

[First Reprint]

SENATE, No. 2253

STATE OF NEW JERSEY
220th LEGISLATURE

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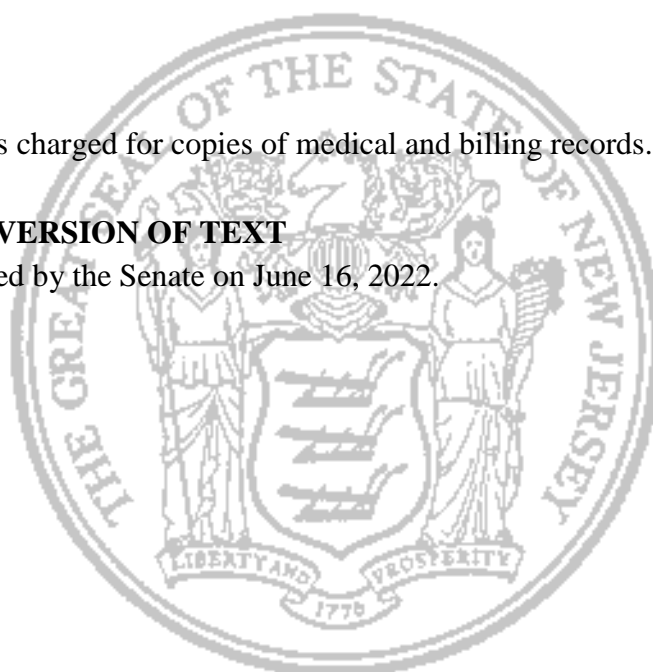
**Senator Cruz-Perez, Assemblywoman Jasey, Assemblyman Moen and
Assemblywoman Speight**

SYNOPSIS

Limits fees charged for copies of medical and billing records.

CURRENT VERSION OF TEXT

As amended by the Senate on June 16, 2022.



(Sponsorship Updated As Of: 6/29/2022)

1 AN ACT concerning patient records and amending P.L.2019, c.217.

2

3 **BE IT ENACTED** by the Senate and General Assembly of the State
4 of New Jersey:

5

6 1. Section 1 of P.L.2019, c.217 (C.26:2H-5n) is amended to
7 read as follows:

8 1. a. Except as provided in subsection d. of this section, if a
9 patient of a general, special, or psychiatric hospital licensed
10 pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) **or of a State-**
11 **licensed health care professional**, the patient's legally authorized
12 representative, or an authorized third party requests, in writing, a
13 copy of ¹**the patient's medical** individual admission¹ records, the
14 hospital **or the health care professional** shall provide a legible
15 paper or electronic reproduction of the requested records within the
16 dates requested to the patient, the patient's legally authorized
17 representative, or the authorized third party within 30 days of the
18 request, in accordance with the following:

19 (1) (a) For a request by a patient or the patient's legally
20 authorized representative for a medical record, whether such record
21 is stored electronically, on microfilm or microfiche, or on paper, the
22 fee for reproducing the record shall not exceed \$1 per page or \$50
23 per individual admission record, whichever is less. The fee for
24 reproducing a medical record shall not exceed \$50 per individual
25 admission or patient record, ¹**inclusive** exclusive¹ of any
26 additional fees specified in paragraph (3) of this subsection;

27 (b) If a patient requests a copy of the patient's own medical
28 records in accordance with the federal "Health Insurance Portability
29 and Accountability Act of 1996," Pub.L.104-191, the requirements
30 provided under 45 C.F.R. 164.524(b) with respect to the time
31 required to respond to such requests and the applicable fees shall
32 apply; **and**

33 (c) A hospital **or a health care professional** shall not charge
34 any fee to provide an electronic or paper reproduction of a billing
35 record requested by a patient, or a patient's legally authorized
36 representative, **or an authorized third party**;

37 (d) For a request by an authorized third party, the fee for
38 reproducing medical and billing records that are not stored on
39 microfilm or microfiche shall be no more than \$1 per page, and the
40 fee for reproducing records stored on microfilm or microfiche shall
41 be \$1.50 per image; and

42 (e) A fee for the reproduction of x-rays or any other material that
43 cannot be routinely copied or duplicated on a commercial
44 photocopy machine, which shall be no more than \$15 per printed

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate floor amendments adopted June 16, 2022.

1 image or \$30 per compact disc (CD) or digital video disc (DVD),
2 plus an administrative fee of \$10.

3 (2) Delivery of an electronic reproduction of a patient's medical
4 or billing record shall be required only if:

5 (a) the entire request can be reproduced from an electronic
6 health record system;

7 (b) the record is specifically requested to be delivered in
8 electronic format; and

9 (c) the record can be delivered electronically.

10 (3) In addition to per-page fees, a hospital **[**or a health care
11 professional**]** shall apply the following charges ¹**[**, provided that the
12 total fees charged per individual admission record or patient record
13 do not exceed \$50**]**¹ for patients ¹**[and]** ¹ patients' legally
14 authorized representatives ¹, and authorized third parties¹ :

15 (a) a search fee of no more than **[\$10]** \$20 per request;
16 provided that no search fee shall be charged to a patient who is
17 requesting the patient's own record. If a search fee may be charged
18 under this subparagraph, the fee shall apply even if no medical
19 records are found as a result of the search;

20 (b) **[**a fee for the reproduction of x-rays or any other material
21 that cannot be routinely copied or duplicated on a commercial
22 photocopy machine, which shall be no more than \$15 per printed
23 image or \$30 per compact disc (CD) or digital video disc (DVD),
24 plus an administrative fee of \$10;**]** (deleted by amendment, P.L. ,
25 c.) (pending before the Legislature as this bill)

26 (c) a fee for certification of a copy of a medical record of no
27 more than \$10 per certification; and

28 (d) costs for delivering records in any medium, plus sales tax, if
29 applicable.

30 (4) The fees established in this subsection shall be charged for
31 electronic reproductions as well as paper copies of medical records.

32 (5) The hospital **[**or the health care professional**]** shall establish
33 a policy assuring access to copies of medical records for patients
34 who do not have the ability to pay for the copies.

35 (6) The hospital **[**or the health care professional**]** shall establish
36 a fee policy providing an incentive for the use of abstracts or
37 summaries of medical records; however, a patient **[,]** and a patient's
38 legally authorized representative **[**, or an authorized third party**]**
39 shall have the right to receive a full or certified copy of the medical
40 record.

41 (7) Subject to the requirements of paragraph (2) of this
42 subsection, medical and billing records shall be delivered in the
43 manner specified by the requestor, which may include, but shall not
44 be limited to, mailing the record to any address or faxing the record
45 to any number specified by the requestor, including the requestor's
46 attorney. Subject to the requirements of federal law, the method of

1 delivery specified by a requestor shall not affect the fees that would
2 ordinarily apply to the request under paragraphs (1) and (3) of this
3 subsection, subject to any policies established pursuant to
4 paragraphs (5) and (6) of this subsection and subject to the
5 provisions of subsections c. and d. of this section.

6 b. Access to a copy of a patient's medical record shall be
7 limited only to the extent necessary to protect the patient. The
8 patient's attending physician shall provide a verbal explanation for
9 any denial of access to the patient, legally authorized representative,
10 or authorized third party, and shall document the denial and
11 explanation in the medical record. In the event that direct access to
12 a copy by the patient is medically contraindicated, as documented
13 by a physician in the patient's medical record, the hospital **【or the**
14 **health care professional】** shall not limit access to the record to a
15 legally authorized representative of the patient, an authorized third
16 party, or the patient's attending physician.

17 c. A hospital **【or a health care professional】** shall not assess
18 any fees or charges for a copy of ¹**【a patient's medical】** individual
19 admission¹ records as provided herein other than those provided for
20 in this section.

21 d. The fees authorized by this section shall not be imposed on:

22 (1) A patient who does not have the ability to pay and who
23 presents either: (a) a statement certifying to annual income at or
24 below 250 percent of the federal poverty level; or (b) proof of
25 eligibility for, or enrollment in, a State or federal assistance
26 program including, but not limited to: the federal Supplemental
27 Nutrition Assistance Program established pursuant to the "Food and
28 Nutrition Act of 2008," Pub.L.110-246 (7 U.S.C. s.2011 et seq.);
29 the federal Supplemental Security Income program established
30 pursuant to Title XVI of the federal Social Security Act, Pub.L.92-
31 603 (42 U.S.C. s.1381 et seq.); the National School Lunch Program
32 established pursuant to the "Richard B. Russell National School
33 Lunch Act," Pub.L.79-396 (42 U.S.C. s.1751 et seq.); the federal
34 special supplemental food program for women, infants, and children
35 established pursuant to Pub.L.95-627 (42 U.S.C. s.1786); the State
36 Medicaid program established pursuant to the "New Jersey Medical
37 Assistance and Health Services Act," P.L.1968, c.413 (C.30:4D-1 et
38 seq.); the NJ FamilyCare Program established pursuant to the
39 "Family Health Care Coverage Act," P.L.2005, c.156 (C.30:4J-8 et
40 al.); the Work First New Jersey program established pursuant to the
41 "Work First New Jersey Act," P.L.1997, c.38 (C.44:10-55 et seq.);
42 the New Jersey Supplementary Food Stamp Program established
43 pursuant to the "New Jersey Supplementary Food Stamp Program
44 Act," P.L.1998, c.32 (C.44:10-79 et seq.); any successor program;
45 or any other State or federal assistance program now or hereafter
46 established by law;

1 (2) A not-for-profit corporation indicating in writing that it is
2 representing a patient;

3 (3) A health care practitioner;

4 (4) An attorney representing a patient on a pro bono basis,
5 provided that the attorney submits with the request a certification
6 that the attorney is representing the patient on a pro bono basis. An
7 attorney representing a patient on a contingency fee basis shall be
8 assessed the ordinary fees to obtain a copy of ¹the patient's
9 medical **individual admission**¹ records; or

10 (5) A patient or an attorney representing a patient who has a
11 pending application for, or is currently receiving, federal Social
12 Security disability benefits provided under Title II or Title XVI of
13 the federal Social Security Act, Pub.L.92-603 (42 U.S.C. s.1351 et
14 al.).

15 e. As used in this section:

16 "Authorized third party" means a third party, who is not a legally
17 authorized representative of the patient, with a valid authorization,
18 subpoena, legal process, or court order granting access to a patient's
19 medical or billing records.

20 **["Health care professional" means an individual who, acting**
21 **within the scope of the individual's licensure or certification,**
22 **provides health care services, and includes, but is not limited to, a**
23 **physician, dentist, nurse, pharmacist, or other health care**
24 **professional whose professional practice is regulated pursuant to**
25 **Title 45 of the Revised Statutes.]**

26 "Legally authorized representative" means: the patient's spouse,
27 domestic partner, or civil union partner; the patient's immediate
28 next of kin; the patient's legal guardian; the patient's attorney; the
29 patient's ¹**third party**¹ automobile insurer; or the patient's worker's
30 compensation carrier, if the carrier is authorized to access to the
31 patient's treatment or billing records by contract or law, provided
32 that access by a worker's compensation carrier shall be limited only
33 to that portion of the treatment or billing record that is relevant to
34 the specific work-related incident at issue in the worker's
35 compensation claim.

36 (cf: P.L.2021, c.427, s.1)

37
38 2. Section 2 of P.L.2019, c.217 (C.45:9-22.27) is amended to
39 read as follows:

40 2. A person licensed to practice a health care profession
41 regulated by the State Board of Medical Examiners shall provide
42 copies of professional treatment and billing records, including
43 treatment records from other health care providers that are part of a
44 patient's record, to a patient, the patient's legally authorized
45 representative, or an authorized third party in accordance with the
46 following:

1 a. No later than 30 days after receipt of a request from a
2 patient, a patient's legally authorized representative, or an
3 authorized third party, the licensee shall provide an electronic copy
4 or photocopy of the professional treatment records, billing records,
5 or both, as requested. The record shall include all pertinent,
6 objective data, including test results and x-ray results, as applicable,
7 and subjective information.

8 b. Unless otherwise required by law, a licensee may elect to
9 provide a summary of the record in lieu of providing the electronic
10 copy or photocopy required pursuant to subsection a. of this section,
11 provided that the summary adequately reflects the patient's history
12 and treatment. A licensee may charge a reasonable fee for the
13 preparation of a summary that has been provided in lieu of the
14 actual record, which shall not exceed the cost that would be charged
15 for the actual record pursuant to subsection d. of this section;
16 however, a patient, a patient's legally authorized representative, or
17 an authorized third party shall have the right to receive a full or
18 certified copy of the patient's treatment record. The fee for
19 certification shall be no more than \$10 per certification.

20 c. If, in the exercise of the licensee's professional judgment, a
21 licensee has reason to believe that the patient's mental or physical
22 condition will be adversely affected upon being made aware of the
23 subjective information contained in the professional treatment
24 record or a summary of the record, the licensee may refuse to
25 provide the record or summary to the patient. The licensee shall
26 include in the record a notice setting forth the reasons for the
27 original refusal. The licensee shall, however, provide a copy of the
28 record or summary upon request to:

29 (1) the patient's attorney;

30 (2) another licensed health care professional;

31 (3) the patient's health insurance carrier through an employee
32 thereof;

33 (4) a governmental reimbursement program or an agent thereof,
34 with responsibility to review utilization or quality of care; or

35 (5) an authorized third party.

36 d. A licensee may require a record request to be in writing and,
37 except as provided in subsection j. of this section, may charge a fee
38 for:

39 (1) (a) A request by a patient or a patient's legally authorized
40 representative for the reproduction of patient treatment and billing
41 records, which shall be no more than \$1 per page or **[\$200]** \$50 for
42 the entire record, whichever is less, **[except that, for records stored**
43 **on microfilm or microfiche, the reproduction fee shall be no more**
44 **than \$1.50 per image or \$200 for the entire record, whichever is**
45 **less]** and regardless of whether such record is stored electronically,
46 on microfilm or microfiche, or on paper; and

1 (b) A request by an authorized third party for the reproduction
2 of patient treatment and billing records, which shall be no more
3 than \$1 per page or, in the case of records stored on microfilm or
4 microfiche, no more than \$1.50 per image;

5 (2) The reproduction of x-rays or any other material within a
6 patient treatment record that cannot be routinely copied or
7 duplicated on a commercial photocopy machine, which shall be no
8 more than \$15 per printed image or \$30 per compact disc (CD) or
9 digital video disc (DVD), plus an administrative fee of \$10;

10 (3) A search for records, which search fee shall be no more than
11 ~~[\$10]~~ \$20 per request; provided that no search fee shall be charged
12 to a patient requesting the patient's own records. A search fee that
13 may be charged pursuant to this paragraph shall apply even if no
14 individual treatment or billing record is found as a result of the
15 search; and

16 (4) The costs for delivering records in any medium, plus sales
17 tax, if applicable.

18 A licensee shall not assess any fees or charges for a copy of a
19 patient's treatment or billing records as provided herein other than
20 those provided for in this section.

21 e. The fees established in subsection d. of this section shall be
22 charged for electronic copies as well as paper copies of treatment
23 and billing records.

24 f. Delivery of an electronic copy of a patient treatment or
25 billing record to the requestor shall be required only if: (1) the
26 entire request can be reproduced from an electronic health record
27 system; (2) the record is specifically requested to be delivered in
28 electronic format; and (3) the record can be delivered electronically.

29 g. A licensee shall not charge a patient for a copy of the
30 patient's treatment or billing record when:

31 (1) the licensee has affirmatively terminated a patient from
32 practice in accordance with the requirements of N.J.A.C.13:35-6.22;
33 or

34 (2) the licensee leaves a practice that the licensee was formerly
35 a member of, or associated with, and the patient requests that the
36 patient's medical care continue to be provided by that licensee.

37 h. If the patient or a subsequent treating health care
38 professional is unable to read the treatment record, either because it
39 is illegible or prepared in a language other than English, the
40 licensee shall provide a transcription or translation, as applicable, at
41 no cost to the patient.

42 i. The licensee shall not refuse to provide a professional
43 treatment record on the grounds that the patient owes the licensee
44 an unpaid balance if the record is needed by another health care
45 professional for the purpose of rendering care.

46 j. The fees authorized by this section shall not be imposed on:

(1) A patient who does not have the ability to pay and who presents either: (a) a statement certifying to annual income at or below 250 percent of the federal poverty level; or (b) proof of eligibility for, or enrollment in, a State or federal assistance program including, but not limited to: the federal Supplemental Nutrition Assistance Program established pursuant to the "Food and Nutrition Act of 2008," Pub.L.110-246 (7 U.S.C. s.2011 et seq.); the federal Supplemental Security Income program established pursuant to Title XVI of the federal Social Security Act, Pub.L.92-603 (42 U.S.C. s.1381 et seq.); the National School Lunch Program established pursuant to the "Richard B. Russell National School Lunch Act," Pub.L.79-396 (42 U.S.C. s.1751 et seq.); the federal special supplemental food program for women, infants, and children established pursuant to Pub.L.95-627 (42 U.S.C. s.1786); the State Medicaid program established pursuant to the "New Jersey Medical Assistance and Health Services Act," P.L.1968, c.413 (C.30:4D-1 et seq.); the NJ FamilyCare Program established pursuant to the "Family Health Care Coverage Act," P.L.2005, c.156 (C.30:4J-8 et al.); the Work First New Jersey program established pursuant to the "Work First New Jersey Act," P.L.1997, c.38 (C.44:10-55 et seq.); the New Jersey Supplementary Food Stamp Program established pursuant to the "New Jersey Supplementary Food Stamp Program Act," P.L.1998, c.32 (C.44:10-79 et seq.); any successor program; or any other State or federal assistance program now or hereafter established by law;

(2) A not-for-profit corporation indicating in writing that it is representing a patient;

(3) An attorney representing a patient on a pro bono basis, provided that the attorney submits with the request a certification that the attorney is representing the patient on a pro bono basis. An attorney representing a patient on a contingency fee basis shall be assessed the ordinary fees to obtain a copy of the patient's records; or

(4) A patient or an attorney representing a patient who has a pending application for, or is currently receiving, federal Social Security disability benefits provided under Title II or Title XVI of the federal Social Security Act, Pub.L.92-603 (42 U.S.C. s.1351 et al.).

k. As used in this section:

"Authorized third party" means a third party, who is not a legally authorized representative of the patient, with a valid authorization, subpoena, or court order granting access to a patient's treatment or billing records.

"Legally authorized representative" means: the patient's spouse, domestic partner, or civil union partner; the patient's immediate next of kin; the patient's legal guardian; the patient's attorney; the patient's ¹**【third party】** automobile insurer; or the patient's worker's

1 compensation carrier, if the carrier is authorized to access to the
2 patient's treatment or billing records by contract or law, provided
3 that access by a worker's compensation carrier shall be limited only
4 to that portion of the treatment or billing record that is relevant to
5 the specific work-related incident at issue in the worker's
6 compensation claim.

7 1. Subject to the requirements of subsection f. of this section,
8 medical and billing records shall be delivered in the manner
9 specified by the requestor, which may include, but shall not be
10 limited to, mailing the record to any address or faxing the record to
11 any number specified by the requestor, including the requestor's
12 attorney. Subject to the requirements of federal law, the method of
13 delivery specified by a requestor shall not affect the fees that would
14 ordinarily apply to the request under subsections b. and d. of this
15 section, subject to the provisions of subsections g. and j. of this
16 section.

17 (cf: P.L.2021, c.359, s.2)

18

19 3. This act shall take effect immediately.