2 of this section shall
36 be increased or decreased annually based on the annual percentage change in the unadjusted,
37 U.S. city average, annual average inflation rate of the medical care component of the Consumer
38 Price Index for All Urban Consumers (CPI-U). The current reference base of the index, as
39 published by the Bureau of Labor Statistics of the United States Department of Labor, shall be
40 used as the reference base. For purposes of this subsection, the annual average inflation rate
41 shall be based on a twelve-month calendar year beginning in January and ending in December
42 of each preceding calendar year. The department of health and senior services shall report the
43 annual adjustment and the adjusted fees authorized in this section on the department's internet
44 website by February first of each year.

45 **6. A health care provider may disclose a deceased patient's health care records or**
46 **payment records to the executor or administrator of the deceased person's estate, or**
47 **pursuant to a valid, unrevoked power of attorney for health care that specifically directs**
48 **that the deceased person's health care records be released to the agent after death. If an**
49 **executor, administrator, or agent has not been appointed, the deceased prior to death did**
50 **not specifically object to disclosure of his or her records in writing, and such disclosure is**
51 **not inconsistent with any prior expressed preference of the deceased that is known to the**
52 **health care provider, a deceased patient's health care records may be released upon**
53 **written request of a person who is deemed as the personal representative of the deceased**

54 person under this subsection. Priority shall be given to the deceased patient's spouse and
55 the records shall be released on the affidavit of the surviving spouse that he or she is the
56 surviving spouse. If there is no surviving spouse, the health care records may be released
57 to one of the following persons:

58 (1) The acting trustee of a trust created by the deceased patient either alone or with
59 the deceased patient's spouse;

60 (2) An adult child of the deceased patient on the affidavit of the adult child that he
61 or she is the adult child of the deceased;

62 (3) A parent of the deceased patient on the affidavit of the parent that he or she is
63 the parent of the deceased;

64 (4) An adult brother or sister of the deceased patient on the affidavit of the adult
65 brother or sister that he or she is the adult brother or sister of the deceased;

66 (5) A guardian or conservator of the deceased patient at the time of the patient's
67 death on the affidavit of the guardian or conservator that he or she is the guardian or
68 conservator of the deceased; or

69 (6) A guardian ad litem of the deceased's minor child based on the affidavit of the
70 guardian that he or she is the guardian ad litem of the minor child of the deceased.

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