

FIRST REGULAR SESSION

# HOUSE BILL NO. 200

101ST GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE ELLEBRACHT.

0209H.011

DANA RADEMAN MILLER, Chief Clerk

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## AN ACT

To repeal section 191.227, RSMo, and to enact in lieu thereof one new section relating to medical records.

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*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Section A. Section 191.227, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 191.227, to read as follows: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-four dollars and eighty-five cents plus copying in the amount of 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-three dollars and twenty-six cents, as adjusted annually pursuant to subsection 6 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.

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

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

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

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

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

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

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29 Such fee shall be the fee in effect on February 1, 2018, increased or decreased annually under  
30 this section.

31 3. For purposes of subsections 1 and 2 of this section, "a copy of his or her record of that  
32 patient's health history and treatment rendered" or "the patient's health care records" includes a  
33 statement or record that no such health history or treatment record responsive to the request  
34 exists.

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

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

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

51 7. A health care provider may disclose a deceased patient's health care records or  
52 payment records to the executor or administrator of the deceased person's estate, or pursuant to

53 a valid, unrevoked power of attorney for health care that specifically directs that the deceased  
54 person's health care records be released to the agent after death. If an executor, administrator,  
55 or agent has not been appointed, the deceased prior to death did not specifically object to  
56 disclosure of his or her records in writing, and such disclosure is not inconsistent with any prior  
57 expressed preference of the deceased that is known to the health care provider, a deceased  
58 patient's health care records may be released upon written request of a person who is deemed as  
59 the personal representative of the deceased person under this subsection. Priority shall be given  
60 to the deceased patient's spouse and the records shall be released on the affidavit of the surviving  
61 spouse that he or she is the surviving spouse. If there is no surviving spouse, the health care  
62 records may be released to one of the following persons:

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

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

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

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

71 (5) A guardian or conservator of the deceased patient at the time of the patient's death  
72 on the affidavit of the guardian or conservator that he or she is the guardian or conservator of the  
73 deceased; or

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

76 **8. Notwithstanding any provisions of this section to the contrary, a health care**  
77 **provider or health care facility shall not charge a fee for medical or mental health records**  
78 **requested by a patient, former patient, or attorney or other authorized representative of**  
79 **a patient or former patient for use in supporting an application for benefits under:**

80 (1) **Chapter 287;**

81 (2) **42 U.S.C. Section 401, et seq.;**

82 (3) **42 U.S.C. Section 1382, et seq.;**

83 (4) **42 U.S.C. Section 1395, et seq.;**

84 (5) **38 U.S.C. Section 1101, et seq.; or**

85 (6) **38 U.S.C. Section 1501, et seq.**

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87 **The health care provider or health care facility may provide the records in the form that**  
88 **is most cost-effective, provided that records provided electronically shall be produced in**  
89 **a universally accessible format.**

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