

SENATE BILL No. 119

AN ACT concerning access to health care records by patients, authorized representatives and certain other persons and entities; relating to fees; claims or actions to enforce.

Be it enacted by the Legislature of the State of Kansas:

Section 1. As used in this act: (a) "Health care provider" means those persons and entities defined as a health care provider under K.S.A. 40-3401 and K.S.A. 7-121b, and amendments thereto, except that "health care provider" shall not include a health maintenance organization.

(b) "Authorized representative" means the person designated in writing by the patient to obtain the health care records of the patient or the person otherwise authorized by law to obtain the health care records of the patient.

(c) "Authorization" means a written or printed document signed by a patient or a patient's authorized representative containing: (1) A description of the health care records a health care provider is authorized to produce; (2) the patient's name, address and date of birth; (3) a designation of the person or entity authorized to obtain copies of the health care records; (4) a date or event upon which the force of the authorization shall expire which shall not exceed one year; (5) if signed by a patient's authorized representative, the authorized representative's name, address, telephone number and relationship or capacity to the patient; and (6) a statement setting forth the right of the person signing the authorization to revoke it in writing.

Sec. 2. (a) Subject to applicable law, copies of health care records shall be furnished to a patient, a patient's authorized representative or any other person or entity authorized by law to obtain or reproduce such records, within 30 days of the receipt of the authorization, or the health care provider shall notify the patient or the patient's authorized representative of the reasons why copies are not available. A health care provider may withhold copies of health care records if the health care provider reasonably believes that providing copies of the requested records will cause substantial harm to the patient or another person. 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 the payment of charges not to exceed a \$15 fee for the cost of supplies and labor; and for copies of health care records routinely duplicated on a standard photocopy machine, \$.50 per page for the first 250 pages and \$.35 per page for additional pages. Providers may charge for the reasonable cost of all duplications of health care record information which cannot be routinely duplicated on a standard photocopy machine.

(b) On January 1, 2004, and annually thereafter, the fees set forth in subsection (a) shall be increased by the secretary of human resources in accordance with the all-items consumer price index published by the United States department of labor.

Sec. 3. Any health care provider, patient, authorized representative or any other entity authorized by law to obtain or reproduce such records may bring a claim or action to enforce the provisions of this act. The petition shall include an averment that the party bringing the action has in good faith conferred or attempted to confer with the other party concerning the matter in dispute without court action. Upon a showing that the failure to comply with this act was without just cause or excuse, the court shall award the costs of the action and order the records produced without cost or expense to the prevailing party.

Sec. 4. Nothing in this act shall be construed to prohibit the state board of healing arts from adopting and enforcing rules and regulations not inconsistent with this act that require licensees of the board to furnish health care records to patients or to their authorized representative. To the extent that the board determines that an administrative disciplinary remedy is appropriate for violation of such rules and regulations, that remedy is separate from and in addition to the provisions of this act.

Sec. 5. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the SENATE, and passed that body

SENATE adopted
Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

Passed the HOUSE
as amended _____

HOUSE adopted
Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

APPROVED _____

Governor.