

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Substitute for Senate Substitute No. 2 for Senate Bill No. 79, Page 12,
2 Section 190.800, Line 12, by inserting after said section and line the following:

3
4 "191.227. 1. All physicians, chiropractors, hospitals, dentists, and other duly licensed
5 practitioners in this state, herein called "providers", shall, upon written request of a patient, or
6 guardian or legally authorized representative of a patient, furnish a copy of his or her record of that
7 patient's health history and treatment rendered to the person submitting a written request, except that
8 such right shall be limited to access consistent with the patient's condition and sound therapeutic
9 treatment as determined by the provider. Beginning August 28, 1994, such record shall be furnished
10 within a reasonable time of the receipt of the request therefor and upon payment of a fee as provided
11 in this section.

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

15 (1) (a) Search and retrieval, in an amount not more than twenty-four dollars and eighty-five
16 cents plus copying in the amount of fifty-seven cents per page for the cost of supplies and labor
17 plus, if the health care provider has contracted for off-site records storage and management, any
18 additional labor costs of outside storage retrieval, not to exceed twenty-three dollars and twenty-six
19 cents, as adjusted annually pursuant to subsection 6 of this section; or

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

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

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

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

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

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

Action Taken _____ Date _____

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

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

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

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

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

22 7. A health care provider may disclose a deceased patient's health care records or payment
23 records to the executor or administrator of the deceased person's estate, or pursuant to a valid,
24 unrevoked power of attorney for health care that specifically directs that the deceased person's
25 health care records be released to the agent after death. If an executor, administrator, or agent has
26 not been appointed, the deceased prior to death did not specifically object to disclosure of his or her
27 records in writing, and such disclosure is not inconsistent with any prior expressed preference of the
28 deceased that is known to the health care provider, a deceased patient's health care records may be
29 released upon written request of a person who is deemed as the personal representative of the
30 deceased person under this subsection. Priority shall be given to the deceased patient's spouse and
31 the records shall be released on the affidavit of the surviving spouse that he or she is the surviving
32 spouse. If there is no surviving spouse, the health care records may be released to one of the
33 following persons:

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

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

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

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

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

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

8 8. (1) Records containing a patient's health history and treatment created by an emergency
9 care provider, as defined in section 191.630, or a telecommunicator first responder, as defined in
10 section 650.320, in the course of the provider's or responder's official duties while responding to a
11 formal request for assistance shall be made available, upon written request, to any person authorized
12 to obtain the patient's health care records under the provisions of this section, or in response to a
13 subpoena or court order.

14 (2) The furnishing of health care records under this subsection may be conditioned upon the
15 payment of a fee in an amount equal to the fee allowed for the furnishing of any other health care
16 record under this section.

17 (3) Personal health information, including patient health history and treatment, shall not be
18 considered a public record, as described under chapter 610. Nothing in this section shall limit the
19 release of information or public records with personal health information that is redacted regarding
20 the general nature of the event.

21 (4) Nothing in this subsection shall limit the release of information to facilitate the normal
22 delivery of patient care or to evaluate the quality of care as part of an established quality
23 improvement program."; and

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25 Further amend said bill by amending the title, enacting clause, and intersectional references
26 accordingly.