

2017 -- S 0486 SUBSTITUTE A AS AMENDED

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LC001303/SUB A
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

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A N A C T

RELATING TO HEALTH AND SAFETY - DEPARTMENT OF HEALTH

Introduced By: Senators McCaffrey, Lombardi, Conley, Nesselbush, and Archambault

Date Introduced: March 02, 2017

Referred To: Senate Health & Human Services

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 23-1-48 of the General Laws in Chapter 23-1 entitled "Department
2 of Health" is hereby amended to read as follows:

3 **23-1-48. Reimbursement for medical record copies.**

4 (a) The director shall promulgate rules and regulations which establish reasonable
5 charges for expenses incurred in responding to requests for copies of medical records by
6 physicians pursuant to § 5-37-22(c) and (d), and by any health care provider as defined in §5-
7 37.3-3 ("health care provider"). The director may utilize data provided by the Rhode Island health
8 information management association or other similar local professional organization in his or her
9 determination as to the amount of the charges permitted by this section.

10 (b) A patient or a patient's authorized representative, as defined in §5-37.3-3 ("patient or
11 a patient's authorized representative"), or a third-party requestor, also as defined in §5-37.3-3
12 ("third-party requestor"), shall have the right to request a patient's medical records.

13 (c) If the health care provider, utilizes patient's medical records, an electronic health
14 records system or database:

15 (1) Any patient or any patient's authorized representative or any third-party requestor
16 shall have a right to obtain from any health care provider a copy of their records in an electronic
17 format;

18 (2) Notwithstanding the provisions of subsection (a) of this section, the charges for
19 responding to requests for copies of medical records in electronic format shall not exceed a fee

1 for clerical services, research, and handling of twenty-five dollars (\$25.00), inclusive of shipping
2 costs and the costs of data retrieval and/or the data storage device used to transport the medical
3 records. Provided, however, that fifty cents (\$.50) per page for the first one hundred (100) pages
4 and twenty-five cents (\$.25) per page for all pages thereafter may be charged. In no event shall
5 the charge for pages exceed one hundred dollars (\$100).

6 (d) If the health care provider does not utilize an electronic health records system or
7 database, the charges for responding to requests for copies of medical records shall not exceed a
8 fee for clerical services, research, and handling of twenty-five dollars (\$25.00), inclusive of
9 retrieval costs, provided, however, that fifty cents (\$.50) per page for the first one hundred (100)
10 pages and twenty-five cents (\$.25) per page for all pages thereafter may be charged. In addition,
11 the requestor shall pay for the actual shipping costs incurred.

12 (e) Copies of X-rays or films not reproducible by photocopy shall be provided at the
13 health care provider's actual cost for materials and supplies. In addition, the requestor shall pay
14 reasonable fees for clerical services, research, and handling, not to exceed twenty-five dollars
15 (\$25.00), plus actual shipping costs incurred.

16 (f) A special handling fee of ten dollars (\$10.00) may be charged if the records must be
17 delivered to the patient or authorized representative or third-party requestor within forty-eight
18 (48) hours of the request.

19 (g) The health care provider shall not charge a fee for copying medical records if the
20 record is requested by the applicant or beneficiary:

21 (1) For proof of immunization records required for school admission;

22 (2) For the purposes of supporting a claim or an appeal under the provision of the Social
23 Security Act or any federal or state needs-based benefit program such as, medical assistance, RIt
24 Care, temporary disability insurance, and unemployment compensation;

25 (3) For benefits in connection with a civil court certification proceeding;

26 (4) To support a claim under the workers' compensation act §28-29-38 as reflected in
27 §23-17-19.1(16); or

28 (5) To be sent to another consulting provider.

29 SECTION 2. Section 5-37.3-3 of the General Laws in Chapter 5-37.3 entitled
30 "Confidentiality of Health Care Communications and Information Act" is hereby amended to read
31 as follows:

32 **5-37.3-3. Definitions.**

33 As used in this chapter:

34 (1) "Authorized representative" means:

1 (i) A person empowered by the patient/client to assert or to waive the confidentiality, or
2 to disclose or consent to the disclosure of confidential information, as established by this chapter.
3 That person is not, except by explicit authorization, empowered to waive confidentiality or to
4 disclose or consent to the disclosure of confidential information;

5 (ii) A guardian or conservator, if the person whose right to confidentiality is protected
6 under this chapter is incompetent to assert or waive that right; or

7 (iii) If the patient/client is deceased, his or her personal representative or, in the absence
8 of that representative, his or her heirs-at-law.

9 (2) "Board of medical licensure and discipline" means the board created under chapter 37
10 of this title.

11 (3) (i) "Confidential health care communication" means a communication of health care
12 information by an individual to a health care provider, including a transcription of any
13 information, not intended to be disclosed to third persons except if those persons are:

14 (A) Present to further the interest of the patient in the consultation, examination or
15 interview;

16 (B) Reasonably necessary for the transmission of the communication; or

17 (C) Participating in the diagnosis and treatment under the direction of the health care
18 provider, including members of the patient's family.

19 (ii) "Confidential health care information" means all information relating to a patient's
20 health care history, diagnosis, condition, treatment, or evaluation obtained from a health care
21 provider who has treated the patient.

22 (4) "Health care provider" means any person licensed by this state to provide or lawfully
23 providing health care services, including, but not limited to, a physician, hospital, intermediate
24 care facility or other health care facility, dentist, nurse, optometrist, podiatrist, physical therapist,
25 psychiatric social worker, pharmacist or psychologist, and any officer, employee, or agent of that
26 provider acting in the course and scope of his or her employment or agency related to or
27 supportive of health services.

28 (5) "Health care services" means acts of diagnosis, treatment, medical evaluation, or
29 counseling or any other acts that may be permissible under the health care licensing statutes of
30 this state.

31 (6) "Managed care contractor" means a person that:

32 (i) Establishes, operates, or maintains a network of participating providers;

33 (ii) Conducts or arranges for utilization review activities; and

34 (iii) Contracts with an insurance company, a hospital or medical service plan, an

1 employer, an employee organization, or any other entity providing coverage for health care
2 services to operate a managed care plan.

3 (7) "Managed care entity" includes a licensed insurance company, hospital or medical
4 service plan, health maintenance organization, an employer or employee organization, or a
5 managed care contractor as described in subdivision (6) of this section, that operates a managed
6 care plan.

7 (8) "Managed care plan" means a plan operated by a managed care entity as described in
8 subdivision (7) of this section, that provides for the financing and delivery of health care services
9 to persons enrolled in the plan through:

10 (i) Arrangements with selected providers to furnish health care services;

11 (ii) Explicit standards for the selection of participating providers;

12 (iii) Organizational arrangements for ongoing quality assurance, utilization review
13 programs, and dispute resolution; and

14 (iv) Financial incentives for persons enrolled in the plan to use the participating providers
15 and procedures provided for by the plan.

16 (9) "Medical peer review board" means a peer review board under chapter 37 of this title.

17 (10) "Nurse" means a registered nurse or licensed practical nurse licensed to practice
18 nursing in the state.

19 (11) "Participating provider" means a physician, hospital, pharmacy, laboratory, dentist,
20 or other state licensed or other state recognized provider of health care services or supplies, that
21 has entered into an agreement with a managed care entity to provide any services or supplies to a
22 patient enrolled in a managed care plan.

23 (12) "Patient" means a person who receives health care services from a health care
24 provider.

25 (13) "Personally identifiable confidential health care information" means confidential
26 health care information, which explicitly or by implication identifies a particular patient.

27 (14) "Physician" means a person registered or licensed to practice allopathic or
28 osteopathic medicine in this state under Rhode Island general laws.

29 (15) "Psychiatric social worker" means a person holding a Master's or further advanced
30 degree from a school of social work accredited by the council of social work education.

31 (16) "Psychologist" means a certified psychologist under chapter 44 of this title.

32 (17) "Qualified personnel" means persons whose training and experience are appropriate
33 to the nature and level of the work in which they are engaged and who, when working as part of
34 an organization, are performing that work with published and adequate administrative safeguards

1 against disclosure unauthorized under this chapter.

2 (18) "Third party" means a person other than the patient to whom the confidential health
3 care information relates and other than a health care provider.

4 (19) "Third-party requestor" means any person or entity representing a patient signed
5 Health Insurance Portability and Accountability Act (HIPAA)-compliant authorization allowing
6 them to obtain a copy of the patient's medical records or reports.

7 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T
RELATING TO HEALTH AND SAFETY - DEPARTMENT OF HEALTH

1 This act would determine reimbursement rates for medical records copies from health
2 care providers including those that utilize an electronic health records system. This act would also
3 add a patient's attorney to the definition of "authorized representative" for purposes of receiving
4 and obtaining confidential health care communications and information.

5 This act would take effect upon passage.

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