

House \_\_\_\_\_ Amendment NO. \_\_\_\_\_

Offered By \_\_\_\_\_

1 AMEND House Committee Substitute for Senate Bill No. 189, Page 20, Section 190.106, Line 20, by  
2 inserting after said section and line the following:  
3

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

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

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

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

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

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

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

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

28 (3) Notary fee, not to exceed two dollars, if requested.  
29

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

Action Taken \_\_\_\_\_ Date \_\_\_\_\_

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

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

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

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

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

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

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

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

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

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

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

3 8. (1) Records containing a patient's health history and treatment created by an emergency care  
4 provider, as defined in section 191.630, or a telecommunicator first responder, as defined in section 650.320,  
5 in the course of the provider's or responder's official duties while responding to a formal request for  
6 assistance shall be made available, upon written request, to any person authorized to obtain the patient's  
7 health care records under the provisions of this section, or in response to a subpoena or court order.

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

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

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

17  
18 Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.